
UC DAVIS LAW REVIEW ONLINE

VOL. 57



NOVEMBER 2023

#VanLife and the Right to Privacy

Sabrina Safrin*

Your home enjoys the highest level of Fourth Amendment protection against government intrusion; your vehicle, the least. So what happens when your home is your car? This question affects over a million Americans who currently live in vans, trailers, and other vehicles. And this is just the beginning. Wildfires, hurricanes, flooding, and other climate change disasters will displace an unprecedented number of Americans. Inevitably, legions of these climate refugees will live in vehicles. Many already do.

Vehicular residences are filled with personal and private items typically found in a home. A knock on the window followed by a police search can reveal almost everything about the inhabitant. And the meager protections that vehicle dwellers enjoy under extant Fourth Amendment doctrine are weakening even further as states and municipalities criminalize vehicle-dwelling practices. If living in a vehicle is a crime, then even pillows, drawers of clothing and chests of food are evidence of a crime, opening the door to all manner of government intrusion. With states rushing to criminalize abortion, pregnant vehicle dwellers and their partners and allies are particularly at risk.

* Copyright © 2023 Sabrina Safrin. Professor of Law and Arthur Dickson Scholar, Rutgers Law School. The author thanks Jeremy Hirsh, David Noll, George Thomas, Deborah Way and participants in the Rutgers Faculty Forum for helpful comments. The author also thanks Soorim Choi for helpful research assistance as well as the editors of the UC Davis Law Review.

They face the prospect of unregulated searches of their most sensitive and potentially incriminating personal medical information.

This Essay brings to the fore the striking privacy vulnerability of the U.S.'s burgeoning vehicle-dwelling population. It argues that mass vehicle dwelling will require courts to recalibrate their Fourth Amendment jurisprudence to better protect vehicular residents. It provides the first analysis of fifty years of federal and state case law on searches of vehicular homes. It then identifies four areas where doctrine can — and should — provide greater privacy protections after decades of expanded police power to search vehicles. The Essay concludes with recommendations for how courts can enhance vehicle dwellers' privacy rights. Even these may not be enough. The "VanLife" fringe is our future. A looming population of climate nomads may make the automobile exception to the warrant requirement unworkable and dangerous for a free society and may finally occasion its jettisoning altogether.

TABLE OF CONTENTS

INTRODUCTION	3
I. HOME V. CAR: THE AUTOMOBILE EXCEPTION TO THE WARRANT REQUIREMENT	11
II. THE CRIMINALIZATION OF VEHICLE DWELLING	18
III. FOUR LEGAL BRIGHT SPOTS	24
IV. WHERE DO WE GO FROM HERE?	28
CONCLUSION	34

INTRODUCTION

On a warm spring morning in Palo Alto, California, Joseph Ciampi peacefully slept in his blue Dodge Ram van, which he had legally parked in a residential neighborhood.¹ Although Mr. Ciampi had not broken any laws or done much of anything at all, his presence bothered a resident.² The resident called the Palo Alto police. Ciampi's presence, he said, "scares the daylights out of my wife." In the recorded call to the dispatcher, the resident acknowledged that Ciampi had never threatened his wife in any way but characterized Ciampi's presence as "sort of a veiled threat." The resident explained that his wife and daughter were returning from vacation and he wanted Ciampi gone when they came back. The police dispatcher advised that there was no law against living in a vehicle but "we'll check it out."³

At 10 AM, three police officers arrived at the van. They knocked on the van door and began to open it. A startled Ciampi awoke. Not knowing who the intruder was, Ciampi hastily pulled the door shut and locked it. The police officers explained that they just wanted to talk. Ciampi told the officers that he did not want to talk and remained in his van.⁴ Unable to persuade Ciampi to exit voluntarily and lacking any evidence of a crime, the officers resorted to a ruse. They loudly pretended to call a tow truck.⁵ This caused a distraught Ciampi to exit his van. Ciampi demanded to know what ordinance he had violated and why the police were towing his van. He believed — correctly — that he had the right not to talk to the police.⁶ The police characterized Ciampi as "verbally abusive and argumentative" and "completely uncooperative." They then noticed sores on Ciampi's arm and accused him of being a heroin addict. Ciampi vehemently denied this accusation. At this point the situation escalated. The police told Ciampi that he was under arrest, pulled him to the ground and tased him. Ciampi described

¹ See *Ciampi v. City of Palo Alto*, 790 F. Supp. 2d 1077, 1086 (N.D. Cal. 2011).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 1087.

⁶ *Id.* at 1087, 1090.

the pain as “excruciating.” He sustained numerous injuries. A puddle of his blood gathered on the sidewalk.⁷

Ciampi sued the Palo Alto police for violation of his Fourth Amendment constitutional right to be free from unreasonable government searches.⁸ The Fourth Amendment generally prohibits the police from securing a person’s consent for a search through deceit.⁹ The police argued that this prohibition, like certain other Fourth Amendment protections, applies to homes and does not apply when a person’s home is a vehicle.¹⁰ Ciampi’s run-in with the police occurred in 2008. Since that time, the number of people living in vans, trailers, and other vehicles, popularly known as VanLifers, has exploded. Their interactions with the police have become commonplace.¹¹

“#VanLife” is celebrated on YouTube channels and social media, was the subject of the Academy-Award winning film *Nomadland*, and is frequently written about in magazines and newspapers. From which vehicle to choose to where and how to park it to best practices for maintaining hygiene and sanity on the road, there is no shortage of advice and information for people living or considering the life. Largely unaddressed, however, is one of the most serious issues facing the new nomads: their striking vulnerability to government intrusion. In fact, most Americans would be surprised to learn that they enjoy greater privacy rights in their tent than if living in a recreational vehicle (“RV”) or van, even if situated in the same campground.¹²

For vehicle dwellers their home on wheels contains most, if not all, of their worldly possessions. It houses their medicines and medical records, their personal communications, their sensitive documents,

⁷ *Id.* at 1088-90.

⁸ *Id.* at 1095.

⁹ *Id.*

¹⁰ *Id.* at 1096-97.

¹¹ See, e.g., Invisible People, *Where Do They Go? The Painful Reality of Seattle’s RV Homeless Sweeps*, YOUTUBE (Mar. 16, 2023), <https://youtu.be/1-mins3KNFk> [<https://perma.cc/D58Q-RNKB>] (describing police sweeps of people living in RVs in Seattle); Matty Van Halen, *Will Van Life Become Illegal in America?*, YOUTUBE (Mar. 5, 2023), <https://youtu.be/oJF6S8gE2wI> [<https://perma.cc/MGS3-VU83>] (describing multiple interactions with police while sleeping in his vehicle). Van Halen’s video garnered over 1,100 posts, scores describing harassment by police.

¹² See cases cited *infra* notes 72–73.

their beverages and, increasingly, their work. A knock on the door followed by a police search can reveal almost everything about the person. Pregnant vehicle dwellers, their partners, and allies are particularly exposed as states rush to criminalize abortion.¹³ A warrantless and even pre-textual search of a vehicular home can reveal incriminating reproductive information and medication, subjecting the vehicle dweller to arrest and prosecution. And every year, vehicle dwellers become even more vulnerable to government intrusion. Numerous states and municipalities have responded to the growing vehicle dwelling population by criminalizing vehicle dwelling practices. If it is a crime to live in a parked vehicle, pillows, drawers of clothing and chests of food become evidence of a crime, opening the door to all manner of government intrusion.

The privacy interests of vehicle dwellers have never been more pressing and the number of vehicle dwellers has never been higher. While an official statistic on the number of people living in vehicles does not exist — and a nomadic population by its nature is almost impossible to count — a combination of data points indicates that over a million Americans live full-time in vans, motorhomes, trailers, converted buses, and cars. Legions more live in vehicles on a most-of-the-time basis.

Advocates for the unhoused, like Sara Rankin who directs the Homeless Rights Advocacy Project in Seattle, report that vehicle dwellers represent the fastest-growing segment of the homeless population.¹⁴ According to a 2022 study commissioned by the City of Oakland, vehicles were “the most common sleeping location of those who experience unsheltered homelessness in six of the nine California Bay Area counties” studied.¹⁵ Those who study vehicular homelessness

¹³ Valena E. Beety & Jennifer D. Olivia, *Policing Pregnancy “Crimes”*, 98 N.Y.U. L. REV. ONLINE 29, 32-34 (2023) (anticipating the surveillance and policing of pregnancy as the “full fury” of states’ criminal law descends on abortion).

¹⁴ Thacher Schmid, *Vehicle Residency: Homelessness We Struggle to Talk About*, NATION (Nov. 11, 2021), <https://www.thenation.com/article/society/homelessness-vehicle-residency-housing/> [https://perma.cc/TP5V-A3Y8]; see also Graham J. Pruss, *Homes Without Homes: An Ethno-Archeology of Vehicle Residency in Public Parking*, 82 HUM. ORG. 153, 154 (2023) (illustrating that the vehicle resident population of unsheltered community in King County, Washington increased from 15% in 1998 to 49% in 2020).

¹⁵ GRAHAM J. PRUSS, KELLY R. KNIGHT, NED RESNIKOFF & MARGOT KUSHEL, U.C.S.F., *THE LONG ROAD HOME: HOUSING AND SERVICE NEEDS OF PEOPLE WHO INHABIT OVERSIZED*

in Los Angeles County estimate that nearly half (if not almost sixty percent) of Los Angeles' unhoused population lives in vehicles, depending on the data used.¹⁶ TV segments like the June 2023 "Mile-long RV Encampment Symbolizes Growing Housing Crisis in Bay Area" bear witness to this surge.¹⁷ The Recreational Vehicle Industry Association estimates that, as of the summer of 2020, 420,000 people live full-time and an additional 850,000 people live half of the time in RVs manufactured by its industry members.¹⁸ These industry numbers, large as they are, represent only a slice of the vehicle dwelling population. They exclude those living in converted vans, school buses, minivans, cars, and trailers. Finally, those who track trends in the workplace identify the largest number of vehicle dwellers. A September 2022 analysis by Statista reported that the number of Americans "who travel, live, and work in RVs, vans, or other vehicles converted into roaming residences" increased by nineteen percent in 2022 over 2021: reaching a whopping 3.1 million.¹⁹

But this is just the beginning. The current full-time vehicle-dwelling population represents the tip of the nomadic iceberg. Its ranks will swell

VEHICLES IN OAKLAND'S PUBLIC PARKING 5 (2022), <https://homelessness.ucsf.edu/sites/default/files/resources/UCSF%20BHII%20Oversized%20Vehicle%20Report.pdf> [<https://perma.cc/DD8Y-XHYS>].

¹⁶ CHRISTOPHER GIAMARINO, MADELINE BROZEN & EVELYN BLUMENBERG, UCLA INST. OF TRANSP. STUD., GEOGRAPHIC AND REGULATORY IMPACTS ON VEHICULAR HOMELESSNESS IN LOS ANGELES 1 (2022), <https://escholarship.org/content/qt3296x53z/qt3296x53z.pdf?t=re6u08> [<https://perma.cc/8TNG-LKYB>]; Christopher Giamarino, Evelyn Blumenberg & Madeline Brozen, *Who Lives in Vehicles and Why? Understanding Vehicular Homelessness in Los Angeles*, HOUS. POL'Y DEBATE, Sept. 15, 2022, at 1, <https://www.tandfonline.com/doi/epdf/10.1080/10511482.2022.2117990?needAccess=true> [<https://perma.cc/4C3Y-PJCW>].

¹⁷ See ABC7 News Bay Area, *Mile-long RV Encampment Symbolizes Growing Housing Crisis in Bay Area*, YOUTUBE (June 1, 2023), <https://www.youtube.com/watch?v=QMAQwWJYQtI> [<https://perma.cc/79JN-R9RC>].

¹⁸ *Go RVing RV Owner Demographic Profile*, RV INDUS. ASS'N, <https://www.rvia.org/go-rving-rv-owner-demographic-profile> (last visited Sept. 12, 2023) [<https://perma.cc/YP2Y-JZWC>]. The report came out in February 2021 and captured some of the data from the summer of 2020. Telephone conversation with RVIA public relations officer (June 28, 2023).

¹⁹ MBO PARTNERS, *WORKING FROM THE ROAD: THE ASPIRATIONS AND REALITY FOR DIGITAL NOMADS* 14 (2022), https://info.mbopartners.com/rs/mbo/images/2022_Digital_Nomads_Report.pdf [<https://perma.cc/R2W5-4WMA>].

as the pressures that have caused people to pursue a life on the road increase. Housing costs have skyrocketed, housing stock shortages persist and overall inflationary pressures as well as student debt are pushing more people into vehicles.²⁰ In addition, massive climate change displacements loom on the horizon.²¹

By the end of this century more than six million people in the United States will be displaced by extreme flooding, hurricanes, wildfires, and other climate change disasters.²² Climate change migration will even exceed our nation's largest migration to date, the Great Migration, where over six million Black Americans moved from the South to the North.²³ The effects of climate change are already being felt. According to the U.S. Census Bureau, 3.3 million Americans evacuated their homes due to natural disasters in 2022, many of which were intensified by climate change.²⁴ While most returned to their homes within a week,

²⁰ See, e.g., Big Super Living in Arizona, *American's Priced Out of America Turn to RV Life Motorhome Tour*, YOUTUBE (June 5, 2023), <https://www.youtube.com/watch?v=Fs4ib1W-A4A> [<https://perma.cc/VQT3-S2Y5>]; CNN, 'I Would Consider Living in My Car': How Some Americans Are Impacted by Inflation, YOUTUBE (Mar. 11, 2022), <https://www.youtube.com/watch?v=pRfGcd73QT4> [<https://perma.cc/D24H-87T2>]; Lois Beckett, 'My Car Is My Home': The California Students with Nowhere to Live, GUARDIAN (Apr. 2, 2022), <https://www.theguardian.com/us-news/2022/apr/02/college-students-unhoused-school-help> [<https://perma.cc/7D6S-VAYM>]; Sam Blum, *How to Pay Off Student Debt: Live in Your Car for Two Years*, BROOK. MAG. (Aug. 26, 2015), <https://www.bkmmag.com/2015/08/26/how-to-pay-off-student-debt-live-in-your-car-for-two-years/> [<https://perma.cc/9ZA7-TKVP>]; Kyle Spencer, *In College and Homeless*, N.Y. TIMES (Feb. 21, 2020), <https://www.nytimes.com/2020/02/20/education/learning/college-homeless-students.html> [<https://perma.cc/S4XS-DTEQ>] (describing students living in vehicles).

²¹ Abrahm Lustgarten, *How Climate Migration Will Reshape America*, N.Y. TIMES MAG. (Sept. 15, 2020), <https://www.nytimes.com/interactive/2020/09/15/magazine/climate-crisis-migration-america.html> [<https://perma.cc/WD5V-EBZF>].

²² JACK BITTLE, *THE GREAT DISPLACEMENT: CLIMATE CHANGE AND THE NEXT AMERICAN MIGRATION*, at xvi (Simon & Schuster 2023).

²³ *Id.*

²⁴ *Household Pulse Survey*, U.S. CENSUS BUREAU, <https://www.census.gov/data-tools/demo/hhp/#/?measures=DISPLACED> (last visited Sept. 12, 2023) [<https://perma.cc/2VKD-AQTE>]; Hannah Murdock, *Here's How Many People Were Displaced in Each State by Natural Disasters in 2022*, DESERET NEWS (Jan. 18, 2023, 9:09 AM), <https://www.deseret.com/2023/1/18/23560517/3-million-displaced-by-natural-disasters-in-2022> [<https://perma.cc/RP4A-FXKA>] (estimating that nearly 1 million people were displaced in Florida by Hurricanes Ian and Nicole); see also Gina Martinez, *How Climate*

sixteen percent never returned home and twelve percent could not return for over six months.²⁵ A growing class of long-term displaced climate refugees has emerged in our country.²⁶ This class will increase as homeowner insurers pull out of vulnerable regions. Two of California's largest home insurance companies, Allstate and State Farm, recently announced that they will no longer issue new homeowner policies in that wildfire-plagued state, joining others like Chubb, AIG, and Farmers, who have pulled out of or limited policy-writing in the state.²⁷ Meanwhile, over a dozen home insurers in Florida have either gone bankrupt or withdrawn from the state due to extreme hurricanes and flooding caused or exacerbated by climate change.²⁸ Other Florida homeowner insurers have doubled or tripled their premiums or cancelled policies altogether.²⁹

Inevitably, many of those who will lose their homes to hurricanes, wildfires, and other climate change disasters will take up residence on a temporary or long-term basis in vans, trailers, and other vehicles. The

Change Is Making Storms Like Hurricane Ian Stronger More Quickly, CBS News (Sept. 30, 2022, 11:10 AM), <https://www.cbsnews.com/news/hurricane-ian-climate-change-rapid-intensification/> [<https://perma.cc/ND6B-HBFV>].

²⁵ Thomas Frank, *Disasters Displaced More Than 3 Million Americans in 2022*, SCI. AM. (Feb. 6, 2023), <https://www.scientificamerican.com/article/disasters-displaced-more-than-3-million-americans-in-2022/> [<https://perma.cc/BJ7Y-EDWL>].

²⁶ See Christopher Flavelle, *How the Government Is Failing Americans Uprooted by Calamity*, N.Y. TIMES (July 23, 2022), <https://www.nytimes.com/2022/07/23/climate/climate-disaster-relief-fema.html> [<https://perma.cc/H352-MAF5>].

²⁷ Anthony Duigan-Cabrera, *Farmers Insurance to Limit Number of California Homeowners Policies*, SILICON VALLEY BUS. J. (July 10, 2023), <https://www.bizjournals.com/sanjose/news/2023/07/10/california-home-insurance-farmers-state-farm.html> [<https://perma.cc/QX8F-SA5E>]; Claire Hao, *Yet Another Home Insurance Giant Quietly Stops Writing New Policies in California*, S.F. CHRON. (June 1, 2023), <https://www.sfchronicle.com/california/article/insurance-allstate-fires-18130622.php> [<https://perma.cc/7ZK8-W8GH>].

²⁸ Brenden Farrington, *Farmers Pulls Out of Florida Property Insurance Despite Efforts to Stabilize the Market*, AP NEWS (July 11, 2023, 3:37 PM), <https://apnews.com/article/insurance-florida-business-desantis-a6c3a8e6127ecbf270099e87238ed47e> [<https://perma.cc/DXP5-2FSG>]; Jim Waymer, *1 Million Florida Buildings Will Be Overrun By Sea-Level Rise by 2100, Study Shows*, USA TODAY (July 5, 2022, 5:12 AM), <https://www.usatoday.com/story/news/nation/2023/07/05/florida-buildings-sea-level-rise-study/70379603007> [<https://perma.cc/4TAC-KF2F>].

²⁹ Farrington, *supra* note 28.

un-inhabitability of multiple areas as well as a lack of insurance will make it impossible for a substantial number of Americans to rebuild their homes. The economic nomads featured in *Nomadland* will be followed by climate nomads. The pressures forcing people into vehicles may be different — economic versus natural disaster or a combination of both — but the pathways of retreat are the same. Climate change author Jack Bittle notes, “[I]f a thousand fire victims scramble for two hundred vacant apartments, the richest two hundred renters are more likely to end up with roofs over their heads.”³⁰ As for the remainder? Many will end up living in campers and trailers. Some already have. Hurricane Irma devastated the Florida Keys in June of 2017. Six years later, according to Bittle, most full-time Key residents (“Conchs”) have found it impossible to rebuild their old homes or to buy new ones because of a lack of insurance or regulations that restrict rebuilding.³¹ Instead, many now live in trailers or tents.³² In November of 2018, a fire destroyed over 10,000 buildings in Paradise, California, forcing tens of thousands of people to flee. Again, scores took up residence, at least temporarily, in cars and other vehicles, parking at places like the Walmart in Chico.³³ Hurricane Laura plowed through Louisiana in the Summer of 2020 followed by Hurricane Ida in August of 2021. Thousands of those displaced lived in trailers for over a year after the disasters.³⁴

What rights do these vehicle dwellers have against governmental intrusion? The Fourth Amendment famously protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”³⁵ It generally requires law

³⁰ BITTLE, *supra* note 22, at xvii.

³¹ *Id.* at 22-23.

³² *Id.*

³³ See, e.g., Dani Anguiano, *Anxious Wildfire Refugees Camped in Parking Lot Wonder: Where Now?*, GUARDIAN (Nov. 19, 2018, 4:31 PM), <https://www.theguardian.com/us-news/2018/nov/19/wildfire-refugees-california-chico-walmart-parking-lot-latest> [<https://perma.cc/53JY-QWQC>]; David Herron, *American Climate Refugees Living in Tents and Cars After Paradise Destroyed by Fire*, THE LONG TAIL PIPE (Nov. 21, 2018), <https://longtailpipe.com/2018/11/21/american-climate-refugees-living-in-tents-and-cars-after-paradise-destroyed-by-fire/> [<https://perma.cc/5HLK-N2MM>].

³⁴ Flavelle, *supra* note 26.

³⁵ U.S. CONST. amend. IV.

enforcement to obtain a warrant from a neutral magistrate before searching people and their property for evidence of crimes.³⁶ Despite the Fourth Amendment's broad language, the home and the car represent opposite ends of the spectrum of the domain protected from government intrusion. The home enjoys the highest level of protection; the vehicle the least.³⁷ So what happens when your vehicle becomes your home?

This Essay analyzes this question. It argues that courts will have to respond to the privacy needs of this burgeoning vehicle dwelling population and recalibrate their Fourth Amendment jurisprudence to better protect these needs.³⁸ Part I traces Fourth Amendment jurisprudence as it relates to vehicular residences. It then provides the first analysis of fifty years of Federal and state case law on how courts have in fact treated searches of vehicles that are used as homes. This analysis reveals that if the home on wheels lies at the intersection between home and vehicle, in all but a handful of cases, courts have parked it on the side of vehicle and allowed the police to search the vehicular home without a warrant. Part II pivots to analyzing the recent trend among states and municipalities to criminalize vehicle dwelling practices and the implications of this trend on the privacy interests of vehicle dwellers. Part III identifies four legal bright spots that signal some Supreme Court and other judicial pushback on decades of expanding the authority of the police to search vehicles. Part IV concludes with two recommendations for how courts can better protect the privacy interests of vehicle dwellers.

³⁶ See *McDonald v. United States*, 355 U.S. 451, 453 (1948).

³⁷ See discussion *infra* notes 9–45 and accompanying text.

³⁸ A recent student Note also argues that the automobile exception should not apply to vehicle dwellers. Elizabeth Merritt, Note, *VanLife: An Argument to Reconsider the Automobile Exception and Ensure Fourth Amendment Protections for All Citizens*, 56 *IND. L. REV.* 599, 600 (2023). This Essay agrees with the Note's conclusion but expands the analysis by analyzing 50 years of state and federal case law regarding searches of vehicle dwellings, by situating privacy interests in the context of both the criminalization of vehicle dwelling practices and climate change, and by suggesting additional paths moving forward.

I. HOME V. CAR: THE AUTOMOBILE EXCEPTION TO THE WARRANT REQUIREMENT

“[P]hysical entry of the home is the chief evil against which . . . the Fourth Amendment is directed” proclaimed the U.S. Supreme Court.³⁹ “At the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion. With few exceptions, the question [of] whether a warrantless search of a home is . . . constitutional must be answered no.”⁴⁰

The Supreme Court has taken a dramatically different approach when it comes to police searches of cars. In 1925, in the case of *Carroll v. United States*, the Court created the so-called automobile exception to the warrant requirement.⁴¹ *Carroll* held that police need not seek a warrant before searching a vehicle that is mobile provided that they have probable cause to believe that the vehicle contains evidence of a crime.⁴²

The Court’s profound erosion of protection in one’s vehicle against government intrusion was partly influenced by Chief Justice Taft’s deep animosity toward automobiles. As unearthed by Professor Robert Post, two years before penning *Carroll*, Taft wrote “[T]he automobile is the greatest instrument for promoting immunity of crimes of violence that I know of in the history of civilization.”⁴³ After drafting *Carroll*, Taft

³⁹ *Payton v. New York*, 445 U.S. 573, 585 (1980).

⁴⁰ *Kyllo v. United States*, 533 U.S. 27, 31 (2001).

⁴¹ *Carroll v. United States*, 267 U.S. 132, 153 (1925).

⁴² *Id.* at 153-54 (“[T]he guaranty of freedom from unreasonable searches and seizures by the Fourth Amendment has been construed, practically since the beginning of the Government, as recognizing a necessary difference between a search of a store, dwelling house or other structure in respect of which a proper official warrant readily may be obtained, and a search of a ship, motor boat, wagon or automobile, for contraband goods, where it is not practicable to secure a warrant because the vehicle can be *quickly moved* out of the locality or jurisdiction in which the warrant must be sought.” (emphasis added) In such a circumstance, the officer making the search or seizure without a warrant must have probable cause to believe the automobile has contraband.)

⁴³ Robert Post, *Federalism, Positive Law, and the Emergence of the American Administrative State: Prohibition in the Taft Court Era*, 48 WM. & MARY L. REV. 1, 125 n.408 (2006).

wrote to his brother: “I am rejoiced” to allow “the search of this instrument of evil the automobile.”⁴⁴

While *Carroll* established a test of probable cause for mobile vehicles, in the century following *Carroll*, courts rarely find that the police have abused their discretion when searching automobiles.⁴⁵ The *Carroll* court, however, viewed motor vehicles as a mode of transportation and not as a place to live. It was not until 1985, six decades after *Carroll*, that the Supreme Court confronted the application of the Fourth Amendment to a vehicle that was used as a home.

The Automobile Exception and Homes on Wheels. Charles Carney lived in his Dodge Mini Motor Home. He had parked in an off-the-street San Diego parking lot, a few blocks from the downtown courthouse.⁴⁶ Drug Enforcement Agents had ample evidence to believe that Carney was selling marijuana from his motor home.⁴⁷ Rather than obtaining a search warrant from the nearby courts, the agents barged into Carney’s motor home.⁴⁸ They found marijuana, plastic bags, and a scale commonly used to weigh drugs. They arrested Carney for possession of marijuana for sale.⁴⁹

⁴⁴ *Id.* at 123 n.406.

⁴⁵ See *United States v. Maccani*, 526 F. Supp. 3d 420, 453 (N.D. Iowa 2021) (“[T]he automobile exception has been expanded to the point where the exception very nearly swallows the rule.”); Wayne R. LaFave, *The “Routine Traffic Stop” from Start to Finish: Too Much “Routine,” Not Enough Fourth Amendment*, 102 MICH. L. REV. 1843, 1848 (2004). Scholars have often criticized the automobile exception. See, e.g., Orin S. Kerr, *An Equilibrium-Adjustment Theory of the Fourth Amendment*, 125 HARV. L. REV. 476, 502-03 (2011) (“Searches and seizures of automobiles involve some of the most puzzling and often-criticized aspects of Fourth Amendment law.”); Tracey Maclin, *Cops and Cars: How the Automobile Drove Fourth Amendment Law*, 99 B.U. L. REV. 2317, 2323-24 (2019) (“The [Supreme] Court . . . has been consistently bad at defending motorists’ Fourth Amendment rights. . . . [F]or almost a century the Court has steadily rejected Fourth Amendment claims . . . in cases involving automobiles” often based on “intellectually dishonest reasoning, and a candid desire to expand the discretion and power of law enforcement officers to stop and search motorists.”); Thomas J. Snyder, *My Car Is My Castle: The Failed Historical Roots of the Vehicle Exception to the Fourth Amendment*, 93 S. CAL. L. REV. 987, 992-93 (2020) (arguing that the automobile exception is based upon an improper reading of historical sources and should be overturned).

⁴⁶ *California v. Carney (Carney II)*, 471 U.S. 386, 404 (1985).

⁴⁷ *Id.*

⁴⁸ *Id.* at 388.

⁴⁹ *Id.*

The California Supreme Court reversed Carney's conviction. It found that the warrantless search of his motor home violated Carney's Fourth Amendment rights.⁵⁰ The California Court refused to extend the automobile exception to a motor home. It reasoned that motor homes, while mobile, have most of the privacy characteristics of a home rather than the diminished expectation of privacy of a car.⁵¹ It noted the well-established principle that the Fourth Amendment protects people against warrantless searches not only in their homes but in temporary residences such as hotels or motels.⁵²

Unfortunately for the present burgeoning home on wheels community, the U.S. Supreme Court disagreed. It applied the automobile exception to Carney's motor home, notwithstanding its use as a residence. It explained that the automobile exception rested on two justifications. First, the ready mobility of vehicles. Second, the diminished expectation of privacy in vehicles.⁵³ This diminished expectation of privacy rested not, as one might think, upon the fact that the passenger compartment of vehicles and their contents are usually in plain view. Rather, according to the Court, people have a reduced expectation of privacy in vehicles because motor vehicles are subject to "pervasive and continuing governmental regulation and controls, including periodic inspection and licensing . . ." ⁵⁴ In other words, the presence of pervasive government controls establishes the foundation for even more pervasive government intrusion.

Justices Stevens, Brennan, and Marshall issued a blistering dissent. The inherent mobility of motor homes did not by itself justify jettisoning the warrant requirement, they argued.⁵⁵ Rather, people had a heightened expectation of privacy in motor homes given their attributes of dwelling.⁵⁶ They cautioned that the Court "ha[d] no prior cases defining the contours of a reasonable search in the context of hybrids

⁵⁰ *People v. Carney (Carney I)*, 34 Cal.3d 597, 602 (1983).

⁵¹ *Id.* at 606.

⁵² *Id.* at 608.

⁵³ *Carney II*, 471 U.S. at 391.

⁵⁴ *Id.* at 392.

⁵⁵ *Id.* at 402.

⁵⁶ *Id.*

such as motor homes, house trailers, houseboats, or yachts.”⁵⁷ In prescient words, they warned that “the Court can barely glimpse the diverse lifestyles associated with recreational vehicles and mobile living quarters.”⁵⁸

While the *Carney* opinion greatly diminished the protection of motor homes from warrantless searches, this did not mean that police could always search a motor home without a warrant.⁵⁹ Rather, the Court opined that for the automobile exception to apply to a motor home, it must be both readily mobile and found in a setting that indicates that it is being used for transportation rather than “found stationary in a place” “regularly used for residential purposes — temporary or otherwise.”⁶⁰ The majority stated that it was not passing “on the application of the vehicle exception to a motor home that is situated in a way or place that objectively indicates that it is being used as a residence.”⁶¹ Factors relevant to a determination of whether a warrant would be required in such a circumstance include the location of the motor home, whether it is “readily mobile or instead, for instance, elevated on blocks, whether the vehicle is licensed, whether it is connected to utilities, and whether it has convenient access to a public road.”⁶²

If the home on wheels lies at the intersection of dwelling and vehicle, in the fifty years since *Carney*, courts have almost always parked it on the side of vehicle and allowed the police to search a home on wheels without a warrant. Courts have eroded the mobility requirement to the point where almost any dwelling with a motor and wheels or near a towing vehicle satisfies the mobility requirement. In March of 2021, for example, the District Court in Iowa upheld the warrantless search of defendant Maccani’s trailer home.⁶³ Maccani had detached his trailer

⁵⁷ *Id.* at 399.

⁵⁸ *Id.*

⁵⁹ WAYNE R. LEFAVE, SEARCH AND SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 7.2(b) (Thomson West 6th ed. 2020) (“[E]ven under the *Carney* majority’s approach, motor homes are not subject to warrantless search in all circumstances.”).

⁶⁰ *Carney II*, 471 U.S. at 392-93; *see also* United States v. Gooch, 6 F.3d 673, 677 (9th Cir. 1993) (explaining *Carney*’s two-part test); United States v. Houck, No. 16-05010-01, 2017 WL 3498860, at *4 (W.D. Mo. June 16, 2017) (explaining the same).

⁶¹ *Carney II*, 471 U.S. at 394 n.3.

⁶² *Id.*

⁶³ *Maccani*, 526 F. Supp. 3d at 420.

from his truck, situated its tongue on blocks, chocked its tires, and tethered its body to external solar panels.⁶⁴ Maccani clearly lived in the trailer. The trailer contained a bed, curtains, a pantry, and a cooking area. Books, movies, notebooks, toiletries, food and cooking utensils filled its shelves.⁶⁵ Maccani had even set up an outdoor seating area near his trailer.⁶⁶ The court found Maccani's detached trailer home to be inherently mobile because it was parked on a public road and the pickup was "near at hand."⁶⁷ In words that most vehicle dwellers would find laughable, the court reasoned that "[t]he process of loading up the solar panels, locking the door, attaching the trailer to the truck's hitch, and pulling the chocks would take only a few minutes, at most."⁶⁸

When it comes to homes on wheels, cases like *Maccani* are the norm.⁶⁹ The North Dakota Supreme Court in *State v. Otto*, for example, found the automobile exception to apply to an unhooked camper that was connected to power cords and whose landing gear was down.⁷⁰ The Ninth Circuit in *United States v. Hamilton* applied the automobile exception to a motor home that was parked in a residential driveway and was connected to that residence with a power cord.⁷¹

The Ninth Circuit's jurisdiction covers most Western states, including Arizona, Nevada, California, Washington, Oregon, as well as Idaho, Alaska, and Hawaii. Most U.S. vehicle dwellers ostensibly live in the Western states due these states' robust public lands and more hospitable weather. Although the Circuit has held that police may not search tents at campgrounds without a warrant,⁷² it has allowed warrantless searches of motor homes at campgrounds under the automobile exception.⁷³ Thus, while police require a warrant to search a

⁶⁴ *Id.* at 450.

⁶⁵ *Id.*

⁶⁶ *Id.* at 435.

⁶⁷ *Id.* at 451.

⁶⁸ *Id.*

⁶⁹ See generally Marc C. McAllister, *Go Tiny or Go Home: How Living Tiny May Inadvertently Reduce Privacy Rights in the Home*, 69 S.C. L. REV. 266, 287 n.172 (2017) (citing series of cases where automobile exception applied to motor homes).

⁷⁰ *State v. Otto*, 840 N.W.2d 589, 594-95 (N.D. 2013).

⁷¹ *United States v. Hamilton*, 792 F.2d 837, 843 (9th Cir. 1986).

⁷² *United States v. Gooch*, 6 F.3d 673, 677 (9th Cir. 1993).

⁷³ See *United States v. Aguilar*, 338 F.3d 736, 738 (9th Cir. 2009).

tent at a campground, they may without warrant search motor homes, pop-up campers, teardrop trailers and camper vans situated at that very same campground. As for Joseph Ciampi, despite all the evidence that he lived in his Dodge Ram van, the District Court found the van to be a vehicle rather than a home.⁷⁴

Overall, our search of some fifty years of Fourth Amendment jurisprudence reveals only a handful of cases where courts have treated a home on wheels as a home rather than as a vehicle. In 1994, a court in Oregon refused to apply the automobile exception to a motor home that was parked at a snowed in off-road campsite and where the police knew that the defendants and their baby were using the motor home as their residence — because they had been thrown out of their apartment.⁷⁵ A court in Florida determined that a fully-furnished motor home served as a residence rather than a vehicle.⁷⁶ The motor home was situated in a rural private wooded lot, was connected to an operating generator, was filled with food and clothing, and other vehicles used for the inhabitants' transportation were present.⁷⁷ In 1985, the U.S. District Court in New Hampshire declined to apply the automobile exception to a detached house trailer in a trailer park.⁷⁸ Although the towing vehicle was nearby, one end of the trailer was elevated on blocks; the trailer was connected to campground utilities; and, in contrast to the recent *Maccani* court, the New Hampshire court believed that it would take nearly an hour to connect the trailer to the truck.⁷⁹

In 2017, two U.S. District Courts refused to apply the automobile exception to RVs parked on private property. In the first case, held in Kansas, the officers knew that the RV was being used as residence and found the defendants asleep rather than behind the wheel.⁸⁰ In the second case, held in Missouri, the court found that even though the RV was readily mobile, it was situated in a way that indicated that it was not

⁷⁴ *Ciampi v. City of Palo Alto*, 790 F. Supp. 2d 1077, 1097 (N.D. Cal. 2011).

⁷⁵ *United States v. Matteucci*, 842 F. Supp. 442, 449 (D. Or. 1994).

⁷⁶ *United States v. Adams*, 845 F. Supp. 1532, 1536-37 (M.D. Fla. 1994).

⁷⁷ *Id.*

⁷⁸ *United States v. Levesque*, 625 F. Supp. 428, 450-51 (D.N.H. 1985).

⁷⁹ *Id.*

⁸⁰ *United States v. Briscoe*, No. 16-10155, 2017 WL 1908594, at *5 (D. Kan. May 10, 2017).

being used for transportation at the time of the search.⁸¹ The vehicle was leveled and fully extended. It was hooked up to utilities with air conditioning running. It had a satellite dish on its roof and a garbage can and grill set up outside its door.⁸²

Expansion of the Automobile Exception to Containers in Vehicles. In a dangerous development for vehicle dwellers, in the 1980s and 1990s the Supreme Court dramatically expanded the automobile exception. In a series of cases, the Court allowed not only warrantless searches of the vehicle but also of its compartments, such as the glove compartment and its trunk, and even of closed containers in a vehicle.⁸³

Sandra Houghton sat in the front seat of a car driven by David Young.⁸⁴ In the early morning hours of July 23, 1995, a Wyoming police officer pulled over the car for speeding and driving with a faulty brake light.⁸⁵ The officer noticed a syringe in Mr. Young's shirt pocket. The officer also saw a woman's purse belonging to Ms. Houghton in the back seat.⁸⁶ Although the officer had no probable cause to believe that Ms. Houghton was using drugs or that her purse contained evidence of contraband, the officer searched her purse and even opened a closed pouch in the purse.⁸⁷ The Supreme Court upheld this warrantless search.⁸⁸

By the turn of the millennium, police with probable cause to search a vehicle for evidence of criminal activity had the authority to search not only the car and its compartments but also purses, luggage, jackets, and anything else in the car that might contain contraband. A suitcase, purse, or container that could not be searched without a warrant when

⁸¹ *United States v. Houck*, No. 16-05010-01, 2017 WL 3498860, at *5 (W.D. Mo. June 16, 2017). Although the holding was reversed on other grounds, the officers held a reasonable belief that a RV was a vehicle such that evidence found in RV was not excluded.

⁸² *Id.*

⁸³ *See California v. Acevedo*, 500 U.S. 565, 580 (1991); *United States v. Ross*, 456 U.S. 798, 825 (1982).

⁸⁴ *Wyoming v. Houghton*, 526 U.S. 295, 297-98 (1999).

⁸⁵ *Id.* at 297.

⁸⁶ *Id.* at 298.

⁸⁷ *Id.* at 295, 299.

⁸⁸ *Id.* at 302.

outside a vehicle suddenly became fair game to a sweeping warrantless probe when placed into the vehicle.

The implications of this erosion of Fourth Amendment protection for the privacy interests of van dwellers are staggering. Homes on wheels are filled with containers. A warrantless search could encompass dresser drawers, shelves, refrigerators, and envelopes. Once police have probable cause to believe that a vehicle contains evidence of a crime, *poof*, they may search anything in that vehicle that could conceivably contain such evidence. *United States v. Albers* is illustrative. In that 1998 case, the Ninth Circuit, like the Tenth Circuit before it, extended the automobile exception to houseboats.⁸⁹ It then upheld the warrantless search of videotapes and film found on the Lake Powell houseboat because the police had probable cause to believe that the houseboat contained evidence of illegal BASE jumping.⁹⁰

II. THE CRIMINALIZATION OF VEHICLE DWELLING

The sweeping police authority to search automobiles began during prohibition. *Carroll* involved illegal booze running, and its automobile exception enabled police to search cars easily for liquor. After our nation abandoned its failed experiment with prohibition, it eventually pivoted to a war on drugs.⁹¹ The expansion of the automobile exception to encompass compartments and containers occurred against the backdrop of this war on drugs. Armed with an expanded automobile

⁸⁹ *United States v. Albers*, 136 F.3d 670, 673 (9th Cir. 1998); *United States v. Hill*, 855 F.2d 664, 668 (10th Cir. 1988).

⁹⁰ *Albers*, 136 F.3d at 674. BASE jumping is the sport of jumping from fixed objects like cliffs, buildings and bridges with a parachute.

⁹¹ See generally Doug Bandow, *War on Drugs or War on America?*, 3 STAN. L. & POL'Y REV. 242, 243-45 (1991) (describing, inter alia, Congress' passage of successively stricter anti-drug laws in 1984, 1986, and 1988; the more than doubling both of drug busts between 1980 and 1989 and of the U.S. prison population between 1981 and 1990; and successive violation of civil liberties protections as part of America's crackdown on drugs); Benjamin T. Smith, *New Documents Reveal the Bloody Origins of America's Long War on Drugs*, TIME (Aug. 24, 2021, 12:49 PM), <https://time.com/6090016/us-war-on-drugs-origins/> [<https://perma.cc/N9BM-FTTJ>] (President Nixon declared a "war on drugs" on June 17, 1971. Nixon's declaration "marked the beginning of a new era of American drug policy" that "would lead to the mass imprisonment of domestic drug users from the 1980s onwards.").

exception, the police without warrant scoured vehicles and their contents for marijuana and other drugs. Today, numerous jurisdictions are rethinking the “war on drugs,” and have legalized marijuana or are in the process of doing so.

They have now turned their attention to fashioning or expanding a new kind of criminality: the act of living or sleeping in vehicles. According to the National Homeless Law Center 2019 report on homelessness, of the 187 cities surveyed, fifty percent have one or more laws restricting living in vehicles, representing a 213% increase since 2006.⁹² Four states, Hawaii, Oklahoma, South Carolina, and South Dakota, have passed laws that expressly restrict lodging, living, or sleeping in vehicles.⁹³ Four other states, California, Florida, New Hampshire, and Texas, have enacted general laws that restrict camping in public statewide that might apply to “camping” in vehicles.⁹⁴ Texas’ camping ban, which passed in 2021, actually punishes municipalities that fail to enforce the draconian camping ban with the potential loss of state funds.⁹⁵

In 2020, Tennessee made camping on state public property a felony, punishable by up to six years in prison.⁹⁶ In May of 2022, the State dramatically expanded the law to cover not only state land but local public property as well.⁹⁷ This would seemingly cover municipal parks

⁹² NAT’L L. CTR. ON HOMELESSNESS & POVERTY, HOUSING NOT HANDCUFFS 2019: ENDING THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES at 14 (2019), <https://homelesslaw.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf> [<https://perma.cc/GX6M-8NBW>].

⁹³ NAT’L HOMELESSNESS L. CTR., HOUSING NOT HANDCUFFS 2021: STATE LAW SUPPLEMENT 7 (2021), <https://homelesslaw.org/wp-content/uploads/2021/11/2021-HNH-State-Crim-Supplement.pdf> [<https://perma.cc/CS5W-Z69T>].

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Equal Access to Public Property Act of 2012, 39 TENN. CODE ANN. § 39-14-414 (2022). Associated Press, *Tennessee Homeless Brace for Law Expansion Making Public Camping a Felony*, ABC24 (May 21, 2022, 4:31 PM CDT), <https://www.localmemphis.com/article/news/politics/tennessee-homeless-law-expansion-public-camping-felony-land-property-homelessness-covid-health-healthcare-for-homeless-council-shelter-shelters-state/522-785e6fdo-667e-4ee0-bf03-d55da13642a7> [<https://perma.cc/X2QE-DDH8>].

⁹⁷ § 39-14-414 (2022); Crystal Harris, *Tennessee’s Approach to the Rise in Homelessness*, LINCOLN MEM’L U. L. REV. (July 31, 2022), <https://lmulawreview.scholasticahq.com/post/1602> [<https://perma.cc/R86T-W554>].

and parking lots. Tennessee thus became the first state to make it a felony to camp on nearly all public property.⁹⁸ The law, which went into effect on July 1, 2022, also makes it a misdemeanor to “camp” on highways, under bridges, on overpasses or the like.⁹⁹

Vehicle dwellers are alarmed by the new law’s potential application to them. On May 21, 2022, Driv’n & Vib’n, a popular online site for RVers and other vehicle campers, issued the following: “Warning: Overnight Parking on Public Land is Now a Felony in Tennessee.”¹⁰⁰

While the precise application of the statute to vehicle dwellers remains to be seen, the statute does broadly define “camping” to include sleeping or preparing to sleep on public property at any time.¹⁰¹ Further restrictions apply between the hours of 10 PM and 7 AM. During these hours, illegal camping includes not only sleeping on public property but “maintaining,” “using,” or “leaving” “a temporary shelter or structure” or “[p]lacing or storing personal belongings for use, including storing food,” or “[c]arrying on cooking activities” on public property.¹⁰² In addition to prison terms, the law permits authorities to seize and confiscate camping items, which could potentially include the camping vehicle itself.¹⁰³ Persons have ninety days to claim the seized items but must pay any storage fees.¹⁰⁴

A May 2022 article by The Associated Press puts a human face on the fear engendered by Tennessee’s new law. A Tennessee resident explained that she had lost her home during the COVID-19 pandemic

⁹⁸ Harris, *supra* note 97; Associated Press, *supra* note 96.

⁹⁹ Associated Press, *supra* note 96; Cole Johnson, *Tenn. Bill Criminalizing Camping on Public Property to Become Law After Gov. Lee Declines to Sign It*, NEWS CHANNEL 5 NASHVILLE (May 5, 2022, 8:38 AM), <https://www.newschannel5.com/news/tenn-bill-criminalizing-camping-on-public-property-to-become-law-after-gov-lee-declines-to-sign-it> [<https://perma.cc/KQK2-YQMA>].

¹⁰⁰ The Drivin’ & Vubin’ Team, *WARNING: Overnight Parking on Public Land Is Now a Felony in Tennessee (Up to 6 Years in Prison)*, DRIVIN’ & VIBIN’ (May 28, 2022), <https://drivinvibin.com/2022/05/28/overnight-parking-tennessee/> [<https://perma.cc/25MS-B97R>].

¹⁰¹ § 39-14-414 (b)(2).

¹⁰² *Id.* § 39-14-414 (b)(1).

¹⁰³ *Id.* § 39-14-414 (d).

¹⁰⁴ *Id.*

and now lives in her vehicle.¹⁰⁵ The new law, she laments, is “going to be hard. I don’t know where else to go.”¹⁰⁶

While the police lacked probable cause in 2008 to believe that Joseph Ciampi had violated any laws, today in an alarming number of jurisdictions, they would have such cause. If it is illegal to live, sleep, or camp in a vehicle, then comforters, pillows, small refrigerators, luggable toilets, small dressers, pots and pans, and solar panels all serve as evidence of violating the law. Searching a vehicle for such evidence and rummaging through containers to see if they contain food, medicine, legal papers, and other indicia of vehicle dwelling are allowed.

Los Angeles Municipal Code Section 85.02, for example, prohibits using a vehicle as “living quarters either overnight, day-by-day, or otherwise.”¹⁰⁷ In September of 2010, Los Angeles decided to crack down on vehicle dwellers in Venice. It created a task force of twenty-one police officers to go out and “cite and arrest homeless people using their automobiles as ‘living quarters.’”¹⁰⁸ “Supervisors instructed officers to look for vehicles containing possessions normally found in a home, such as food, bedding, clothing, medicine, and basic necessities.”¹⁰⁹

Mr. Jacobs-Elstein fell prey to this crackdown. Having lost his job, Jacobs-Elstein lived in his vehicle. On October 31, 2010, two officers arrested him for violating Section 85.02. A search of his car revealed “personal belongings, such as boxes and computer equipment, as well as plastic bottles of urine.”¹¹⁰ Jacobs-Elstein had no criminal record before this arrest.¹¹¹ Three months later, police cited Jacobs-Elstein again for violating Section 85.02, this time while Jacobs-Elstein was sitting in his car, talking on his cell phone.¹¹² Jacobs-Elstein had dog food in the car, as well as salad boxes, water bottles, a portable radio, and bags of clothes. Jacobs-Elstein showed the officer proof that he slept on private

¹⁰⁵ Associated Press, *supra* note 96.

¹⁰⁶ *Id.*

¹⁰⁷ L.A., CAL., MUN. CODE § 85.02 (2019); *Desertrain v. City of Los Angeles*, 754 F.3d 1147, 1153 (9th Cir. 2014).

¹⁰⁸ *Desertrain*, 754 F.3d at 1149.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 1150.

¹¹¹ *Id.*

¹¹² *Id.* at 1151.

property, and thus was not sleeping in his vehicle. The officer informed him that he need not sleep in his car to violate Section 85.02's sweeping reach.¹¹³

Others shared Jacobs-Elstein's fate. On the morning of December 18, 2010, officers arrested Chris Taylor, who was sitting in his car to escape the rain, for violating Section 85.02 and impounded his car.¹¹⁴ Taylor's vehicle contained the following incriminating evidence: one tin of food, clothing, and a bottle of urine. Taylor told the officers that he slept at Winter Shelter and not in his car, and that he had an identification card issued by Winter Shelter to prove it. The police arrested him nonetheless.

Patricia Warivonchik lived in Venice for thirty-four years.¹¹⁵ Following a significant head injury, she could no longer find full-time work and pay rent in Venice. Not wanting to leave the area, she began living in her RV, which she legally parked in her church parking lot. On November 13, 2010, she was driving her RV through Venice when officers pulled her over for failing to turn off her left blinker. The officers did not cite her for the blinker. Rather, they issued a written warning for violating Section 85.02 and told her that she would be arrested if ever seen again in Venice with her RV.¹¹⁶

William Cagle lived in Venice since 1979.¹¹⁷ He suffered from congestive heart failure. He lived on Social Security, upon which he could not cover both rent and his medicine. In the early mornings of October 17, 2010 and November 22, 2010, officers arrested Cagle in his small van for violating Section 85.02.¹¹⁸ Among the incriminating items found in the van were clothing, bedding, boxed food, bottles of medicine, and a portable radio.¹¹⁹

The Ninth Circuit ultimately found Section 85.02 unconstitutionally vague.¹²⁰ Cities, however, can avoid the constitutional vagueness

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 1151-52.

¹²⁰ *Id.* at 1157.

problem simply by making their laws more prescriptive and less vague. For example, in 2018, U.S. District Judge Anthony Battaglia found San Diego's vehicle habitation ordinance that outlawed people from living either temporarily or permanently in vehicles both vague and arbitrarily enforced.¹²¹ San Diego repealed the unconstitutional ordinance only to resuscitate it a mere three months later in a more prescriptive form.¹²² As the Courthouse News Service explained, the revived law sought to address the court's "concerns about vagueness by specifying a list of factors for police to use when determining if someone is in fact living in their vehicle." These include possessing items like "cookware, food and water, grooming items or containers of human waste."¹²³

As for Mr. Bloom, the van dweller who challenged San Diego's unconstitutional ordinance in the first place, he died in his van in July of 2021.¹²⁴ Bloom had lived in vehicles for over a decade. He could not otherwise survive on his \$1,000 a month disability payment.¹²⁵

People often ask whether vehicle dwellers are liberal or conservative, Republican or Democrat. They are both. In the Arizona desert outside of Quartzite, where tens of thousands of vehicle dwellers descend for the winter, flags of all stripes flutter in the desert wind. Trump flags mingle with LGBTQ flags. Flags with peace signs unfurl next to flags staking a Second Amendment right to bear arms. Just as vehicle dwellers span the political spectrum, so do the laws cracking down on nomadic life. Blue states and red states alike as well as their municipalities have and are passing laws and ordinances to encumber and even criminalize living in a vehicle.¹²⁶ Enforcement of these laws threaten the privacy interests of vehicle dwellers throughout the country. For many Americans, they have no place to escape the probing eyes of the law, no home into which to retreat.

¹²¹ Bloom v. City of San Diego, No. 17-cv-2324, 2018 WL 9539239, at 8 (S.D. Cal. Aug. 21, 2018).

¹²² Bianco Bruno, *Disabled Man Challenging San Diego Vehicle Habitation Law Celebrated with Memorial*, COURTHOUSE NEWS SERVICE (July 1, 2021), <https://www.courthousenews.com/disabled-man-challenging-san-diego-vehicle-habitation-law-celebrated-with-memorial/> [<https://perma.cc/25WK-7MX6>].

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ See discussion above *supra* Part II.

III. FOUR LEGAL BRIGHT SPOTS

Four legal developments signal some pushback on decades of increased police power to search vehicles.

First, in 2018, the Supreme Court in *Collins v. Virginia* expanded the zone of the home, the so-called curtilage, protected by the Fourth Amendment to cover vehicles parked in the driveways of homes.¹²⁷ Thus, if an RV or van is parked in a driveway of a home, police may not search it without a warrant. Under *Collins*, the Fourth Amendment protection that applies to a home trumps the automobile exception when a vehicle is in the driveway, garage, or other curtilage of a home. Today, the warrantless searches of the motor home and trailer parked in driveways upheld by the Ninth Circuit in *Hamilton* and by the North Dakota Supreme Court in *Otto* likely would be illegal.

Vehicle dwellers sometimes park in the driveways of friends and family, and even hosts, a practice referred to as “mooch-docking” or “driveway surfing.”¹²⁸ The *Collins* decision is good news for driveway-surfing nomads, for vehicle dwellers visiting family and friends, and for people who park their RVs and the like in their own driveways. Perhaps most importantly, it helps those displaced by climate change disasters who take refuge in vans and trailers that they park in the driveways of friends and family.

¹²⁷ *Collins v. Virginia*, 138 S.Ct. 1663 (2018); see Brenda I. Rowe, *Get Out of My Driveway! Collins v. Virginia Protects Curtilage from Being Trampled by the Automobile Exception*, CRIMINOLOGY & CRIM. J. FAC. PUBL'NS (Tx. A&M Univ., San Antonio, Tx.), 2019, at 2-3.

¹²⁸ See, e.g., Morgan Youngblood, *What Is Moochdocking? Free Camping & How to Do It*, THE HOME THAT ROAMS (Aug. 30, 2023), <https://thehomethatroams.com/blog/moochdocking/> [<https://perma.cc/9DVD-PD76>]; BudgetTravelGuy, *Vanlife/RV Life: What is Driveway Camping (Driveway Surfing)*, YOUTUBE (June 22, 2020), https://www.youtube.com/watch?v=B_J7nYlsoNs [<https://perma.cc/9D5J-9NTR>]; Gone with the Wynns, *VAN LIFE Guide to Moochdocking (driveway surfing)*, YOUTUBE (Mar. 22, 2020), <https://www.youtube.com/watch?v=wfhgl-xtTD8> [<https://perma.cc/2ST5-8RNC>]; Amanda Watson, *Your Complete Guide to Successful Driveway Camping*, DO IT YOURSELF RV (Oct. 7, 2018), <https://www.doityourselfrv.com/driveway-camping/> [<https://perma.cc/A47V-KTUZ>]. A membership platform even exists to facilitate “driveway surfing” between strangers. BOONDOCKERS WELCOME, <https://www.boondockerswelcome.com/become-a-guest/> (last visited Oct. 9, 2023) [<https://perma.cc/T5SC-UEJZ>].

Second, and even more importantly, the Supreme Court is treating searches of cellphones and smartphones, and by analogy computers, differently than searches of physical objects. The Supreme Court recognizes the unique privacy interests that attach to such devices and the sweeping intrusion that warrantless searches of such devices present to citizens of our country. Thus, in 2014, in *Riley v. California*, a unanimous Supreme Court found unconstitutional the warrantless search of a cellphone found in the possession of an arrestee.¹²⁹ The Obama-era Department of Justice argued that cellphones and smartphones were no different than other physical containers found in the possession of an arrestee that could be searched without a warrant under the “search incident to arrest” exception to the warrant requirement.¹³⁰ The Supreme Court resoundingly rejected this argument.

To say that a search of all data stored on a cell phone “is materially indistinguishable” from searches of physical items, wrote Chief Justice Roberts, “is like saying a ride on horseback is materially indistinguishable from a flight to the moon.”¹³¹ “A decade ago,” the Court explained, “police officers searching an arrestee might have occasionally stumbled across a highly personal item such as a diary. But those discoveries were likely to be few and far between.” “Today, by contrast,” Americans “keep on their person a digital record of nearly every aspect of their lives—from the mundane to the intimate.”¹³² The Court emphasized how cellphones track visits to online political and medical sites. Omnipresent mobile apps detail “all aspects of a person’s life,” including “apps for alcohol, drug, and gambling addictions; apps for sharing prayer requests; apps for tracking pregnancy symptoms, apps for every conceivable hobby or pastime.”¹³³

The Court quoted the venerable Judge Learned Hand’s 1926 opinion that “it is a . . . totally different thing to search a man’s pockets and use against him what they contain, from ransacking his house for everything

¹²⁹ *Riley v. California*, 573 U.S. 373, 386 (2014).

¹³⁰ *Id.* at 393.

¹³¹ *Id.*

¹³² *Id.* at 395.

¹³³ *Id.* at 396.

which may incriminate him.”¹³⁴ If a person had a cell phone in his pocket, the Court reasoned, this was no longer true. A cellphone search “would typically expose to the government far more than the most exhaustive search of a house.”¹³⁵

Riley involved the search incident to arrest exception to the Fourth Amendment warrant requirement. Its reasoning, however, applies with equal force to searches of cellphones and computers found in automobiles. Indeed, six months after the Supreme Court handed down its *Riley* decision, the Ninth Circuit applied *Riley* to invalidate a warrantless search of a cellphone found in an automobile.¹³⁶ The Ninth Circuit held that just as the search of a cellphone required a warrant notwithstanding the search incident to arrest exception, so too the search of a cellphone found in automobile required a warrant notwithstanding the automobile exception.¹³⁷ If anything, the court reasoned, “the privacy intrusion of searching a cell phone without a warrant” is of even greater concern in the automobile exception context because the automobile exception allows an even broader search than that permitted under the search incident to arrest exception.¹³⁸ If cell phones could be searched without a warrant for “purposes of the vehicle exception, officers would often be able to sift through all of the data on cell phones found in vehicles because they would not be restrained by any limitations of exigency or relevance to a specific crime” as limit other exceptions to the warrant requirement.¹³⁹

It is hard to overstate the importance of *Riley* to the privacy interests of vehicle dwellers. Vehicle dwellers depend on their mobile devices for almost everything. Many conduct remote businesses on their mobile devices.¹⁴⁰ They rely on mobile devices to meet up with other vehicle dwellers. They use mobile devices for nearly all communications as they

¹³⁴ *United States v. Kirschenblatt*, 16 F.2d 202, 203 (2d Cir. 1926).

¹³⁵ *Riley*, 573 U.S. at 396.

¹³⁶ *United States v. Camou*, 773 F.3d 932, 942 (9th Cir. 2014).

¹³⁷ *Id.* at 943.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ See, e.g., CheapRVliving, *HOWA 2023-2024 Caravans Are Here! Find Your Nomadic Community!*, YOUTUBE (Sept. 27, 2023), <https://www.youtube.com/watch?v=Xp3JvMFsSEk> [<https://perma.cc/XF5E-69FN>].

lack landlines. Given that their vehicle is their home, they have their mobile device with them at all times.

Third, while the district court in *Ciampi* found Ciampi's camper van to be a vehicle, it nonetheless found that using a ruse to extract a person from a vehicle violated Ciampi's reasonable expectation of privacy and therefore his Fourth Amendment right to be free from unreasonable searches and seizures.¹⁴¹ Just as police could not use a ruse to get into a home or use deception to lure a person to the doorway of her home, so too police could not use a ruse to lure someone from their vehicle.¹⁴² Although the *Ciampi* decision applies only to the Northern District of California, it does represent some judicial pushback to the notion that just because something is a vehicle, the Fourth Amendment barely applies such that even police deception is allowed. Other courts may follow its sound reasoning. In fact, Judge Lucy Koh, who decided the case, is now on the Ninth Circuit.¹⁴³ The California state court that had originally decided the *Ciampi* case had also found that the ruse extraction intruded upon Ciampi's reasonable expectation of privacy and protected Fourth Amendment rights.¹⁴⁴

Fourth, seven states — Montana, New Hampshire, New Mexico, Oregon, Pennsylvania, Vermont, and Washington — have abandoned or rejected the automobile exception entirely.¹⁴⁵ The supreme courts of these states find that their state constitutions afford people greater protection against police intrusion than that accorded under the U.S. Constitution's Fourth Amendment. They gird their rejection of the automobile exception on one of three rationales. The supreme courts of states like Pennsylvania in 2020 and Montana in 2000 find the automobile exception incompatible with the right of privacy expressly

¹⁴¹ *Ciampi v. City of Palo Alto*, 790 F. Supp. 2d 1077, 1097 (N.D. Cal. 2011).

¹⁴² *Id.*

¹⁴³ Press Release, U.S. Cts. for the Ninth Cir., Senate Confirms Judge Lucy Haeran Koh to Seat on U.S. Court of Appeals for the Ninth Circuit (Dec. 14, 2021), https://cdn.ca9.uscourts.gov/datastore/ce9/2021/12/Koh_Lucy_Confirmed.pdf [<https://perma.cc/L3Y6-L9UW>].

¹⁴⁴ *Ciampi*, 790 F. Supp. 2d at 1097.

¹⁴⁵ See *State v. McCarthy*, 501 P.3d 478, 490 (Or. 2021); *State v. Elison*, 14 P.3d 456, 471 (Mont. 2000); *Commonwealth v. Alexander*, 243 A.3d 177, 196 (Pa. 2020); *State v. Sterndale*, 656 A.2d 409, 412 (N.H. 1995). Further citations on file with author.

housing, as a percentage of income, had been considerably more affordable.¹⁴⁹ Neither the *Carney* majority nor its dissent remotely contemplated today's reality of legions of Americans resorting to vehicles as their homes. In light of this present and burgeoning reality, courts must take a more aggressive posture to protect the privacy interests of vehicle dwellers against unreasonable government intrusion. They readily can do so in two ways.

First, courts must take seriously *Carney*'s admonition that its application of the automobile exception does not extend to vehicles that are "objectively being used as residences," "either temporarily or otherwise."¹⁵⁰ The fact that in a half a century of jurisprudence, courts have only found motor homes and trailers to meet the residence threshold in a handful of cases reveals that they have skirted this admonition. Instead, once courts have found a motor home or a trailer to be capable of mobility, with a few exceptions, they have applied the automobile exception and have allowed the police to scour the home on wheels without a warrant. In so doing, they have avoided careful consideration of whether the motor home or trailer is objectively being used as a residence. As explained earlier, the Supreme Court in *Carney* identified a number of factors that might be relevant in making this determination. These include: (1) the vehicle's location; (2) whether the vehicle is readily mobile or not (such as by being elevated on blocks);

¹⁴⁹ See JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV., THE STATE OF THE NATION'S HOUSING 2022, at 1-4 (2022), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf [<https://perma.cc/576F-CGMU>] (reporting the dramatic rise in costs of both owner-occupied and rental housing); Kathryn A. Sabbeth, *Eviction Courts*, 18 U. ST. THOMAS L.J. 359, 367 (2022) (noting that for the past several decades, housing costs have outpaced inflation and wage growth so that it now often consumes 50 percent or more of a family's budget as opposed to one-third in prior generations); Eylul Tekin, *A Timeline of Affordability: How Have Home Prices and Household Incomes Changed Since 1960?*, CLEVER (Aug. 7, 2022), <https://listwithclever.com/research/home-price-v-income-historical-study/> [<https://perma.cc/V6RF-FZVM>] (showing that after adjusting for inflation, median home prices increased by 121 percent between 1960 and 2017 and by 48 percent between 1980 and 2017, while adjusted median household income only increased by 29 percent and 15 percent respectively; meanwhile, adjusted median gross rents increased by 72 percent between 1960 and 2017 and by 33 percent between 1980 and 2017, more than twice the growth of adjusted incomes in these periods).

¹⁵⁰ *Carney II*, 471 U.S. 386, 392-93, 394 n.3 (1985).

(3) whether the vehicle is licensed or not; (4) whether the vehicle is connected to utilities or not; and (5) whether the vehicle has convenient access to a public road or not.¹⁵¹

Moving forward, instead of focusing nearly entirely on whether a home on wheels is capable of mobility, courts should give considerable weight to the home on wheels' location. Where homes on wheels are parked in a private or public campground, they should enjoy the same Fourth Amendment protection against government searches accorded to tents and hotel rooms. The same holds true for homes on wheels situated on the vast stretches of public lands owned by the Federal Bureau of Land Management and the National Forest Service. People may camp for free on these federal lands for up to 14 days, a practice officially called "dispersed camping" and unofficially "boondocking."¹⁵² Vehicle dwellers routinely live on these public lands. They often migrate among locations in the Nevada, Arizona, and California deserts in the winter and move to higher elevations in Arizona, Colorado, and Oregon in the summer.¹⁵³ One can see the tops of tens of thousands of these homes on wheels glittering in the Arizona desert outside of Quartzite for miles. That these vehicles are being used as residences is obvious.

To combat the homelessness crisis, some cities and houses of worship are establishing "safe parking lots."¹⁵⁴ People living in vehicles can park and sleep in their vehicles in these lots.¹⁵⁵ Safe parking lots serve the same purpose as homeless shelters, while affording vehicle dwellers greater autonomy, privacy, and dignity. In 2022, Congress considered a bipartisan bill, with 32 co-sponsors, that would allocate millions of dollars for the expansion and the establishment of safe parking lots.¹⁵⁶

¹⁵¹ *Id.* at 394 n.3.

¹⁵² BOB WELLS, HOW TO LIVE IN A CAR, VAN OR RV: AND GET OUT OF DEBT, TRAVEL, AND FIND TRUE FREEDOM 102-05 (CreateSpace Indep. Publ'g Platform 2014). After fourteen days, those wishing to continue to boondock must move to a site at least 25 miles away.

¹⁵³ *Id.*

¹⁵⁴ See, e.g., *About Colorado's Safe Parking Initiative*, COLO. SAFE PARKING INITIATIVE, www.colosafeparking.org (last visited Feb. 10, 2021) [<https://perma.cc/VUA5-UBT5>]; Esther D. Kustanowitz, *IKAR Becomes 'Safe Parking' Partner*, JEWISH J. (Aug. 3, 2018), <https://jewishjournal.com/community/236836/ikar-becomes-safe-parking-partner/> [<https://perma.cc/TJG8-Q27D>].

¹⁵⁵ See *supra* note 154.

¹⁵⁶ Naomi Schwartz Safe Parking Program Act of 2021, H.R. 2965, 117th Cong. (2022).

The House Committee on Financial Services approved the bill in July of 2022, but the Senate failed to act on it before the end of the 117th Congress.¹⁵⁷ A vehicle stationed in a safe parking lot is objectively being used, at least temporarily, as a residence. It should enjoy no less protection against warrantless government intrusion than any other residence.

A number of private businesses allow motor homes, vans, camper trailers, and the like to park in the outskirts of their lots overnight. The most famous of these is Walmart, but Cracker Barrel, Cabela's, Home Depot, Lowe's, and casinos often extend this courtesy.¹⁵⁸ Admittedly, whether a home on wheels is objectively being used as a residence when parked overnight in such a location presents a harder call than if parked in a designated camping area or a safe parking lot. Other indicia of vehicle dwelling would be relevant such as pulled shades, solar panels on the roof, and whether it seems like someone is sleeping in the vehicle.

In addition to giving ample weight to the location of the vehicle in determining whether it is objectively being used as a residence, courts should avoid diluting the factor of "ready mobility" to "capable of mobility." Virtually anything with wheels is capable of mobility and nearly all homes on wheels, absent their elevation on blocks, will meet this standard. Ready mobility in contrast emphasizes speed and ease. Can a vehicle take off at the turn of a key or in a matter of minutes? Retracting sliders, packing external solar panels, disassembling patio setups, attaching trailers and camper shells, and the like take time. Courts should stop pretending that they do not. While some homes on wheels are readily mobile, many, once situated, are not.

Yet what about the fact that homes on wheels, unlike brick-and-mortar homes or hotel rooms, can be moved? The vehicle exception is not the only exception to the warrant requirement. In cases of real

¹⁵⁷ Press Release, Salud Carbajal, Congressman, House of Representatives, House Committee Approves Rep. Carbajal's Naomi Schwartz Safe Parking Program Act (July 28, 2022), <https://carbajal.house.gov/news/documentsingle.aspx?DocumentID=1229> [<https://perma.cc/B7J6-72DW>].

¹⁵⁸ JERRY MINCHEY, SECRETS OF RVING ON SOCIAL SECURITY: HOW TO ENJOY THE MOTORHOME AND RV LIFESTYLE WHILE LIVING ON YOUR SOCIAL SECURITY INCOME 76-78 (Stony River Media 2016).

exigency, police may search vehicles just as they can other property without a warrant.¹⁵⁹

As discussed above, seven states do not recognize an automobile exception to the warrant requirement. Police in these states must therefore obtain a warrant before searching vehicles. The police rely on the stricter exigency exception where they in fact have a well-founded fear that evidence will be lost before they could obtain a warrant rather than relying on a broad sweeping automobile exception. Oregon provides a recent example. In December of 2021, the Oregon Supreme Court overturned the automobile exception in its state.¹⁶⁰ The court explained that vehicles were now subject to the more stringent

‘exigent circumstances’ exception to the warrant requirement that applies to other types of property. In order to justify a warrantless seizure or search based on exigent circumstances, the [S]tate must *prove* that there was a situation requiring law enforcement ‘to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or the destruction of evidence’

beyond the inherent mobility of the vehicle.¹⁶¹

Homes on wheels with residents sleeping inside or peacefully boondocking on public land usually do not present this exigency. Like people living in brick-and-mortar homes, vehicle residents are busy working and living. No less than their brick-and-mortar dwelling

¹⁵⁹ See *McDonald v. United States*, 355 U.S. 451, 456 (1948) (acknowledging that a search of a home without a warrant can be excused if “the exigencies of the situation made that course imperative”).

¹⁶⁰ *State v. McCarthy*, 501 P.3d 478, 482, 490 (Or. 2021) (over-ruling *per se* exigency of automobile).

¹⁶¹ *Id.* at 490 (emphasis added); see also *State v. Elison*, 14 P.3d 456, 471 (Mont. 2000) (“[T]he mobility of an automobile without more is not sufficient to justify a warrantless search” under the exigency exception. Rather, the State bears a “heavy burden of showing the existence” of “circumstances that would cause a reasonable person to believe that prompt action was necessary to prevent physical harm to police officers or other persons, the destruction of relevant evidence, the escape of the suspect”); *Commonwealth v. Alexander*, 243 A.3d 177, 180-81, 207-08 (Pa. 2020) (overturning the categorical automobile exception and holding that “the Pennsylvania Constitution requires both a showing of probable cause and exigent circumstances to justify a warrantless search of an automobile”).

counterparts, vehicle dwellers usually have no reason to believe that the police intend to search. The police in *Ciampi* and even in *Carney* caught the vehicle dwellers by surprise. They could have obtained a warrant. Instead, the sweeping automobile exception to the warrant requirement opens the door to fishing expeditions by police — searches based on hunches that may or may not be borne out and which could not pass judicial muster.

Second, the expansion of the automobile exception to searches of containers found in automobiles should not apply to containers found in homes on wheels. Even if a home on wheels is treated as a vehicle for purposes of the automobile exception, this does not mean that every expansion of the automobile exception should apply to vehicles used as homes. We need not have an “in for a penny, in for a pound” approach to the automobile exception. When the Supreme Court expanded the automobile exception to cover containers found in cars, it did so in the context of a vehicle being used as a mode of transportation. It did not face a situation where a vehicle was being used as a home, with the prospect of police, without a warrant, ransacking every container in that home under an expanded automobile exception.

The Supreme Court’s reasoning in *Riley*, which refused to extend the authority to search containers to cell phones, applies to containers found in homes on wheels. As explained earlier, the Court reasoned that while police might occasionally find something personal, like a diary, on a person searched incident to an arrest, they would not access a full panoply of information about the person as would occur with a search of a cell phone. The same holds true for searches of containers in homes on wheels. While police searching a vehicle used as a mode of transportation might occasionally come across highly personal items, such as medical records, they would not encounter the full panoply of a person’s life in the vehicle. People ordinarily keep most personal effects in their homes, not in their cars. Yet, when a person’s vehicle becomes their home, everything that a person would keep in their home is now in their vehicle.

Allowing police to search any and all containers in homes on wheels without a warrant constitutes the very ransacking of a person’s home that Judge Learned Hand prohibited nearly a century ago. For an increasing number of Americans, permitting such sweeping searches

leaves them with no place to retreat, no privacy of home — the right that lies at the very heart of the Fourth Amendment.

CONCLUSION

The #VanLife fringe is our future. Climate change displacements will force an unprecedented number of Americans to take up residence on a temporary or long-term basis in vans, trailers, and other vehicles. The two approaches proffered above limit the automobile exception when applied to vehicular residences. They attempt to preserve some private space for vehicle dwellers. That being said, these limiting approaches may not be enough. Climate change displacements may make the automobile exception as a whole increasingly unworkable and dangerous for a free society. The law will have to bend to accommodate the privacy needs of a large nomadic population. This pending reality may ultimately result in the jettisoning of *Carney*, if not of the automobile exception altogether.

In the oft-quoted words of Judge Jerome Frank: “A sane, decent, civilized society must provide some . . . oasis, some shelter from public scrutiny, some insulated enclosure, some enclave, some inviolate place which is a man’s castle.”¹⁶² Over a million Americans will spend tonight in a home on wheels. They and those who will join them deserve no less a constitutionally protected place to retreat as enjoyed by their fellow citizens whose homes rest on slabs of concrete rather than on wheels of rubber.

¹⁶² *Silverman v. United States*, 365 U.S. 505, 511 n.4 (1961).