Special Needs Detentions

Special law enforcement concerns will sometimes justify detentions without reasonable suspicion.
—Illinois v. *Lidster*[1]

For years and years, every police interaction with the citizenry was classified by the courts as a contact, an investigative detention, or an arrest. Over time, however, a fourth category started to appear in the cases—and today it has become firmly established in the law. Commonly known as a "special needs" or "community caretaking" detention, it is defined as a temporary seizure of a person that serves a public interest *other than* the need to determine if the detainee had committed a crime or was committing one.

Why was a new type of detention necessary? It was because the role of law enforcement officers in the community has expanded over the years to include an "infinite variety of services"[2] that are "totally divorced" from the apprehension of criminals."[3] As the First Circuit observed in *U.S.* v. *Rodriguez-Morales,* officers are now expected to "aid those in distress, combat actual hazards, [and] prevent potential hazards from materializing."[4]

As the result of these new demands, it is sometimes necessary for officers to stop and speak with people who are not suspected of criminal activity. This creates a problem: When an officer signals or otherwise instructs a person to stop, that person is automatically "detained."[5] And, under the old law, it would be an *illegal* detention because officers were only allowed to detain suspected criminals; i.e., the officers must have had reasonable suspicion. So, they would often find themselves in a classic Catch-22 situation: the public interest would be served if they detained the person; but if they did so, they would be breaking the law. Commenting on this dilemma, the Supreme Judicial Court of Maine said:

> If we were to insist upon suspicion of activity amounting to a criminal or civil infraction to meet the [detention] standard, we would be overlooking the police officer's legitimate role as a public servant to assist those in distress and to maintain and foster public safety.[6]

And that, in a nutshell, is why special needs detentions are now recognized by the courts. But this recognition came slowly. There were no "major" cases or public outcry over death or destruction resulting from the inability of officers to make special detentions.[7] Instead, it happened slowly as state appellate courts and the federal circuits were called upon more and more to address these situations. As the California Court of Appeal observed in 2008, "Though no published California case has specifically addressed this question, a number of other states recognize that a police officer may utilize the community caretaking exception to justify the stop."[8]

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[1] (2004) 540 U.S. 419, 424. Edited.

[2] *U.S.* v. *Rodriguez-Morales* (1st Cir. 1991) 929 F.2d 780, 785. ALSO SEE *People* v. *Madrid* (2008) 168 Cal.App.4th 1050, 1055 [the community caretaking exception "derives from the expanded role undertaken by the modern police force"]; *U.S.* v. *Dunavan* (6th Cir. 1973) 485 F.2d 201, 204 ["[P]articularly in big city life, the Good Samaritan of today is more likely to wear a blue coat than any other."]; *U.S.* v. *Finsel* (7th Cir. 2003) 326 F.3d 903, 907 ["But in addition to chasing criminals, law enforcement officers have another role in our society, a community caretaking function."].

[3] *Cady* v. *Dombrowski* (1973) 413 U.S. 433, 441.

[4] (1st Cir. 1991) 929 F.2d 780, 784-85.

[5] See *Brendlin* v. *California* (2007) 551 U.S. 249, 254 [a seizure results "when the officer, by means of physical force or show of authority, terminates or restrains his freedom of movement"].

[6] *State* v. *Pinkham* (Me. 1989) 565 A.2d 318, 319.

[7] See *People* v. *Hernandez* (N.Y. App. 1998) 679 N.Y.S. 790, 793 ["[T]his issue [stopping suspected victims of a crime] has received little attention in the reported case law because victims and witnesses have little reason to challenge in court their detention."].

[8] *People* v. *Madrid* (2008) 168 Cal.App.4th 1050, 1057-58. Edited. Citations omitted. ALSO SEE *State* v. *Lovegren* (Mont. 2002) 51 P.3d 471, 474 ["[W]e note that the majority of the jurisdictions that have adopted the community caretaker doctrine have determined that a peace officer has a duty to investigate situations in which a citizen may be in peril or need some type of assistance from an officer." Citations omitted.]; *State* v. *Marcello* (Vt. 1991) 599 A.2d 357, 358 ["safety reasons alone can be sufficient to justify a stop"]. ALSO SEE *Illinois* v. *McArthur* (2001) 531 U.S. 326, 330 ["When faced with special law enforcement needs . . . the Court has found that certain general, or individual circumstances may render a warrantless search or seizure reasonable." Citations omitted.].

But without a groundbreaking case, there have been no authoritative decisions setting forth the precise requirements for detaining people under the many and varied circumstances that constitute special needs. Nevertheless, as we will discuss in this article, the number of published cases on this issue has reached the point that most of the uncertainty has been eliminated.

When Permitted

There is general agreement that officers may conduct special needs detentions if both of the following circumstances existed:

(1) **Public interest**: The primary purpose of the detention must have been to further a public interest *other than* determining whether the detainee had committed a crime.[9] The most common public interests that fall into this category are checking welfare or otherwise preventing harm, locating witnesses to a crime, securing the scene of police activity, and conducting noncriminal detentions on school grounds.

(2) **Public interest outweighed intrusiveness**: This public interest must have outweighed the intrusiveness of the detention.

As the U.S. Supreme Court explained, "[I]n judging reasonableness, we look to the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty."[10]

Public interests vs. law enforcement interests

While all lawful detentions serve the public interest, the courts sometimes say that special needs detentions are permitted only if their primary purpose was "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute."[11] To put it another way, the objective must have been something other than a "general interest in crime control."[12]

Yet, this concept can be confusing because many of the special needs that result in detentions are linked indirectly—and sometimes directly—to criminal activity. As the Supreme Court of Connecticut observed, "Police often operate in the gray area between their community caretaking function and their function as criminal investigators."[13]

Fortunately, much of the confusion surrounding the terms "totally divorced" and "general interest in crime control" was eliminated by the Supreme Court in its most recent case on the subject, *Illinois* v. *Lidster*.[14] Specifically, the Court ruled that this language simply means that a detention will not be upheld under a special needs theory if the officers' *primary* objective was to determine if there were grounds to arrest the detainee.

The facts in *Lidster* are illustrative. Officers in Lombard, Illinois had been unable to locate the hit-and-run driver of a car that had struck and killed a bicyclist. So, one week after the accident, they set up a checkpoint near the scene and asked each passing motorist if he had seen anything that might help identify the perpetrator. Lidster was one of the drivers who was stopped, and he was arrested after officers determined that he was under the influence of alcohol. Lidster argued that the detention was unlawful because its purpose was to apprehend the hit-and-run driver. While that was its ultimate purpose, said the court, it met the requirement for a special needs detention because its immediate objective was "to ask vehicle occupants, as members of the public, for their help in providing information about a crime in all likelihood committed by others."

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[9] **NOTE RE PRETEXT DETENTIONS**: If the officer's reasons for detaining the person were objectively reasonable, the officer's motivation for doing so is immaterial. See *Brigham City* v. *Stuart* (2006) 547 U.S. 398, 404-5; *Whren* v. *United States* (1996) 517 U.S. 806, 813 ["[W]e have been unwilling to entertain Fourth Amendment challenges based on the actual motivations of individual officers"].

[10] *Illinois* v. *Lidster* (2004) 540 U.S. 419, 427.

[11] *Cady* v. *Dombrowski* (1973) 413 U.S. 433, 441.

[12] *Indianapolis* v. *Edmond* (2000) 531 U.S. 32, 41.

[13] *State* v. *Blades* (Conn. 1993) 626 A.2d 273, 279.

[14] (2004) 540 U.S. 419, 423 ["The stop's primary law enforcement purpose was not to determine whether a vehicle's occupants were committing a crime"].

Another objective that often falls into the gray area between special needs and crime control is public safety. Thus, while one of the objectives of DUI checkpoints is to arrest impaired motorists, these checkpoints fall into the category of special interest detentions because their co-objective is to reduce the death and destruction that results from drunk driving.[15]

An additional public safety interest that sometimes touches on crime control is the stopping of cars that are being operated in an unusual manner, but not so unusual or erratic as to be "worthy of a citation."[16] For example, in *People* v. *Bellomo*[17] an LAPD motorcycle officer noticed that the driver of a car stopped at a red light had his head "resting on the window" and his eyes "appeared to be closed." The officer stopped the car because he thought it was "very strange for the driver of the vehicle to be in this condition in a moving lane of traffic," and because he was concerned there was "something physically or mentally wrong" with him. It turned out the driver, Bellomo, was under the influence of alcohol, and he argued that the detention was unlawful because the officer saw nothing to indicate that he was impaired or citable. Even so, said the court, the detention was warranted because the officer's conduct was "reasonably consistent with his overall duties of protecting life and property and aiding the public."

In contrast, officers in *Indianapolis* v. *Edmond* established a drug-interdiction checkpoint in which they would walk a drug-detecting dog around each car in the line. Thus, unlike the situation in *Lidster*, the purpose of the checkpoint in *Edmond* was, in fact, to determine if the occupants were committing a crime. Edmond sued the city, arguing that the checkpoint resulted in an unlawful detention, and the United States Supreme Court agreed. Said the Court, "Because the primary purpose of the Indianapolis narcotics checkpoint program is to uncover evidence of ordinary criminal wrongdoing, the program contravenes the Fourth Amendment."[18]

Similarly, in *State* v. *Hayes*[19] officers in Chattanooga set up a roadblock outside a high-crime housing project for the purpose of "excluding trespassers." Although one of its objectives was "to help [the residents'] quality of life issues," the court ruled it did not qualify as a special needs detention because its immediate objective was to identify and exclude those vehicle occupants who were believed to be causing problems.

Weight of the public interest

As noted, even if the primary purpose of the detention was to further a public interest other than general crime control, it will not be permitted unless the need for the detention outweighed its intrusiveness.[20] Consequently, it is necessary to determine the weight of the public interest that was served by taking into account the following: (1) its importance to the public, (2) the likelihood that the detention would effectively serve that public interest, and (3) whether there were any less intrusive alternatives that were readily available.

IMPORTANCE OF THE PUBLIC INTEREST: Although a special needs detention is much less intrusive than an arrest or search, it will not be upheld unless is serves a sufficiently important public interest.[21] As the Washington Supreme Court explained, "We must cautiously apply the community caretaking function exception because of a real risk of abuse in allowing even well-intentioned stops to assist."[22] Or, as the court put it in *People* v. *Molnar*, "[W]e neither want

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[15] See *Michigan State Police* v. *Sitz* (1990) 496 U.S. 444, 451 ["No one can seriously dispute the magnitude of the drunken driving problem or the States' interest in eradicating it."]; *Indianapolis* v. *Edmond* (2000) 531 U.S. 32, 37 [Court notes that the DUI checkpoint it approved in *Sitz* was "aimed at removing drunk drivers from the road"]; *Illinois* v. *Lidster* (2004) 540 U.S. 419, 424 [Court refers to DUI checkpoints as a "special law enforcement *concern*." Emphasis added.].

[16] *State* v. *Pinkham* (Me. 1989) 565 A.2d 318, 318. ALSO SEE *State* v. *Rinehart* (S.D. 2000) 617 N.W.2d 842.

[17] (1984) 157 Cal.App.3d 193.

[18] (2000) 531 U.S. 32, 48.

[19] (Tenn. 2006) 188 S.W.3d 505.

[20] See *Indianapolis* v. *Edmond* (2000) 531 U.S. 32, 47; *People* v. *Glaser* (1995) 11 Cal.4th 354, 365; *In re Randy G.* (2001) 26 Cal.4th 556, 566 ["there is no ready test for determining reasonableness other than by balancing the need to search or seize against the invasion which the search or seizure entails"].

[21] See *Illinois* v. *Lidster* (2004) 540 U.S. 419, 427 ["we look to the gravity of the public concerns served by the seizure"]; *People* v. *Profit* (1986) 183 Cal.App.3d 849, 883 [the seriousness of the offense is a "highly determinative"].

[22] *State* v. *Acrey* (Wash. 2003) 64 P.3d 594, 600.

not authorize police to seize people or premises to remedy what might be characterized as minor irritants."[23] For example, in *U.S.* v. *Dunbar,* where an officer stopped a motorist because he appeared lost, the court pointed out that the "policy of the Fourth Amendment is to minimize governmental confrontations with the individual"; but that policy is not served if the courts permit officers to detain people "simply for the well-intentioned purpose of providing directions."[24]

On the other hand, the California Court of Appeal explained that, while officers are not permitted to "go around promiscuously bothering citizens," they may take actions that are "reasonably consistent" with their "overall duties of protecting life and property and aiding the public in maintaining lives of relative serenity and tranquility."[25] For example, the Supreme Court in *Michigan State Police* v. *Sitz* upheld a DUI checkpoint because of, among other things, the "magnitude of the drunken driving problem," and the "State's interest in preventing drunken driving."[26] Similarly, in determining the need for the detentions of possible witnesses in *Lidster* (the felony hit-and-run case discussed earlier) the Court pointed out that "[t]he relevant public concern was grave. Police were investigating a crime that had resulted in a human death."[27] (Several other examples of significant public interests will be discussed later.)

PROOF OF EFFECTIVENESS: The strength of the need to detain will also depend on the likelihood that the detention would effectively serve that need; i.e., that it will be "a sufficiently productive mechanism" to justify the intrusion.[28] For example, in *Delaware* v. *Prouse* the Supreme Court invalidated a departmental practice in which officers would make random car stops to determine whether the drivers were properly licensed. Said the Court, it was apparent that "the percentage of all drivers on the road who are driving without a license is very small and that the number of licensed drivers who will be stopped in order to find one unlicensed operator will be large indeed."[29]

In contrast, the Court in *Lidster* pointed out that there was reason to believe the checkpoint to locate witnesses would be effective because it "took place about one week after the hit-and-run accident, on the same highway near the location of the accident, and at about the same time of night."[30]

ALTERNATIVES? Finally, the need to detain a person would necessarily be greater if there were no less intrusive alternatives that were readily available. For example, in *People* v. *Spencer*[31] officers stopped a car because the driver was a friend of the suspect in a day-old assault, and the officer wanted to determine if he knew the suspect's whereabouts. But the court ruled there was insufficient need for the detention because the officers knew the detainee's name and they could have contacted him at home. Said the court, "[T]here was no genuine need for so immediate and intrusive an action as pulling over defendant's freely moving vehicle." In contrast, the court in *U.S.* v. *Ward* ruled that a car stop of a potential witness by FBI agents was lawful because, although the agents knew the witness's name and address, they could not question him at his home because his roommates were suspected fugitives.[32]

Note that the mere existence of a less intrusive alternative will not invalidate a detention unless the officers were negligent in failing to recognize and

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[23] (N.Y. App. 2002) 774 N.E.2d 738, 741.

[24] (D. Conn. 1979) 470 F.Supp. 704, 708. ALSO SEE *Stevens* v. *Rose* (9th Cir. 2002) 298 F.3d 880, 884 [detention unlawful because its purpose was to obtain a set of keys that were the subject of a civil dispute].

[25] *Batts* v. *Superior Court* (1972) 23 Cal.App.3d 435, 439.

[26] (1990) 496 U.S. 444, 451.

[27] (2004) 540 U.S. 419, 427.

[28] *Delaware* v. *Prouse* (1979) 440 U.S. 648, 659. ALSO SEE *Michigan State Police* v. *Sitz* (1990) 496 U.S. 444, 455 [consider "the extent to which [checkpoints] can reasonably be said to advance that interest"].

[29] (1979) 440 U.S. 648, 660.

[30] *Illinois* v. *Lidster* (2004) 540 U.S. 419, 427.

[31] (N.Y. App. 1995) 646 N.E.2d 785. ALSO SEE *State* v. *Ryland* (Neb. 1992) 486 N.W.2d 210 [detention unnecessary because the officer knew the witness's phone number, and the crime occurred a week earlier].

[32] (9th Cir. 1973) 488 F.2d 162, 164. ALSO SEE *In re Kelsey C.R.* (Wisc. 2001) 626 N.W.2d 777, 789 ["there were not any alternatives"]; *State* v. *Pierce* (Vt. 2001) 787 A.2d 1284, 1289 ["the license number will not always allow identification of the occupants of a vehicle, and a very brief stop will produce that identification"]; *Wold* v. *State* (Minn. 1988) 430 N.W.2d 171, 175 ["An atmosphere of haste pervaded the scene."].

implement it.[33] As the Supreme Court put it, "The question is not simply whether some other alternative was available, but whether the police acted unreasonably in failing to recognize or to pursue it."[34]

Intrusiveness of the Detention

Until now, we have been discussing only one half of the balancing equation: the strength of the need for the detention. But, as noted, the legality of a special needs detention depends on whether this need outweighed the intrusiveness of the stop. "[T]he manner in which the seizure was conducted," said the Supreme Court, "is as vital a part of the inquiry as whether it was warranted at all."[35]

How do the courts assess a detention's intrusiveness? The most cited circumstances are, (1) the manner in which the detainee was stopped, (2) whether officers utilized officer-safety precautions, (3) the length of the detention, and (4) whether it was conducted in a place and in a manner that would have caused embarrassment or unusual anxiety.

Although the above circumstances are relevant, in most cases a special needs detention is not apt to be viewed as excessively intrusive if, (1) it was brief, and (2) officers did only those things that were reasonably necessary to accomplish their objective. That is because brief and efficient detentions are viewed by the courts as "modest" or "minimal" intrusions. Thus, in ruling that special needs detentions were relatively nonintrusive, the courts have noted:

- "Such a stop entailed only a brief detention, requiring no more than a response to a question or two and possible production of a document."[36]
- The detention was "minimally" intrusive as it lasted "a very few minutes at most."[37]
- "Several circumstances diminish the intrusiveness of the initial detention here. First and foremost, it was extremely brief."[38]
- "[T]he restraint at issue was tailored to that need, being limited in time and scope."[39]
- Traffic stop was only a "minor annoyance."[40]
- The officer "did no more than was reasonably necessary to determine whether [the detainee] was in need of assistance."[41]
- "At a minimum, officers had a right to identify witnesses to the shooting, to obtain the names and addresses of such witnesses, and to ascertain whether they were willing to speak voluntarily with the officers."[42]

As for roadblocks and checkpoints, they too will usually be considered only a minor intrusion if, (1) they were brief, (2) all vehicles were stopped (i.e., vehicles were not singled out), and (3) it would have been apparent to the motorists that the stop was being conducted by law enforcement officers.[43]

Having examined the procedure for determining whether a special needs detention was justified, we will now look at the most common special needs cited by officers, and how the courts have analyzed them.

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[33] See *Atwater* v. *City of Lago Vista* (2001) 532 U.S. 318, 350; *People* v. *Bell* (1996) 43 Cal.App.4th 754, 761, fn.1.
[34] *United States* v. *Sharpe* (1985) 470 U.S. 675, 687.
[35] *United States* v. *Place* (1983) 462 U.S. 696, 707-8. ALSO SEE *Meredith* v. *Erath* (9th Cir. 2003) 342 F.3d 1057, 1062 ["the reasonableness of a detention depends not only on *if* it is made, but also on *how* it is carried out"].
[36] *Ingersoll* v. *Palmer* (1987) 43 Cal.3d 1321, 1333.
[37] *Illinois* v. *Lidster* (2004) 540 U.S. 419, 427. ALSO SEE *People* v. *Dominguez* (1987) 194 Cal.App.3d 1315, 1318 ["brief stop at the side of a public roadway"]; *People* v. *Hannah* (1996) 51 Cal.App.4th 1335, 1344 ["Although the duration of a detention is not determinative of its reasonableness, its brevity weighs heavily in favor of a finding of reasonableness."].
[38] *People* v. *Glaser* (1995) 11 Cal.4th 354, 366.
[39] *Illinois* v. *McArthur* (2001) 531 U.S. 326, 331. ALSO SEE *Palacios* v. *Burge* (2nd Cir. 2009) 589 F.3d 556, 565 ["there was appropriate tailoring"]; *U.S.* v. *Garner* (10th Cir. 2005) 416 F.3d 1208, 1213 ["the detention must last no longer than is necessary to effectuate its purpose, and its scope must be carefully tailored to its underlying justification"].
[40] *People* v. *Bellomo* (1984) 157 Cal.App.3d 193, 198.
[41] *State* v. *Crawford* (Iowa 2003) 659 N.W.2d 537, 543.
[42] *Walker* v. *City of Orem* (10th Cir. 2006) 451 F.3d 1139, 1148.
[43] See *Illinois* v. *Lidster* (2004) 540 U.S. 419, 425 ["information-seeking highway stops are less likely to provoke anxiety or to prove intrusive"]; *United States* v. *Martinez-Fuerte* (1976) 428 U.S. 543, 557-58 ["brief detention of travelers" was "quite limited"]; *Michigan State Police* v. *Sitz* (1990) 496 U.S. 444, 451 ["the measure of the intrusion on motorists stopped briefly at sobriety checkpoints is slight"]. ALSO SEE *People* v. *Manis* (1969) 268 Cal.App.2d 653, 666 ["The temporary loss of personal mobility which accompanies detention may be deemed part payment of the person's obligation as a citizen to assist law enforcement authorities in the maintenance of public order."].

Types of Special Needs Detentions

There are essentially four types of special needs detentions that have been recognized to date: community caretaking detentions, stops to locate witnesses to a crime, securing the scene of police activity, and noncriminal detentions on school grounds.

Community caretaking detentions

Of all the circumstances that may warrant a special needs detention, the most urgent is an officer's reasonable belief that the detainee was in imminent danger or was otherwise in need of immediate assistance. Thus, in discussing these types of stops—commonly known as "community caretaking detentions"[44]—the Montana Supreme Court pointed out that "the majority of the jurisdictions that have adopted the community caretaker doctrine have determined that a peace officer has a duty to investigate situations in which a citizen may be in peril or need some type of assistance from an officer."[45]

The following are the most common justifications that are cited for community caretaking detentions.

SICK OR INJURED PERSON: Whether officers may detain a person whom they believe may be sick or injured will generally depend on "the nature and level of distress exhibited."[46] The following are examples of circumstances that have been found to generate a strong need:

- The victim of an assault had just left the crime scene in the car; officers stopped the vehicle because the crime was "potentially serious" and "the victim, with knowledge of the incident and possibly in need of medical attention, had just left the scene.[47]
- An officer detained a man who was sitting in a vehicle that was parked at the side of a roadway at 3 A.M.; the headlights were off but the motor was running. Although the man appeared to be asleep, the court pointed out that "he might just as likely have been ill and unconscious and in need of help."[48]
- The driver of a car that was stopped at a traffic light was leaning his head against the window, and his eyes "appeared to be closed. Said the court, "The operation of a motor vehicle by a driver disabled for *any* reason be it a disability that is statutorily prohibited or not, is manifestly a serious event and the need for swift action is clear beyond cavil."[49]
- At 3 A.M., the driver of a car "stopped or slowed considerably five times within approximately 90 seconds" and then pulled off the road. The court ruled that "it was reasonable for the officer to conclude, among other things, that "something was wrong" with the driver or his vehicle.[50]

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[44] See, for example, *People* v. *Madrid* (2008) 168 Cal.App.4th 1050, 1060 [car stop was appropriate to discharge "community caretaking functions"]; *U.S.* v. *Garner* (10th Cir. 2005) 416 F.3d 1208, [detention of ill man fell within the "community caretaking function"]; *In re Kelsey C.R.* (Wisc. 2001) 626 N.W.2d 777, 789 [detention of suspected runaway "was reasonable under the police community caretaker function"]; *State* v. *Diloreto* (N.J. 2004) 850 A.2d 1226, 1233 [detention of missing person fell within the "community caretaker doctrine"]. ALSO SEE *Cady* v. *Dombrowski* (1973) 413 U.S. 433, 441 [the Court's first reference to "community caretaking functions"].

[45] *State* v. *Lovegren* (Mont. 2002) 51 P.3d 471, 474. Citations omitted. ALSO SEE *State* v. *Litschauer* (Mont. 2005) 126 P.3d 456, 457-58 ["[O]fficers have a duty not only to fight crime, but also to investigate uncertain situations in order to ensure the public safety."].

[46] *Corbin* v. *State* (Tex. App. 2002) 85 S.W.3d 272, 277. ALSO SEE *U.S.* v. *King* (10th Cir. 1993) 990 F.2d 1552, 1560 ["In the course of exercising this noninvestigatory function, a police officer may have occasion to seize a person in order to ensure the safety of the public and/or the individual."]; *Wright* v. *State* (Tex. 1999) 7 S.W.3d 148, 151 ["As part of his duty to 'serve and protect,' a police officer may stop and assist an individual whom a reasonable person—given the totality of the circumstances—would believe is in need of help."]. **NOTE**: While this type of special need is similar to traditional exigent circumstances, it is treated differently because it involves detentions of people as opposed to searches of people or property.

[47] *Metzker* v. *State* (Alaska App. 1990) 797 P.2d 1219, 1222. ALSO SEE *People* v. *Hernandez* (N.Y. App. 1998) 679 N.Y.S.2d 790 [officers reasonably believed that one of the occupants of the stopped vehicle had just been shot].

[48] *State* v. *Lovegren* (Mont. 2002) 51 P.3d 471. ALSO SEE *State* v. *Pinkham* (Me. 1989) 565 A.2d 318, 319 ["Police officers do not violate the Fourth Amendment if they stop a vehicle when they have adequate grounds to believe the driver is ill or falling asleep."].

[49] *People* v. *Bellomo* (1984) 157 Cal.App.3d 193, 197.

[50] *State* v. *Bakewell* (Neb. 2007) 730 N.W.2d 335, 339. ALSO SEE *State* v. *Reinhart* (S.D. 2000) 617 N.W.2d 842 [car stop because the driver was driving 20-25 m.p.h. in 40 m.p.h. zone, and the officer believed "he might have a medical problem such as a stroke"]; *State* v. *Marcello* (Vt. 1991) 599 A.2d 357, 358 [motorist told an officer to stop the defendant's car because "there's something wrong with that man."]; *State* v. *Vistuba* (Kan. 1992) 840 P.2d 511, 514.

- Responding to a report that a man in a field was "unconscious in a half-sitting, half-slumped-over position," officers found him on the ground and detained him so that fire department personnel could examine him.[51]

In contrast, the California Court of Appeal in *People* v. *Madrid* ruled that a community caretaking detention was unwarranted because the detainee was merely "walking with an unsteady gait and sweating" and "stumbled." Such symptoms, said the court, demonstrated "a low level of distress."[52]

MISSING PERSON: Another significant circumstance is that the detainee had been reported missing. Thus, in *State* v. *Diloreto*, the New Jersey Supreme Court ruled that a car stop was warranted because, per NCIC, a possible occupant of the vehicle was an "endangered missing person."[53]

MENTAL HEALTH ISSUES: A detention may be warranted if it appeared that the detainee was so mentally unstable as to constitute a threat to himself or others. Some examples:

- Detainee "was possibly intoxicated and was observed exiting and reentering a vehicle that was parked on a dead-end street."[54]
- Detainee was walking down the street at 1 A.M. "crying and talking really loudly or shouting," "his hands were over his face."[55]
- Detainee had reportedly taken "some pills," he was "agitated" and "physically aggressive" and he "did not know where he was."[56]
- Before driving off in a car, the detainee went "ballistic," screaming and banging her head on the car.[57]

WARN OF DANGER: Officers may detain a person to notify him of a dangerous condition or prevent him from entering a dangerous place.[58] For example, in *People* v. *Ellis* the California Court of Appeal ruled that an officer properly stopped a car at 2 A.M. in a parking lot to warn the driver that his lights were off. Said the court, the officer was "not required to wait until appellant actually drove upon a public street to stop appellant."[59]

Similarly, in *State* v. *Moore* a park ranger signaled the defendant to stop because, although he was not speeding, he was driving too fast for conditions; i.e., pedestrians in the campground did not have a clear view of approaching cars because of parked vehicles. Said the court, "Although defendant makes a plausible argument that his driving did not constitute a criminal violation, the park ranger nevertheless could have reasonably concluded that it posed a threat to the safety of other persons in the park."[60]

Finally, in *In re Kelsey C.R.*[61] officers in Milwaukee were patrolling a high-crime neighborhood at about 7:40 P.M. when they saw a 17-year old girl who was leaning against a storefront in a "huddled position." Thinking that she might be a runaway, the officers detained her and subsequently discovered she was armed with a handgun. On appeal, the Supreme Court of Wisconsin ruled that these circumstances constituted sufficient reason to detain her, pointing out, among other things, that "something bad could have happened" to her if the officers had not intervened; and that a minor "alone in a dangerous neighborhood is vulnerable to kidnappers, sexual predators, and other criminals."

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[51] *U.S.* v. *Garner* (10th Cir. 2005) 416 F.3d 1208.
[52] (2008) 168 Cal.App.4th 1050, 1060.
[53] (N.J. 2004) 850 A.2d 1226.
[54] *Winters* v. *Adams* (8th Cir. 2001) 254 F.3d 758, 760.
[55] *Gallegos* v. *City of Colorado Springs* (10th Cir. 1997) 114 F.3d 1024.
[56] *State* v. *Crawford* (Iowa 2003) 659 N.W.2d 537, 543.
[57] *State* v. *Litschauer* (Mont. 2005) 126 P.3d 456.
[58] See *People* v. *Williams* (2007) 156 Cal.App.4th 949, 959 [deputy detained a motorcyclist to prevent him from driving into a forested area in which officers were about to conduct a raid on a marijuana grow; in addition, a deputy testified that "[o]ftentimes these fields are booby-trapped"]; *U.S.* v. *King* (10th Cir. 1993) 990 F.2d 1552, 1559 [at the scene of a traffic accident, an officer detained the driver of a passing vehicle "to alleviate what she perceived as a traffic hazard resulting from [the driver's] incessant honking at the intersection"].
[59] (1993) 14 Cal.App.4th 1198, 1202.
[60] (Iowa 2000) 609 N.W.2d 502, 503.
[61] (Wisc. 2001) 626 N.W.2d 777. ALSO SEE *State* v. *Acrey* (Wash. 2003) 64 P.3d 594, 601 ["a 12-year-old boy, out after midnight on a weeknight without adult supervision"].

Locate witnesses

The need to locate or identify witnesses to a crime may also constitute a special need, especially if the crime was serious and if it had just occurred. The theory here is that, while many witnesses will voluntarily come forward and tell officers what they saw, some will not because they are hesitant about becoming involved or because they don't realize they saw or heard something significant. This can create a problem for officers at the crime scene because the only way to determine whether someone was a witness is to talk to him; and if he is leaving, they must either let him go (and lose whatever information he might have) or detain him.

While some courts ruled in the past that detentions for such an objective are not permitted,[62] the U.S. Supreme Court rejected this view in 2004. The case was *Illinois* v. *Lidster*[63] (the felony hit-and-run case discussed on page two) and the Court ruled that, like other special needs detentions, detentions for the purpose of locating and identifying witnesses are lawful if the need to find a witness outweighed the intrusiveness of the stop. As the Court observed, it would seem "anomalous" if the law allowed officers "to seek the voluntary cooperation of pedestrians but ordinarily to forbid police to seek similar voluntary cooperation from motorists."

Before we discuss how officers can determine whether a need to locate witnesses is sufficiently strong, it should be noted that in many cases the circumstances that would justify a detention of a person as a potential witness would also warrant a detention of that person to determine if he was the perpetrator. This is especially true if officers arrived shortly after the crime occurred or if there was some other reason to believe that the perpetrator was still on or near the scene. Thus, in one such case, the D.C. Circuit ruled that officers who had just arrived at the scene of a shooting were "not required to sort out appellant's exact role—participant or witness—before stopping him to inquire about a just-completed crime of violence."[64]

SERIOUSNESS OF THE CRIME: The most important circumstance is, of course, the seriousness of the crime that the detainee might have witnessed. In most cases, these types of detentions will be upheld only when the crime was especially serious, usually a felony and oftentimes one that resulted in an injury or an imminent threat to life or property.[65]

LIKELIHOOD THE DETAINEE WITNESSED THE CRIME: The need for a detention will also depend on the likelihood that the detainee had, in fact, witnessed the crime. While officers must, at a minimum, have reasonable suspicion,[66] their belief that the detainee was a witness may be based on direct evidence or reasonable inference. An example of direct evidence is found in *Williamson* v. *U.S.*[67] in which two officers on patrol in Washington D.C. heard several gun shots nearby at about 3:45 A.M. As they looked in the direction of the shots, they saw one car speeding off and some people starting to get into a second car in a "very quick hurry." The officers stopped the second

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[62] See *Walker* v. *City of Orem* (10th Cir. 2006) 451 F.3d 1139, 1148 ["[S]ome courts have prohibited the involuntary detention of witnesses to a crime." Citations omitted.].

[63] (2004) 540 U.S. 419, 426-27. ALSO SEE *Walker* v. *City of Orem* (10th Cir. 2006) 451 F.3d 1139, 1148 [*Lidster* "suggests that a brief detention of a witness is in fact permitted, provided it meets the reasonableness test"]; *State* v. *Gorneault* (Me. 2007) 918 A.2d 1207, 1209 [applying *Lidster*, the court ruled that officers who were investigating a burglary that had occurred 30 minutes earlier could briefly stop passing motorists to determine if they saw anything suspicious].

[64] *Williamson* v. *U.S.* (D.C. App. 1992) 607 A.2d 471, 476.

[65] See *Illinois* v. *Lidster* (2004) 540 U.S. 419 [felony hit-and-run]; *Williamson* v. *U.S.* (D.C.App. 1992) 607 A.2d 471 [shooting]; *Wold* v. *State* (Minn. 1988) 430 N.W.2d 171 [stabbing]; *Walker* v. *City of Orem* (10th Cir. 2006) 451 F.3d 1139, 1148 [shooting]; *State* v. *Gorneault* (Me. 2007) 918 A.2d 1207 [burglary]; Beauvois v. State (Alaska App. 1992) 837 P.2d 1118 [robbery]; *State* v. *Pierce* (Vt. 2001) 787 A.2d 1284, 1289 [DUI was sufficiently serious]. **COMPARE**: *State* v. *Dorey* (Wash.App. 2008) 186 P.3d 363, 368 [a "disturbance"]; *Castle* v. *State* (Alaska App. 2000) 999 P.2d 169, 173 [driving on a revoked license]; *State* v. *Ryland* (Neb. 1992) 486 N.W.2d 210 [week-old traffic accident]; *City of Kodiak* v. *Samaniego* (Alaska 2004) 83 P.3d 1077 [INS investigation]; *State* v. *Wixom* (Idaho 1997) 947 P.2d 1000 [non-injury traffic accident].

[66] **NOTE**: Probable cause is the standard of proof suggested in the Model Code of Pre-Arraignment Procedure. Although the Code uses the term "reasonable cause," it used that term elsewhere to denote probable cause. ALSO SEE 2 LaFave, *Search and Seizure* (3rd edition) § 3.2(e) p.64; *People* v. *Hernandez* (Sup.Ct. Bronx County 1998) 679 N.Y.S.2d 790, 794 ["[T]he Model Code proposes appropriate guidelines"].

[67] (D.C. App. 1992) 607 A.2d 471.

car because, as one of them testified, he was unsure whether the occupants were the shooters or the targets of the shooting. In the course of the stop, one of the occupants was arrested for carrying an unregistered firearm. On appeal, he contended that the gun should have been suppressed because the officers lacked grounds to stop the car. But the court disagreed, pointing out that the officers had first-hand knowledge that the occupants of the second car "were either participants in the shooting or witnesses to it who could provide material information about the event and the possible identity of the shooter."

An officer's belief that a person was a witness to a crime may also be based on circumstantial evidence, such as the following: (1) the crime had just occurred, (2) the perpetrator fled toward a certain area, (3) the detainee was the only person in that area or one of only a few, and (4) it was likely that anyone in the area would have seen the perpetrator. It may also be reasonable to believe that a person was a witness if the crime had just occurred and he was one of few people at the scene when officers arrived. As the Minnesota Supreme Court observed, "Our court, as well as courts of other states, have recognized that in order to 'freeze' the situation, the stop of a person present at the scene of a recently committed crime of violence may be permissible."[68]

IMPORTANCE OF INFORMATION: Even if officers had good reason to believe that the detainee was a witness, the legality of the detention will depend on whether they reasonably believed that he would be able to provide important information. It seems apparent, however, that anyone who was reasonably believed to have been a witness to all or part of the crime would qualify because he could be expected to, among other things, identify or describe the perpetrator, describe the perpetrator's vehicle, explain what the perpetrator said or did, explain what the victim said or did, recount how the crime occurred, eliminate another suspect as the perpetrator, lead officers to physical evidence, or provide officers with the names of other witnesses.

For example, in *Wold* v. *Minnesota,*[69] officers in Duluth were dispatched at about 11 P.M. to a stabbing that had just occurred on a street. When they arrived, they noticed that two men were shouting at the paramedics who were treating the unconscious victim. So the officers detained the men and, as things progressed, determined that one of them, Wold, was the assailant. On appeal, the court ruled that the officers had good reason to detain the men because, as the only people on the scene (other than the victim), they might have seen what had happened. Said the court, "[W]e cannot fault [the officers'] conclusion that both of the individuals may have witnessed the crime, or that either or both might be potential suspects involved in the commission of this violent assault."

Similarly, in *Barnhard* v. *State,*[70] police officers in Maryland were dispatched to a report of a stabbing at Bubba Louie's Bar. One of the patrons, Barnhard, told them that he knew where the knife had been discarded. But then he became uncooperative and started to leave. So the officers detained him, apparently for the purpose of learning where the knife was located. But Barnhard fought the officers and was charged with, among other things, battery on an officer in the performance of his duties. Barnhard claimed that the officers were not acting in the performance of their duties because they did not have grounds to believe he was the perpetrator. It didn't matter, said the court, because Barnhard had indicated that he possessed "material information" pertaining to the stabbing.

It appears that a person who was not an eyewitness to the crime might, nevertheless, be detained if officers reasonably believed he had seen the perpetrator or his car. For example, in *Baxter* v. *State,*[71] two men armed with handguns and wearing Halloween masks robbed a jewelry store in Little Rock at about 4 P.M. Witnesses reported that the men ran out the back door. One of the responding officers was aware that the back door of the jewelry store led to a wooded area that adjoined Kanis Park. So he headed

[68] *Wold* v. *State* (Minn. 1988) 430 N.W.2d 171, 174. COMPARE *State* v. *Dorey* (Wash. App. 2008) 186 P.3d 363, 368 ["there was no reason to believe that [the detainee] could assist in the investigation"].
[69] (Minn. 1988) 430 N.W.2d 171.
[70] (Md. App. 1992) 602 A.2d 701.
[71] (Ark. 1982) 626 S.W.2d 935.

for the park and, just as he arrived, he saw a man in a car traveling in the direction away from the jewelry store. The officer decided to stop the car to determine if the driver "had seen anybody." It turned that out he had. In fact, he was the getaway driver and the two robbers were found hiding in the back seat. In ruling that the stop was justified by the need to locate a witness, the court pointed out that "[t]he time sequence was such that a person in Kanis Park about the time that appellant was stopped likely would have seen the robbers—there being no one else in the park on this rainy afternoon."

In a similar case, *Beauvois* v. *State,*[72] a man armed with a knife robbed a 7-Eleven store in Fairbanks, Alaska at about 2:50 A.M. He was last seen on foot and, according to witnesses, he was running in the direction of a campground. Within a minute of receiving the call, an officer arrived at the only entrance to the campground, intending to "stop any moving vehicle" on the theory that, while "most people would be sleeping at 3 A.M., anyone who was awake might have seen something." The first car he saw was a Corvette occupied by two men, so he stopped it and discovered that one of the men was the robber. In ruling that the detention was lawful, the court said:

> It was reasonable to suspect that the occupants of the Corvette had been awake in the campground when the robber came through, and that they might have seen something. Under these circumstances, and especially given the recency and the seriousness of the crime, prompt investigative efforts were justified.

Securing the scene of police activity

Officers who are conducting a search, making an arrest, or processing a crime scene may, of course, take "unquestioned police command" of the location. As the Supreme Court observed, "[A] police officer at the scene of a crime, arrest, or investigation will not let people move around in ways that could jeopardize his safety."[73] Similarly, the Eleventh Circuit noted that "a police officer performing his lawful duties may direct and control—to some extent—the movements and location of persons nearby."[74]

But because a command to such a person will necessarily result in a detention (since a reasonable person in such a situation would not feel free "to decline the officer's requests"[75]) it falls into the category of a special needs detention. The following are the most common situations in which these types of detentions occur:

CAR STOPS: When officers make a car stop, they will usually have grounds to detain the driver and sometimes one or more of the passengers. But what about passengers for whom reasonable suspicion does not exist?

In the past, this was problematic because, in the absence of reasonable suspicion, officers could not lawfully command a non-suspect occupant to do anything without converting the encounter into an illegal detention. In 2007, however, the United States Supreme Court ruled in *Brendlin* v. *California* that, because of the overriding need of officers to exercise control over all of the occupants, any non-suspect passengers will be deemed detained under what is essentially a special needs theory.[76]

HIGH-RISK RESIDENTIAL SEARCHES: Because of the increased danger associated with the execution of warrants to search private residences for drugs, illegal weapons, or other contraband, the Supreme Court ruled that officers may detain all residents and other occupants pending completion of the search.[77] Officers may also briefly detain people who arrive outside the residence while officers are on the scene

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[72] (Alaska 1992) 837 P.2d 1118.

[73] *Brendlin* v. *California* (2007) 551 U.S. 249, 258. ALSO SEE *Arizona* v. *Johnson* (2009) __ U.S. __ [129 S.Ct. 781, 783] [officer was "not constitutionally required to give Johnson an opportunity to depart the scene after he exited the vehicle without first ensuring that, in doing so, she was not permitting a dangerous person to get behind her"].

[74] *Hudson* v. *Hall* (11th Cir. 2000) 231 F.3d 1289, 1297; *U.S.* v. *Clark* (11th Cir. 2003) 337 F.3d 1282, 1286-87.

[75] *Florida* v. *Bostick* (1991) 501 U.S. 429, 436.

[76] (2007) 551 U.S. 249, 257.

[77] See *Michigan* v. *Summers* (1981) 452 U.S. 692. 705 ["[A] warrant to search for contraband founded on probable cause implicitly carries with it the limited authority to detain the occupants of the premises while a proper search is conducted."]; *People* v. *Thurman* (1989) 209 Cal.App.3d 817, 823 ["That appellant's posture, at that moment, was nonthreatening does not in any measure diminish the potential for sudden armed violence that his presence within the residence suggested."].

if the person's identity and connection to the premises are unknown and cannot be immediately determined without detaining him.[78] The purpose of these types of detentions is to ascertain whether the person is a detainable occupant or merely an uninvolved visitor.

EXECUTING ARREST WARRANTS: Officers who have entered a home to execute an arrest warrant, like officers who have made a car stop, need to exercise unquestioned control over all of the occupants. Consequently, they may detain people who are inside when they arrive, or who are about to enter.[79]

SEARCHES AND ARRESTS IN PUBLIC PLACES: Officers who are searching a business or other place that is open to the public may detain a person on or near the premises only if there was reasonable suspicion to believe that *that* person was connected to the illegal activities under investigation.[80] In other words, a special needs detention will not be permitted merely because the detainee was present in a public place in which criminal activity was occurring. Officers may, however, prevent people from entering a public place that is about to be searched pursuant to a warrant.[81]

PAROLE AND PROBATION SEARCHES: A brief detention of people leaving the home of a probationer has been deemed a special need when officers, who had arrived to conduct a probation search, detained them to determine if they were felons. This information was relevant in determining whether the probationer was associating with felons, which is ordinarily a violation of probation.[82]

DETENTIONS WHILE DETAINING OTHERS: There is authority for ordering a person at the scene of a detention to stand at a certain place if, (1) it reasonably appeared that person and the detainee were associates, and (2) there was some reason to believe the person posed a threat to officers.[83]

EXECUTING A CIVIL COURT ORDER: Officers who are executing a civil court order may detain a person on the premises who reasonably appears to pose a threat to them or others. For example, in *Henderson* v. *City of Simi Valley*[84] officers were standing by while a minor was removing property from her mother's home pursuant to a court order. While the officers were outside the house, the mother made threats to release her two Rottweilers on them." The dogs were inside her house, and when she started to untie them, the officers entered and detained her. In ruling that their entry into the house was reasonable, the court noted that they "were serving as neutral third parties acting to protect all parties," and that they "did not enter the house to obtain evidence."

Detentions on school grounds

Officers may, of course, detain students or anyone else on school grounds if they have reasonable suspicion. In the absence of reasonable suspicion, certain special needs detentions are permitted on school grounds because of the overriding need to provide students with a safe environment and to restrict access by outsiders.[85] These types of detentions are permitted if the following circumstances existed:

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[78] See *People* v. *Glaser* (1995) 11 Cal.4th 354; *People* v. *Samples* (1996) 48 Cal.App.4th 1197 [detainee arrived at a residence as officers were arriving to execute a warrant to search for drugs]; *U.S.* v. *Fountain* (9th Cir. 1993) 2 F.3d 656, 663 [officers may detain residents and any other occupant who is present when officers arrive]; *U.S.* v. *Bohannon* (6th Cir. 2000) 225 F.3d 615, 616 [officers may detain people who arrive at the scene after officers arrived]; *Burchett* v. *Kiefer* (6th Cir. 2002) 310 F.3d 937, 943-44 [officers may detain a person "who approaches a property being searched pursuant to a warrant, pauses at the property line, and flees when the officers instruct him to get down"].

[79] See *People* v. *Hannah* (1996) 51 Cal.App.4th 1335, 1346 [the officers "were entering a residence, the exact floor plan of which they were unaware, to arrest a juvenile . . . when they encountered individuals whose identity and relationship to the juvenile they were seeking was unknown"]; *U.S.* v. *Maddox* (10th Cir. 2004) 388 F.3d 1356, 1363 ["officer safety may justify protective detentions"].

[80] See *Ybarra* v. *Illinois* (1979) 444 U.S. 85.

[81] See *People* v. *Williams* (2007) 156 Cal.App.4th 949, 959.

[82] See *People* v. *Matelski* (2000) 82 Cal.App.4th 837, 850.

[83] See *U.S.* v. *Clark* (11th Cir. 2003) 337 F.3d 1282, 1288; *State* v. *Childress* (Ariz. App. 2009) 214 P.3d 422, 427.

[84] (9th Cir. 2002) 305 F.3d 1052.

[85] See *Wofford* v. *Evans* (4th Cir. 2004) 390 F.3d 318, 321 ["School officials must have the leeway to maintain order on school premises and secure a safe environment in which learning can flourish."]. ALSO SEE *New Jersey* v. *T.L.O.* (1985) 469 U.S. 325, 339 ["Maintaining order in the classroom has never been easy, but in recent years, school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major social problems."].

(1) **School resource officer**: These types of detentions must be conducted by a school resource officer (i.e., police officers or sheriff's deputies who are specially assigned to the school by their departments) or an officer who is employed by the school district.[86]

(2) **Proper school-related interest**: The detention must have served a school-related interest, such as safety or maintaining order.

DETENTIONS OF STUDENTS: Detentions of students are permitted so long as the stop was not arbitrary, capricious, or harassing. As the California Supreme Court put it:

> [S]chool officials [must] have the power to stop a minor student in order to ask questions or conduct an investigation even in the absence of reasonable suspicion, so long as such authority is not exercised in an arbitrary, capricious, or harassing manner.[87]

For example, in *In re William V.*[89] the court ruled that a detention was warranted even though it was based solely on a violation of a school rule.[88] The facts in the case were as follows: A school resource officer at Hayward High School in Alameda County saw that a student, William, was displaying a folded red bandanna. The bandanna was hanging from William's back pocket and it caught the officer's attention because, as he testified, colored bandanas "commonly indicate gang affiliation" and are therefore not permitted on school grounds. Furthermore, he explained that the manner in which the bandanna was folded and hanging from the pocket indicated to him that "something was about to happen or that William was getting ready for a confrontation." The officer's suspicions were heightened when William, upon looking in the direction of the officer, "became nervous and started pacing" and began "trembling quite heavily, his entire body, especially his hands, his lips, his jaw." At that point, the officer detained him and subsequently discovered that he was carrying a knife. William contended that the detention was unlawful because the officer did not have reasonable suspicion to believe he was committing a crime. It didn't matter, said the court, because "William's violation of the school rule prohibiting bandannas on school grounds justified the initial detention."

DETENTIONS OF NONSTUDENTS: A nonstudent may be detained during school hours to confirm he has registered with the office as required by law.[90] An outsider may also be detained after school hours to confirm he has a legitimate reason for being on the school grounds.

For example, in *In re Joseph F.*[91] an assistant principal and school resource officer at a middle school in Fairfield saw a high school student named Joseph on campus at about 3 P.M. At the request of the assistant principal, the officer tried to detain Joseph to determine whether he had registered, but Joseph refused to stop, and the officer had to forcibly detain him. As the result, Joseph was arrested for battery on a peace officer engaged in the performance of his duties.

On appeal, Joseph argued that the officer was not acting in the performance of his duties because the registration requirement does not apply after school hours. Even so, said the court, it is appropriate for officers to determine whether any outsider on school grounds has a legitimate reason for being there. This is because "schools are special places in terms of public access," and also because "outsiders commit a disproportionate number of the crimes on school grounds." Accordingly, the court ruled that "school officials, or their designees, responsible for the security and safety of campuses should reasonably be permitted to detain an outsider for the limited purpose of determining such person's identity and purpose regardless of 'school hours.'" POV

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[86] See *In re William V.* (2003) 111 Cal.App.4th 1464, 1471 ["We see no reason to distinguish for this purpose between a non law enforcement security officer and a police officer on assignment to a school as a resource officer."].
[87] *In re Randy G.* (2001) 26 Cal.4th 556, 559.
[88] See *New Jersey* v. *T.L.O.* (1985) 469 U.S. 325 [detention for smoking in a lavatory]; *Wofford* v. *Evans* (4th Cir. 2004) 390 F.3d 318, 327 [detention to investigate a report that a student was carrying a gun].
[89] (2003) 111 Cal.App.4th 1464.
[90] See Penal Code § 627.2.
[91] (2000) 85 Cal.App.4th 975.