

Class 16: Special Needs And Suspicionless S&S

Admin
 Next Time: 434-56
 Final Syllabus

Last Time
 Hodari D
 Facts
 Officers patrolling "high-crime area" of Oakland late at night. Unmarked car, street clothes with "Police" on jackets.
 4-5 youths huddled around a parked car. When they see police, they take flight. PC?
 RS?
 FN1: Calif. conceded no RS, although Scalia isn't so sure.
 Officer starts chasing D. Just before reaching him, D throws small rock away. Tackle; handcuff; search incident to arrest.
 Rock turns out to be crack.
 Held
 Reasoning

Special Needs
 "Community Caretaking Function"
 Special Needs Generally
 Perceived need, beyond the normal need for criminal LE makes the warrant and/or PC requirements impracticable or irrelevant. Traced to Brennan's concurrence in TLO. (handout 8)
 Originally Developed
 Housing: Housing code regulations. Camara v. Muni Court
 Commercial Buildings: safety code inspections. See v. Seattle
 Rule for both: Administrative search warrants based on:
 Non-arbitrary justification
 NEED NOT be particularized suspicion

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Public School Searches

T.L.O.

Facts

Teacher sees two girls smoking the lavatory, a violation of a school rule.
Asst. VP brings into Principal's Office
D, 14 year old girl, denies charge and claims she doesn't smoke at all.
VP demands purse, opens purse, finds cigarettes, which he removes
Reaching in revealed rolling papers.
Much more thorough search
Police called. Juvenile proceeding.
Motion to suppress denied; adjudged delinquent and sentenced to year's proba-

Held

Reasoning

Only facts have come through interviews with students and ACLU.

Sophomore suspected of breaking two school rules

Being in a prohibited parking lot
Smoking

Assistant Principal took phone, calling it a "distraction."

Wrote down text messages

Unclear: by scrolling or by leaving it up "in plain view" on his desk.

Monarch High

Mother asked for phone back, but AP "insisted on keeping it" over holiday weekend.

Adams had sent messages to student's friends, posing as the student.

Evidence of drug trafficking

More students called into office. More phones seized. More messages read.

No lawsuit yet. Stay tuned.

Other Hypos

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Roadblocks

Brown v. Texas

Pedestrian stopped in "high drug traffic area" because he "looked suspicious"
 Arrested when he wouldn't ID himself.
 Held: conviction overturned.

Three-prong test

- 1. Gravity of the public concerns → Roadblock cases: Always high.
- 2. Degree to which seizure advances the public interest → Roadblock cases: Effectiveness
- 3. Severity of the interference on public liberty. → Roadblock cases: Level of intrusion on privacy.

Border-Related

At the border

Interior Searches

- Fixed checkpoints
- Roving border patrols

Drunk Driving (Sitz)

Facts

Checkpoints along state roads
 All cars would be stopped.
 Briefly examined
 If intoxication detected, pulled over for other sobriety tests → Arrest if concluded drunk

Only test case

75 minutes, 126 cars, two detained, two arrested → 1.6%
 Average 25 seconds delay per car.

Suit seeking injunction against plan.

Held

Constitutional

Reasoning

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Roadblocks

License and Registration Checks (Prouse)

Random stops to find unlicensed drivers and unsafe vehicles violate Key: Note 2 on 421: Spot checks with less intrusion and less discretion might pass-- see roadblocks.

Drug Possession/ Trafficking (Edmond)

Facts

Indianapolis
 Six roadblocks { 1161 Cars stopped
 104 Arrests (54 Drugs, 9% (4.7%, 4.2%)
 49 Other)
 Stop, signs of impairment, plain view look through windows, **license and registration**, K-9 dog sniff ~ 2-3 minutes each.
 Surprise/Fear? Sign posted in advance.
 1983 brought by people stopped.

Held

Reasoning

Case investigation (Lidster)

Exceptions/Hypos from Edmond/O'Connor and Sitz/Stevens

- Airline screening
- Public building metal detectors
- Subway passengers/ metal detectors
- Stevens' breathalyzer at toll booth
- Terrorist attack.
- Kidnapper fleeing the area with his victim.
- Sniper

Note 5 Problem

Mandatory Drug Testing for...