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ONE MINUTE BRIEF

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NUMBER: 2018-02 DATE: 01-26-18 BY: Devallis Rutledge TOPIC: "Community Caretaking"

ISSUE: What is the "community caretaking" doctrine?

*"[T]here are many contacts between police and citizen which are in no way related to crime but **from which evidence of crime may result**. ... They arise from the police officer's duty to maintain peace and security, to protect citizens from harm or annoyance and to do all those innumerable tasks which society calls upon the police to do which have nothing to do with the detection of crime."* *Batts v. Superior Court* (1972) 23 Cal.App.3d 435, 437-38.

*"[P]olice officers ... frequently ... engage in what, for want of a better term, may be described as **community caretaking** functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute."* *Cady v. Dombrowski* (1973) 413 US 433, 441.

- Unfortunately, there is **considerable confusion** as to when the "community caretaking" doctrine applies, and as to its proper application. See, e.g., *People v. Williams* (2006) 145 Cal.App.4th 756, and *Miranda v. City of Cornelius* (9th Cir. 2005) 429 F.3d 858 (both improperly applying the rules regarding **community caretaking removal** of vehicles to **regulatory impounds**), and *People v. Ray* (1999) 21 Cal.4th 464 (in a split decision, 3 members of the California Supreme Court upheld police entry into a home based on **community caretaking**, 3 others rejected this approach and upheld the entry based on **exigent circumstances**, and 1 justice dissented from both other opinions).

- The following cases are representative of situations in which the "community caretaking" doctrine has been invoked to justify law enforcement actions:

- *Cady v. Dombrowski* (1973) 413 US 433, 441—approving the “**caretaking search**” of the trunk of a police officer’s personal vehicle for his firearm to prevent an intruder from taking it, after the collision-damaged vehicle had been removed to a storage lot.

- *South Dakota v. Opperman* (1976) 428 US 364, 368-69—“[D]isabled or damaged vehicles will often be **removed** from the highways or streets at the behest of police engaged solely in **caretaking** and traffic-control activities.” After removal, the contents of vehicles may be **inventoried** as part of these “**caretaking procedures**.”

- *Colorado v. Bertine* (1987) 479 US 367, 372—allowing **standardized** vehicle inventories, because “[O]ur cases accorded deference to police **caretaking** procedures designed to secure and protect vehicles and their contents within police custody.”

- *Illinois v. Lafayette* (1983) 462 US 640, 648—approving “**booking inventories**.” “[W]e hold that it is not ‘unreasonable’ for police, as part of the routine procedure incident to incarcerating an arrested person, to search any container or [non-digital] article in his possession, in accordance with **established inventory procedures**.”

- *People v. Ray* (1999) 21 Cal.4th 464, 478 (plurality opinion)—after repeated knocks and announcements, police lawfully entered for a **welfare check** on occupants and security of property when neighbors reported open doors, a “shambles” inside, and no one home.

- *People v. Madrid* (2008) 168 Cal.App.4th 1050, 1057 (*dicta*)—approvingly collecting cases from other states for the proposition that “a police officer may utilize the **community caretaking** exception to justify the **stop of a vehicle** to ensure the safety of an occupant where the officer lacks a reasonable suspicion of criminal activity.”

- *People v. Ovieda* (2018) ___ Cal.App.5th ___, WL 459039—Police officers “may enter a residence to **protect a suicidal person** and secure the premises if firearms are believed to be present. ... This entry was a pure **community caretaking** entry....” Slip opn., at 4.

(“Probable cause” is not relevant in community caretaking cases. “The probable-cause approach is unhelpful when analysis centers on the reasonableness of routine administrative **caretaking functions**.” *South Dakota v. Opperman, supra*, 428 US at 370, fn. 5.)

BOTTOM LINE: Reasonable “community caretaking” efforts by police to protect persons and property need no criminal investigative justification or suspicion.

(Emphases added in quoted material.)

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.