

Relevant U.S. Case Law for the Response to the Non-Criminal Barricade

Presented by the Savage Training Group



The Public Duty Doctrine

Warren v. District of Columbia

<https://law.justia.com/cases/district-of-columbia/court-of-appeals/1981/79-6-3.html>

South V. Maryland

<https://supreme.justia.com/cases/federal/us/59/396/>

DeShaney v. Winnebago County

<https://www.oyez.org/cases/1988/87-154>

Von Batsch v. American Dist. Telegraph Co. (1985)

(No duty to protect from future harm, no special relationship created by being on scene and investigating)

<https://casetext.com/case/von-batsch-v-american-dist-telegraph-co>

Fremont v. Adams (1998)

(No duty to stop suicidal persons from killing themselves)

<https://caselaw.findlaw.com/ca-court-of-appeal/1288866.html>

Quoted from Fremont v. Adams:

"Perhaps fortified by the recognition that the special relationship exception is reserved for a limited class of unique cases, precious few courts have actually imposed a duty of care on law enforcement officers under this doctrine. Of the legion of cases addressing this issue, our research has uncovered only five such cases. These cases involved police officers who made misrepresentations that induced a citizen's detrimental reliance (Johnson v. County of Los Angeles (1983) 143 Cal.App.3d 298, 191 Cal.Rptr. 704) (Johnson), placed a citizen in harms way (Carpenter v. City of Los Angeles (1991) 230 Cal.App.3d 923, 281 Cal.Rptr. 500) (Carpenter), Wallace v. City of Los Angeles (1993) 12 Cal.App.4th 1385, 16 Cal.Rptr.2d 113 (Wallace); McCorkle, supra, 70 Cal.2d 252, 74 Cal.Rptr. 389, 449 P.2d 453, or lulled a citizen into a false sense of security and then withdrew essential safety precautions (Mann, supra, 70 Cal.App.3d 773, 139 Cal.Rptr. 82)."

"Importantly, the challenged conduct in these decisions did not involve deliberate tactical choices made by police officers while intervening in an unfolding life-threatening crisis. In our view, they were never intended to apply when an officer's strategic response to a citizen's request for assistance fails to prevent the occurrence of a preexisting risk. Yet, respondents argue that Johnson, supra, 143 Cal.App.3d 298, 191 Cal.Rptr. 704 supports their contention that police officers enter into a special relationship with a citizen in need of assistance whenever "police take control of the situation." We are not persuaded."

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Note that although absent a special relationship, police officers do not have an affirmative duty to protect others from harm, officers do have a well-established legal duty to intervene and prevent constitutional violations by other officers (O'Neill v. Krzeminski, Vondrak v. City of Las Cruces, Dawkins v. Williams). One could rightfully say that officers do have an affirmative duty to protect individuals from harm from other officers if the conduct would amount to a constitutional violation (false arrest, excessive force, etc.).

Special Relationships

Pollock vs. Florida Highway Patrol (2004)

<https://caselaw.findlaw.com/court/fl-supreme-court/1008469.html>

Doe v Modesto

<https://www.jones-mayer.com/news/2016/11/04/vol-31-no-22-creating-a-special-relationship-can-create-liability/>

Davidson v. City of Westminster

<https://law.justia.com/cases/california/supreme-court/3d/32/197.html>

Whitcomb v. City and County of Denver

<https://law.justia.com/cases/colorado/court-of-appeals/1986/84ca0200-0.html>

Mann v. State of California

<https://law.justia.com/cases/california/court-of-appeal/3d/70/773.html>

Morgan v. County of Yuba

<https://law.justia.com/cases/california/court-of-appeal/2d/230/938.html>

McCorkle v. City of Los Angeles

<https://law.justia.com/cases/california/supreme-court/2d/70/252.html>

Pre-Force Conduct

Deorle v. Rutherford

<https://casetext.com/case/deorle-v-rutherford-2>

Hayes v. San Diego

<https://caselaw.findlaw.com/us-9th-circuit/1560230.html>

Hastings v Barnes

<https://law.justia.com/cases/federal/appellate-courts/ca10/04-5144/04-5144-2011-03-14.html>

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Use of Force on Persons with Mental Illness

Asten v City of Boulder

<https://docs.justia.com/cases/federal/district-courts/colorado/codce/1:2008cv00845/107152/15>

Champion v. Outlook Nashville Inc.

<https://casetext.com/case/champion-v-outlook-nashville-inc>

Cook v. Bastin

<https://casetext.com/case/cook-v-bastin>

Martin v. City of Broadview Heights

<https://casetext.com/case/martin-v-city-of-broadview-heights>

Hainze v. Richards

<https://caselaw.findlaw.com/us-5th-circuit/1082654.html>

Mercado v City of Orlando

<https://law.justia.com/cases/federal/appellate-courts/F3/407/1152/635349/>

Others

Irvin v. Ware

(officers were negligent in failing to remove an intoxicated driver from the road who later crashed and harmed other motorists because of Massachusetts had a statutory requirement for officers to take action against DUI suspects)

<https://law.justia.com/cases/massachusetts/supreme-court/1984/392-mass-745-2.html>

Alexander v. City and County of San Francisco

<https://casetext.com/case/alexander-v-city-and-county-of-san-francisco-2>

Dwares v. City of New York

<https://casetext.com/case/dwares-v-city-of-new-york>

Pena v. Deprisco

<https://casetext.com/case/pena-v-deprisco>

Glenn v. Washington County

<https://caselaw.findlaw.com/us-9th-circuit/1589878.html> (9th Circuit reverses lower courts grant of immunity to officers. Family of decedent ultimately [prevails against officers in court.](#))

Roell v. Hamilton County Board. of County. Commissioners

<https://casetext.com/case/roell-v-hamilton-cnty-bd-of-cnty-commrs>

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