

case that the “warrants-with-narrow-exceptions” standard normally prevails over a “reasonableness” approach.²³ Exceptions to the warrant requirement have multiplied, tending to confine application of the requirement to cases that are exclusively “criminal” in nature. And even within that core area of “criminal” cases, some exceptions have been broadened.

The most important category of exception is that of administrative searches justified by “special needs beyond the normal need for law enforcement.” Under this general rubric the Court has upheld warrantless searches by administrative authorities in public schools, government offices, and prisons, and has upheld drug testing of public and transportation employees.²⁴ In all of these instances, the warrant and probable cause requirements are dispensed with in favor of a reasonableness standard that balances the government’s regulatory interest against the individual’s privacy interest; in all of these instances, the government’s interest has been found to outweigh the individual’s. The broad scope of the administrative search exception is evidenced by the fact that an overlap between law enforcement objectives and administrative “special needs” does not result in application of the warrant requirement; instead, the Court has upheld warrantless inspection of automobile junkyards and dismantling operations in spite of the strong law enforcement component of the regulation.²⁵

Warrant requirements and individualized suspicion at times are also set aside in a pure law enforcement context in favor of a reasonableness test that balances governmental and individual interests. The outcome in these cases may depend on how the respective interests at stake are characterized. For example, in *Maryland v. King*, the five-Justice majority and four-Justice dissent clashed over what governmental interests were served by a law allowing for DNA testing of suspects being taken into custody after being

413 U.S. 266 (1973) (warrantless stop and search of auto by roving patrol near border); *Marshall v. Barrow’s, Inc.*, 436 U.S. 307 (1978) (warrantless administrative inspection of business premises); *Mincey v. Arizona*, 437 U.S. 385 (1978) (warrantless search of home that was “homicide scene”); *Arizona v. Gant*, 556 U.S. ___, No. 07–542 (2009) (search of vehicle incident to arrest where arrestee had no access to vehicle).

²³ Of the Justices on the Court in 1992, only Justice Stevens frequently sided with the warrants-with-narrow-exceptions approach. *See, e.g.*, *Illinois v. Rodriguez*, 497 U.S. 177, 189 (Justice Stevens joining Justice Marshall’s dissent); *New Jersey v. T.L.O.*, 469 U.S. 325, 370 (1985) (Justice Stevens dissenting); *California v. Acevedo*, 500 U.S. 565, 585 (1991) (Justice Stevens dissenting).

²⁴ *See* various headings *infra* under the general heading “Valid Searches and Seizures Without Warrants.”

²⁵ *New York v. Burger*, 482 U.S. 691 (1987).