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CRIMINAL PROCEDURE—New Mexico Court of Appeals Defines the Scope of a Lawful Inventory Search of a Detainee Under the New Mexico Detoxification Act—*State v. Johnson*

I. INTRODUCTION

In *State v. Johnson*,[1] the New Mexico Court of Appeals held that police officers did not violate the New Mexico Detoxification Act[2] (Detox Act) by taking Kenneth Johnson (Johnson) to jail and searching his person. In *Johnson*, the New Mexico Court of Appeals addressed a case of first impression in New Mexico. The case addressed the authority of police to detain intoxicated persons and search them under the regulations set forth in the Detox Act. This Note discusses the court's interpretation of the Detox Act, analyzes the court's rationale with regard to inventory searches, explores the implications of this decision in New Mexico and discusses alternatives the court could have employed.

II. STATEMENT OF THE CASE

The Defendant, Johnson, was riding in a vehicle driven by Charles McKee (McKee). Officer Rodriguez stopped Johnson and McKee for a headlight violation.[3] Officer Rodriguez checked the vehicle, found that there was an outstanding warrant for McKee's arrest, and called Officer Randall for backup. Johnson appeared to be intoxicated because he had slurred speech, his eyes were bloodshot, and he smelled strongly of alcohol. Subsequently, Johnson was placed into a squad car. He did not resist but protested with profane language and was "somewhat combative."[4]

Officers Rodriguez and Randall proceeded to search the vehicle. They found marijuana, rolling papers, and a stolen handgun. Both McKee and Johnson denied ownership of the handgun.

The officers took McKee and Johnson to jail. The officers asked Johnson to remove his clothing and to replace them with jail clothing. When Johnson refused, the officers forcibly removed his clothing. While removing Johnson's clothing, a plastic "Life Savers Holes" roll containing seven rocks of crack cocaine fell out of Johnson's pocket. He was subsequently arrested and charged with trafficking a controlled substance with intent to sell.

Johnson argued that he was unlawfully taken to jail, stripped of his clothing, and exhaustively searched.[5] Johnson claimed the police did not have authority under the Detox Act to imprison him because the evidence did not clearly and convincingly establish that he was disorderly and incapable of caring for himself if taken home.[6]

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1. 122 N.M. 713, 930 P.2d 1165 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996).
2. Detoxification Act of 1973, N.M. STAT. ANN. §§ 43-2-16 to -22 (Repl. Pamp. 1993).
3. *Johnson*, 122 N.M. at 715-16, 930 P.2d at 1167-68. Unless otherwise cited, all subsequent references to the facts of this case refer to this citation.
4. *Johnson*, 122 N.M. at 716, 930 P.2d at 1168.
5. *See* Defendant's Brief In Chief at 1, State v. Johnson, 122 N.M. 713, 930 P.2d 1165 (Ct. App. 1996) (No. 16,554).
6. *See id.* at 5. The Detoxification Act provides:

> A. A peace officer or public service officer may transport an intoxicated person to his residence when it appears to the peace officer or public service officer that the intoxicated person

Johnson argued that the Detox Act provides police with three choices when dealing with an intoxicated person: 1) transport the person to his or her residence; 2) transport the person to the nearest health care facility; or 3) transport the person to jail.[7] These choices, and their restrictions on liberty, vary depending on an intoxicated person's behavior.[8] Johnson claimed the officers' use of the most restrictive alternative, taking Johnson to jail, was inappropriate because the requirements of section 43-2-18(C) were not satisfied.[9]

Johnson also argued that the search of his "Life Savers" container, which resulted in the discovery of crack cocaine, was unreasonable and illegal because he was only a temporary, civil detainee and therefore entitled to broader Fourth Amendment protection than a criminal arrestee.[10]

The court of appeals rejected these arguments and found that there was sufficient evidence to show that Johnson was disorderly and constituted a danger.[11] Additionally, the court held that inventory searches apply equally to criminal arrestees and civil detainees and that the inventory search was warranted in this case.[12] Therefore, the court held that the discovery of the crack cocaine in the "Life Savers" container was not unlawful and the search was conducted according to established procedure.[13]

III. HISTORICAL BACKGROUND

A. *Development and Purpose of the Detoxification Act*

The federal courts began addressing the difficult issue of criminality of public intoxication in the late sixties.[14] In 1966, two federal appellate courts addressed this

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will thereby become orderly and able to care for his own safety.

B. A peace officer or public service officer may transport an intoxicated person to the nearest health care facility within the county when it appears to the peace officer or public service officer that the intoxicated person is unable to care for his own safety or in need of medical attention.

C. A peace officer or public service officer may transport to the city or county jail an intoxicated person who has become disorderly when it appears that the intoxicated person:

(1) has no residence in the county in which he is apprehended; or

(2) is unable to care for his own safety; or

(3) constitutes a danger to others if not transported to jail.

N.M. STAT. ANN. §§ 43-2-18(A)-(C).

7. *See* Defendant's Brief In Chief at 6, *Johnson* (No. 16,554). *See also* N.M. STAT. ANN. §§ 43-2-18(A)-(C).

8. *See* Defendant's Brief In Chief at 8, *Johnson* (No. 16,554).

9. *See id.* at 7. Johnson claimed there was not a sufficient showing of disorderly conduct or that he posed a danger to others if not taken to jail. *See id.* at 9.

10. *See id.* at 12.

11. *See Johnson*, 122 N.M. at 716, 930 P.2d at 1168. The court found that there was sufficient evidence that Johnson was disorderly and constituted a danger based on: 1) his appearance of intoxication; 2) his use of profane language; 3) his combative behavior; and 4) the discovery of a stolen handgun. *See id.* at 717, 930 P.2d at 1169.

12. *See id.* at 718, 930 P.2d at 1170. Inventory searches apply equally to criminal arrestees and civil detainees because the purpose behind such a search is to protect the detainees' possessions and to protect the detainee and other persons in jail from dangerous materials. *See id.*

13. *See id.*

14. *See* Christine Wellington, Note, *Why Do We Still Lock Up Drunks? Examining the Protective Custody Provision of the Alcoholism Treatment and Rehabilitation Law of Massachusetts*, 17 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 371, 375 (1991). *See also* Powell v. Texas, 392 U.S. 514 (1968); Driver v. Hinnant, 356 F.2d 761 (4th Cir. 1966); Easter v. District of Columbia, 361 F.2d 50 (D.C. Cir. 1966).

issue.[15] In *Driver v. Hinnant*,[16] the Fourth Circuit faced the issue of whether a chronic alcoholic could be criminally convicted and sentenced for public drunkenness. The court held that a chronic alcoholic cannot be classified as a criminal if his public drunkenness is the involuntary result of disease.[17]

In *Easter v. District of Columbia*,[18] the District of Columbia Circuit Court (D.C. Circuit) held that because alcoholism is a disease and chronic alcoholics cannot avoid public drunkenness, they should not be punished for public intoxication.[19] The D.C. Circuit distinguished chronic alcoholism from voluntary intoxication and held that public drunkenness laws would still be enforced against those who are voluntarily intoxicated.[20]

In *Powell v. Texas*,[21] the Supreme Court disagreed with the federal circuit courts and refused to find that chronic alcoholism was a disease. The Court held instead that criminal laws prohibiting public drunkenness were constitutional.[22] The Court concluded that criminal sanctions were imposed on the defendant for public drunkenness, not for being an alcoholic.[23]

Following the *Powell* decision, Congress enacted the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Federal Rehab Act).[24] The enactment of the Federal Rehab Act marked a national trend toward a more sympathetic view of alcoholism.[25] This reform movement recognized the criminal justice system's inability to handle alcohol abuse and attempted to decriminalize public drunkenness.[26]

In 1971, the Uniform Alcoholism and Intoxication Treatment Act[27] (Uniform Treatment Act) was developed to aid states in creating laws compatible with the Federal Rehab Act.[28] A majority of United States jurisdictions have decriminalized public drunkenness and provided for some form of police assistance to intoxicated persons.[29] The New Mexico Detox Act can be traced to this trend of decriminalization of public drunkenness that began in the 1970s. New Mexico decriminalized public drunkenness when it enacted the Detox Act in 1973.[30] In 1991,

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15. *See* Wellington, *supra* note 14, at 375.

16. 356 F.2d 761 (4th Cir. 1966). The Fourth Circuit was determining the constitutionality of criminalizing public drunkenness.

17. *See id.* at 765. However, the court premised its holding on the presence of chronic alcoholism, which has been recognized as a disease. *See id.* Thus, the court distinguished the merely excessive, voluntary drinker from an addictive drinker. *See id.*

18. 361 F.2d 50 (D.C. Cir. 1966).

19. *See id.* at 51.

20. *See id.* at 53.

21. 392 U.S. 514 (1968).

22. *See id.* at 530. The Supreme Court did not make a distinction between voluntary and chronic intoxication. *See id.*

23. *See id.* at 517.

24. Pub. L. No. 91-616, 84 Stat. 1848 (current version at 42 U.S.C. §§ 4541-4594 (1994)).

25. *See* H.R. REP. NO. 1663, 91st Cong., 2d Sess. 1 (1970) (Congress recognized the need to develop humane and effective prevention and treatment programs for alcoholism).

26. *See* Wellington, *supra* note 14, at 374.

27. UNIF. ALCOHOLISM AND INTOXICATION TREATMENT ACT §§ 1-38, 9 U.L.A. 79 (1988).

28. *See* Wellington, *supra* note 14, at 376.

29. *See id.* at 390.

30. *See* N.M. STAT. ANN. §§ 43-2-16 to -22 (Repl. Pamp. 1993).

only 20 states, including New Mexico, allowed police to detain intoxicated persons in jail.[31]

Public officers in New Mexico can now assist intoxicated persons, rather than arrest them.[32] However, while there is no arrest under the Detox Act in New Mexico, an intoxicated person can still be taken to jail if disorderly and a danger to others.[33]

B. Civil Detention of Intoxicated Persons in Jail

There is no New Mexico case law regarding the rules police officers should follow when taking an intoxicated person to jail under the New Mexico Detox Act. Lawful detention under the Detox Act is an issue of first impression in New Mexico.[34] Thus, the New Mexico Court of Appeals looked to other jurisdictions for guidance in determining when an officer may lawfully detain an intoxicated person in jail.

Under the Detox Act, an officer may transport an intoxicated person to jail when two elements have been met. First, the intoxicated person must exhibit disorderly conduct. Second, an intoxicated person must either: 1) have no residence in the county; 2) be unable to care for himself; or 3) constitute a danger to himself or others if not transported to jail.[35] In *Johnson*, the court had to interpret what constitutes "disorderly" under the Detox Act and define what evidence is necessary to establish that an intoxicated person is a danger to himself or others.[36]

1. Defining "Disorderly"

Jurisdictions have taken divergent views in attempting to define disorderly. Some have adopted the criminal definition of disorderly conduct,[37] while others have defined disorderly in a non-criminal manner.[38]

The First Circuit in *Veiga v. McGee* held that when a statutory definition of a term is lacking, the understanding of that term in an analogous statute can guide the court in its interpretation.[39] The *Veiga* court, therefore, determined that the definition of disorderly in a non-criminal statute is the same as the definition of disorderly as applied to a criminal statute.[40] The fact that one statute is "penal," and the other is not, "does not detract from the former's value as a guide to the latter."[41]

In contrast, the Supreme Court of Rhode Island in *Cesaroni v. Smith* defined "disorderly" as causing annoying or disturbing conditions.[42] The *Cesaroni* court set

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31. *See* Wellington, *supra* note 14, at 391 & n.173.
32. *See* N.M. STAT. ANN. § 43-2-18(A)-(B).
33. *See* N.M. STAT. ANN. § 43-2-18(C).
34. *See* State v. Johnson, 122 N.M. 713, 715, 930 P.2d 1165, 1167 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996).
35. *See* N.M. STAT. ANN. § 43-2-18(C).
36. *See Johnson*, 122 N.M. at 716, 930 P.2d at 1168.
37. *See, e.g.*, Veiga v. McGee, 26 F.3d 1206, 1212 (1st Cir. 1994).
38. *See, e.g.*, Cesaroni v. Smith, 202 A.2d 292, 296 (R.I. 1964).
39. *See Veiga*, 26 F.3d at 1211.
40. *See id.*
41. *Id.*
42. *See Cesaroni*, 202 A.2d at 296. The court interpreted the statute in question as not requiring a showing of conduct that constitutes a "criminal offense designated as disorderly conduct." *Id.*

a different standard from Rhode Island's criminal offense of disorderly conduct.[43] This is the approach eventually followed by the *Johnson* court.[44]

2. Determining When a Person Constitutes a Danger

In determining when an intoxicated person constitutes a danger which justifies detention, courts follow a "reasonableness" standard.[45] A court must determine that a reasonable police officer would have found that the intoxicated person was unable to care for his own safety and constituted a danger to others.[46] An officer need only have reasonable "cause to believe" or "probable cause" to believe that a defendant is disorderly, intoxicated, and a danger to others.[47] The reasonableness and probable cause standards were articulated by New Mexico courts in *State ex rel. Schwartz v. Kennedy*[48] and *State v. Warren*.[49]

The New Mexico Supreme Court held that an officer needed only reasonable grounds to believe the defendant in that case was intoxicated.[50] The New Mexico Court of Appeals also followed this line of reasoning when it held that an officer may use "sensory perceptions" and "reasonable inferences" to develop probable cause.[51]

C. *Determining the Scope of a Lawful Inventory Search*

Before placing a person in a jail cell, police conduct a procedure commonly known as an inventory search.[52] The objectives behind inventory searches are: 1) to protect an arrestee's property while he is in jail; 2) to protect the police from claims of lost or stolen property; 3) to safeguard the detention facility by preventing introduction of objects that could be used for an escape or to harm other prisoners or officers; and (4) to ascertain the identity of the person being incarcerated.[53] An inventory is a "well-defined exception to the warrant requirement of the Fourth Amendment."[54] The inventory search can often lead officers to find material that incriminates a detainee for a crime, even though the detainee was in custody for a non-criminal purpose. Although that is not a permissible purpose of the inventory search,[55] it is a frequent

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43. *See id.*

44. *See* State v. Johnson, 122 N.M. 713, 716-17, 930 P.2d 1165, 1168-69 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996). The court also adopted the definition of "disorderly" provided by BLACK'S LAW DICTIONARY 469 (6th ed. 1990) (disorderly defined as contrary to rules of good order and behavior; violative of public peace or good order; turbulent, riotous, or indecent). *See Johnson*, 122 N.M. at 716, 930 P.2d at 1168.

45. *See Johnson*, 122 N.M. at 717, 930 P.2d at 1169.

46. *See id.* at 716, 930 P.2d at 1168.

47. *See id.* at 717, 930 P.2d at 1169.

48. 120 N.M. 619, 627, 904 P.2d 1044, 1052 (1995).

49. 103 N.M. 472, 476, 709 P.2d 194, 198 (Ct. App. 1985).

50. *See Schwartz*, 120 N.M. at 627, 904 P.2d at 1052.

51. *Warren*, 103 N.M. at 476, 709 P.2d at 198.

52. *See* Illinois v. Lafayette, 462 U.S. 640, 644-46 (1983); South Dakota v. Opperman, 428 U.S. 364, 369 (1976). *See also* Robert M. Goldfried, Note, *The Inventory Search of an Offender Arrested for a Minor Traffic Violation: Its Scope and Constitutional Requirements*, 53 B.U. L. REV. 858 (1973).

53. *See* Colorado v. Bertine, 479 U.S. 367, 372 (1987); *Opperman*, 428 U.S. at 366. *See also* 3 WAYNE R. LAFAVE, SEARCH & SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 5.3(a) (3d ed. 1996).

54. *Bertine*, 479 U.S. at 371; *see also Lafayette*, 462 U.S. at 643.

55. *See* Florida v. Wells, 495 U.S. 1, 4 (1990) ("An inventory search must not be a ruse for general rummaging in order to discover incriminating evidence.").

result. An inventory search that resulted in incriminating evidence of a crime was the source of contention in *Johnson*.[56]

1. New Mexico Case Law on Inventory Searches

While New Mexico courts have not addressed the issue of a lawful inventory search of a civil detainee, they have addressed lawful inventory searches of arrestees. The four requirements for a lawful inventory search in New Mexico are: 1) the police have control or custody of objects of the search; 2) the inventory is made according to established police procedure; 3) the search is reasonable; and 4) there is some reasonable connection between the arrest and the reason for taking possession of the property.[57]

In both *State v. Boswell*[58] and *State v. Shaw*,[59] New Mexico courts addressed the permissible scope and reasonableness of inventory searches conducted by police officers after taking persons into custody. In *Shaw*, the New Mexico Court of Appeals noted that the scope of a permissible inventory search is broad and often permits every item or container found on an arrestee to be opened and searched, as long as the search is conducted according to clearly established procedures.[60] The *Boswell* court determined that an inventory search is "reasonable" if conducted "pursuant to established procedures."[61] The difference between these cases and *Johnson* is that they involved inventory searches pursuant to an arrest, rather than a mere detainment for safety purposes. The analysis in *Boswell* and *Shaw* were based on the four requirements outlined above.

2. Supreme Court Case Law on Inventory Searches

The Supreme Court of the United States has had a few occasions to consider the validity and permissible scope of inventory searches.[62] However, the Supreme Court has only considered the validity of inventory searches of persons and their property when the person has been placed under arrest. The Supreme Court has consistently upheld the inventory search on the basis of the governmental interests met by the procedure.[63] The Supreme Court requires that inventory searches be conducted according to standard police procedures in order to be reasonable and permissible.[64]

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56. *See* State v. Johnson, 122 N.M. 713, 930 P.2d 1165 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996).

57. *See* State v. Williams, 97 N.M. 634, 636-37, 642 P.2d 1093, 1095-96, *cert. denied*, 459 U.S. 845 (1982); *see also* State v. Ruffino, 94 N.M. 500, 502, 612 P.2d 1311, 1313 (1980).

58. 111 N.M. 240, 804 P.2d 1059 (1991).

59. 115 N.M. 174, 848 P.2d 1101 (Ct. App. 1993).

60. *See id.* at 176-77, 848 P.2d at 1103-04.

61. 111 N.M. at 243, 804 P.2d at 1062.

62. *See* Florida v. Wells, 495 U.S. 1 (1990); Colorado v. Bertine, 479 U.S. 367 (1987); Illinois v. Lafayette, 462 U.S. 640 (1983); South Dakota v. Opperman, 428 U.S. 364 (1976).

63. *See Bertine*, 479 U.S. at 373; *Lafayette*, 462 U.S. at 647; *Opperman*, 428 U.S. at 369. In upholding inventory searches, the Court was concerned with the legitimate governmental interests in protecting a detainee's property, protecting the police from claims of lost or stolen property, and protecting the police and persons in jail from dangerous items.

64. *See Wells*, 495 U.S. at 4-5; *Bertine*, 479 U.S. at 374-75; *Lafayette*, 462 U.S. at 648; *Opperman*, 428 U.S. at 376.

In *Illinois v. Lafayette*, the Supreme Court has also addressed the argument that an inventory search was unreasonable because the governmental interests at stake could have been protected through less intrusive means.[65] The *Lafayette* Court rejected this argument and concluded that the question is not what could have been achieved through less intrusive means, but whether the Fourth Amendment requires such less intrusive means.[66] The Supreme Court determined that it was not the Court's function to write a manual on administering routine and neutral procedures at a police station.[67] The Court also determined that the reasonableness of a governmental activity does not depend on the existence of less intrusive means.[68] Even if some less intrusive means existed to protect some of the detainee's property, it would not be reasonable for the Court to require officers to make "fine and subtle distinctions" in determining which containers to search and which to seal as a unit.[69]

The Supreme Court in *Florida v. Wells* did not support the idea that an inventory search could be used for "general rummaging" with the purpose of locating incriminating evidence.[70] As a result, the practice or established policy regarding inventory searches should be designed with the purpose of making an inventory.[71] A police officer should not be given so much latitude that an inventory search turns into a method of discovering evidence of a crime.[72] However, the *Wells* Court determined that an officer should be given enough latitude to determine whether certain containers should or should not be opened, depending on the nature of the search and the characteristics of the container.[73]

Thus, the Supreme Court supports the practice of inventory searches, so long as they are conducted according to established procedures designed to meet legitimate governmental interests. Additionally, the Supreme Court would not second-guess police officers by considering whether less intrusive means were available.

3. The Permissible Scope of Inventory Searches in Other Jurisdictions

While neither the New Mexico nor the United States Supreme Court has had previous occasion to consider inventory searches of mere detainees, other jurisdictions have considered such a situation. These jurisdictions are split regarding the permissible scope of an inventory search with regard to detox detainees under acts similar to the New Mexico Detox Act.[74] Cases involving an inventory of the

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65. *See* 462 U.S. at 647.

66. *See id.*

67. *See id.*

68. *See id.* The *Lafayette* Court did not find it appropriate for a court to "second-guess police departments as to what practical administrative method will best deter theft by and false claims against its employees and preserve the security of the stationhouse." *Id.* at 648.

69. *See id.*

70. *See* 495 U.S. at 4.

71. *See id.*

72. *See id.*

73. *See id.*

74. *See, e.g.*, People v. Chaves, 855 P.2d 852 (Colo. 1993) (en banc); People v. Dandrea, 736 P.2d 1211 (Colo. 1987) (en banc); *cf.* People v. Carper, 876 P.2d 582 (Colo. 1994) (en banc); State v. Friend, 711 S.W.2d 508 (Mo. 1986) (en banc); State v. Gelvin, 318 N.W.2d 302, 304 (N.D. 1982).

contents in closed containers, such as purses, wallets and small containers, have proven especially difficult.[75]

The cases where courts held that an inventory search exceeded its permissible scope based their decisions on one of two rationales: 1) the search was "unreasonable" resulting in a violation of the Fourth Amendment; or 2) the non-criminal nature of detention under detoxification acts requires greater protection of the detainee. Because detainees under detox acts are not to be treated as criminals, some courts have held that an intrusive search should not be conducted when placing them in jail.[76]

In *People v. Chaves*,[77] the Supreme Court of Colorado held that a warrantless search of a folded dollar bill was unreasonable.[78] The court relied on its precedent in *People v. Dandrea*,[79] which held that a person detained for protective custody could not be searched as thoroughly as one who had been arrested.[80] *Dandrea*'s holding was based on the state's clear legislative policy which required police officers to treat civil protective detentions differently from criminal arrests.[81] The *Dandrea* court recognized that privacy interests of the custodial detainee must be balanced against the legitimate governmental interest in protecting the safety of the officer as well as the safety of the detainee.[82] The *Chaves* court concluded that when an inventory search is conducted pursuant to protective custody, the scope of the inventory search is limited by the privacy interest of the detainee.[83] As a result, any closed containers must remain closed unless and until a warrant is obtained.[84]

Where the courts have found an inventory search inside of a closed container to be lawful, they have based their decisions on the objectives behind inventory searches: 1) to protect the detainee's property; 2) to protect police from claims of theft; and 3) to protect the detainee and others in jail from dangerous items. The courts have applied a balancing test, but have given more weight to the states' interests in meeting the objectives of inventory searches. As a result, these cases permit broader inventory searches of a civil detainee.

In *State v. Gelvin*,[85] the Supreme Court of North Dakota addressed the issue of whether evidence seized from an intoxicated person's wallet during an inventory search should be suppressed.[86] The *Gelvin* court noted that the "reasonableness under the circumstances" standard should be used to determine the constitutionality of an inventory search.[87]

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75. *See Gelvin*, 318 N.W.2d at 304.
76. *See, e.g., Chaves*, 855 P.2d at 855; *Dandrea*, 736 P.2d at 1217.
77. 855 P.2d 852 (Colo. 1993) (en banc).
78. *See id.* at 855.
79. 736 P.2d 1211 (Colo. 1987) (en banc).
80. *See id.* at 1215.
81. *See id.*
82. *See id.*
83. *See Chaves*, 855 P.2d at 855.
84. *See id.*
85. 318 N.W.2d 302 (N.D. 1982).
86. *See id.* at 304.
87. *See id.* at 305. The court was following Supreme Court precedent, South Dakota v. Opperman, 428 U.S. 364 (1976), which applied the reasonableness standard to an inventory search of an automobile.

The *Gelvin* court noted that some courts faced with the issue of inventorying items contained in closed containers have held that such containers should be inventoried as a unit without searching their contents.[88] However, others have held the contents of closed containers must be inventoried to protect important interests.[89] The *Gelvin* court points out that courts have generally employed a balancing test, weighing the detainee's right of privacy against the state's interest delineated above.[90]

The *Gelvin* court determined that the officers' inventory of items in the defendant's wallet was proper in that case, but made it clear that they were not making a general decision regarding inventory searches of closed containers.[91] The court found it permissible to inventory a wallet under established procedure.[92] The *Gelvin* court concluded that it was necessary for the officers to inventory the contents of the wallet in order to protect the three interests set forth above.[93] The *Gelvin* court employed the balancing test and found in favor of the state interests.[94] Additionally, the *Gelvin* court held that if an item or container is not securely closed, officers can inventory the contents.[95]

Ultimately, the *Gelvin* court found that the policy consideration behind "jailhouse inventory searches of arrestees are equally applicable when a person is brought into the jail for detoxification."[96] This was because the main objectives are safety of the detainee and others in jail and the protection of the detoxification detainee's possessions.[97] These safety considerations are not forgotten simply because the person being placed in jail is not under arrest.

In *State v. Lippert*,[98] the Supreme Court of Oregon also held that evidence discovered during a detoxification inventory search would not be suppressed.[99] In *Lippert*, the defendant was taken into custody for detoxification and an inventory search resulted in the removal of a paperfold from his pocket.[100] Upon opening the paperfold, the jailer discovered cocaine.[101] The *Lippert* court found that the purpose of the state detoxification act was to decriminalize intoxication,[102] not to enforce the provisions of the Fourth Amendment.[103] The court concluded that "[t]he police were

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88. *See id.*

89. *See id.* The interests include: 1) protection of detainee's property; 2) protection of the police against claims of lost or stolen property; and 3) protection of police and others from dangerous items. *See id.*

90. *See id.*

91. *See id.*

92. *See id.*; *see also* United States v. Matthews, 615 F.2d 1279, 1286 (10th Cir. 1980); United States v. Gallop, 606 F.2d 836, 839 (9th Cir. 1979); United States v. Gardner, 480 F.2d 929, 931 (10th Cir. 1973).

93. *See* 318 N.W.2d at 306.

94. *See id.*

95. *See id.* (explaining that because wallets are generally not securely closed, police can inventory their contents).

96. *Id.* at 307.

97. *See id.* at 305.

98. 856 P.2d 634 (Or. 1993) (en banc).

99. *See id.* at 638-39; *see also* State v. Friend, 711 S.W.2d 508, 510-11 (Mo. 1986) (en banc) (establishing that an inventory search of person brought to jail for detoxification was proper and evidence thus discovered did not have to be suppressed).

100. *See Lippert*, 856 P.2d at 635.

101. *See id.* at 635-36.

102. *See id.* at 638 (citing State v. Okeke, 745 P.2d 418 (Or. 1987)).

103. *See id.*(citing State v. Westlund, 729 P.2d 541 (Or. 1986) (arguing that the purpose of the statute is unrelated to protecting persons from illegal searches and seizures)).

entitled to seize . . . inadvertently discovered evidence . . . which was in plain view, without a warrant" and use it at defendant's criminal trial.[104]

The cases above illustrate the split in reasoning regarding the scope of an inventory search of a detoxification detainee. The court in *Johnson* followed the more liberal decisions allowing a broader scope for such inventory searches which have permitted officers to search containers.[105]

IV. RATIONALE

A. *Johnson Court Finds Lawful Civil Detention Under Detox Act*

The *Johnson* court found Johnson's detention lawful based on evidence that transportation of Johnson to jail was necessary because he was disorderly and constituted a danger to others.[106] Johnson appeared intoxicated, based on his bloodshot eyes, slurred speech and the smell of alcohol. The appearance of intoxication, together with Johnson's use of profane language, was sufficient evidence for the arresting officer to believe Johnson was disorderly under the Detox Act.[107]

The court of appeals held that the applicable canons of construction did not require a finding that the definition of disorderly in the Detox Act was equivalent to the crime of disorderly conduct.[108] The court found that there would be no need for the Detox Act if disorderly was equivalent to the New Mexico statutes' definition of criminal disorderly conduct.[109] Police officers "would simply arrest disorderly intoxicated persons for the crime of disorderly conduct and take them to jail" if the definitions were the same.[110] The legislature's enactment of a hierarchy of responses to be used when dealing with disorderly intoxicated persons convinced the court of appeals that "disorderly" as used in section 43-2-18(C) of the Detox Act has a different meaning than the disorderly conduct in the criminal statute.[111] Additionally, the court noted that detention under the Detox Act was not criminal.[112]

The court also rejected Johnson's contention that the Detox Act requires officers to choose the least drastic alternative.[113] Although the court agreed that the Act established a series of alternatives, the court did not agree that the officers were mandated to take Johnson home in this case.[114] Additional factors, including Johnson's combative behavior and the officer's discovery of a loaded gun in the

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104. *See id.* at 639.

105. *See* State v. Johnson, 122 N.M. 713, 718-19, 930 P.2d 1165, 1170-71 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996).

106. *See id.* at 716, 930 P.2d at 1168.

107. *See id.*

108. *See id.* The court of appeals disagreed with some courts which have held to the contrary. *See id.* (citing Veiga v. McGee, 26 F.3d 1206, 1211-12 (1st Cir. 1994)).

109. *See id.* For a statutory definition of disorderly conduct in the criminal context see N.M. STAT. ANN. § 30-20-1 (Repl. Pamp. 1993).

110. *Johnson*, 122 P.2d at 716-17, 930 P.2d at 1168-69.

111. *See id.* at 717, 930 P.2d at 1169. The hierarchy of responses includes taking the intoxicated persons home, taking them to a health care facility, or taking them to jail for detoxification. *See* N.M. STAT. ANN. § 43-2-18(A)-(C) (Repl. Pamp. 1993).

112. *See Johnson*, 122 N.M. at 717, 930 P.2d at 1169 (citing to N.M. STAT. ANN. § 43-2-22(C)).

113. *See id.* (Johnson argued that he should have been driven home rather than transported to jail.).

114. *See id.*

vehicle, were sufficient to persuade a reasonable police officer that Johnson was a danger unless transported to jail.[115] Under the circumstances of this case, the court found that the least drastic choice under the Detox Act was to transport Johnson to jail.[116]

The court of appeals also rejected Johnson's contention that there was not clear and convincing evidence that his actions were disorderly or constituted a danger to others.[117] The court held that the "clear and convincing evidence" standard should be applied by a tribunal, not by officers working on the street.[118] The standard to be used by officers is "cause to believe," rather than "clear and convincing evidence."[119] An officer need only have "probable cause or reasonable grounds to believe" that a person they have encountered is "disorderly, intoxicated, and dangerous" to others.[120]

The court did emphasize that an officer's conduct is circumscribed by the Detox Act's requirements.[121] If these requirements have not been met, an officer cannot transport an intoxicated person to jail, but must take the intoxicated person home or to a health care facility.[122]

B. Court Finds Discovery of Cocaine was Result of Lawful Inventory Search

The second issue involved the discovery of crack cocaine in Johnson's clothing. Johnson argued that protective custody of an intoxicated person does not allow police officers to remove personal belongings, especially small items inside their pockets.[123] Johnson also argued that even if officers can take possession of intoxicated persons' possessions for inventory purposes, the inside of items cannot be searched.[124]

The court of appeals rejected Johnson's contentions based on *State v. Shaw*,[125] which established that inventory searches are allowed if they are reasonable and conducted according to established police procedures.[126] The court held that an inventory search is reasonable if its objectives are: 1) to protect an arrestee's property; 2) to protect police against claims of lost or stolen property; or 3) to protect police from potential danger.[127] The court concluded that an inventory search may

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115. *See id.*

116. See id.

117. *See id.*

118. *See id.* (citing Addington v. Texas, 441 U.S. 418, 423-24 (1979)). Unlike courts, a officer does not have time to make detailed inquiries into evidence while he is encountering situations on the street. *See id.*

119. *See id.*; *c.f.* State *ex rel.* Schwartz v. Kennedy, 120 N.M. 619, 627-28, 904 P.2d 1044, 1052-53 (1995) (establishing that a license may be revoked if law enforcement officer had "reasonable grounds to believe" driver was intoxicated); State v. Mann, 103 N.M. 660, 663, 712 P.2d 6, 9 (Ct. App. 1985) (establishing that officer must have "reasonable suspicion") (citation omitted); State v. Warren, 103 N.M. 472, 476, 709 P.2d 194, 198 (Ct. App. 1985) (arguing that an arresting officer may combine "sensory perceptions" and "reasonable inferences" to give rise to probable cause) (citation omitted).

120. *Johnson*, 122 N.M. at 717, 930 P.2d at 1169.

121. *See id.* at 718, 930 P.2d at 1170.

122. *See id.*; *see also* N.M. STAT. ANN. § 43-2-18 (Repl. Pamp. 1993).

123. *See Johnson*, 122 N.M. at 718, 930 P.2d at 1170.

124. *See id.*

125. 115 N.M. 174, 848 P.2d 1101 (Ct. App. 1993). However, *Shaw* involved an inventory search of a criminal arrestee. *See id.*

126. *See Johnson*, 122 N.M. at 718, 930 P.2d at 1170 (citing *Shaw*, 115 N.M. at 176, 484 P.2d at 1103).

127. *See id.* (citing *Shaw*, 115 N.M. at 177, 484 P.2d at 1104).

include a search inside a container if conducted according to established police procedure.[128]

The court found that it was standard procedure for officers to inventory belongings of intoxicated persons brought to jail for detoxification.[129] Additionally, the court found it was reasonable for officers to conduct an inventory search of a person being placed in the jail in order to protect officers from claims of lost property and to prevent harm faced by the officers and others.[130] Thus, the court concluded that an inventory search of Johnson's possessions was warranted.[131]

Johnson also argued that the rules regarding inventories should not apply to detainees under the Detox Act because they are not to be treated as criminals.[132] The court, however, disagreed and stated that "the rationale behind inventory searches applies equally to criminal arrestees and civil detainees."[133] In situations involving criminal arrestees or civil detainees, officers encounter similar risks, such as claims of lost property or danger to either the officer, the detainee, or third parties.[134]

The court did not address Johnson's argument that the officers did not have the right to make him get undressed and put on jail clothing because it already held the inventory search was proper.[135] The court rationalized that even if Johnson had not been forcibly stripped, a lawful inventory search would have inevitably resulted in the discovery of the "Life Savers" container.[136]

Johnson also contended that the "Life Savers" container was improperly opened by the officers.[137] The court again would not address this issue because the container was transparent and the rocks of cocaine were in plain view.[138] The court stated that "[w]hen evidence is discovered because it is in plain view, there is no invasion of privacy and the discovery of the evidence does not constitute a search."[139]

V. ANALYSIS AND IMPLICATIONS OF *JOHNSON*

A. *The Johnson Court Reaffirms Probable Cause Standard to be Applied by Officers*

The *Johnson* court upheld the reasonableness standard that must be applied to determine if the officers' conduct was lawful.[140] The court simply rearticulated that to detain someone under the Detox Act, an officer need only have reasonable "cause to believe" or "probable cause" to believe that a defendant is disorderly, intoxicated,

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128. *See id.*
129. *See id.*
130. *See id.*
131. *See id.*
132. *See id. See also* N.M. STAT. ANN. § 43-2-22(C) (Repl. Pamp. 1993) (explaining that an intoxicated person held in protective custody in jail under the Detox Act shall not be considered arrested or charged with a crime).
133. *Johnson*, 122 N.M. at 718, 930 P.2d at 1170.
134. *See id.*
135. *See id.*
136. *See id.* at 718-19, 930 P.2d at 1170-71.
137. *See id.* at 719, 930 P.2d at 1171.
138. *See id.*
139. *Id.* (citing State v. Williams, 117 N.M. 551, 555-56, 874 P.2d 12, 16-17 (1994)).
140. *See Johnson*, 122 N.M. at 718, 930 P.2d at 1169. The reasonableness standard was applied to the officers' determination that Johnson was intoxicated, disorderly, and constituted a danger to others. *See id.*

and a danger to others.[141] Thus, the court found that the officers' decision to take Johnson to jail was warranted because there was a reasonable basis to find that the requirements of the Detox Act were sufficiently met to apply the strictest alternative, that being taking Johnson to jail.[142]

B. *The Johnson Court Follows the Supreme Court and Other Jurisdictions Allowing a Broad Inventory Search*

The *Johnson* decision establishes important precedent for New Mexico in its treatment of the permissible scope of an inventory search under the Detox Act. The *Johnson* court's holding appears unfair to detainees placed in protective custody under the Detox Act because it allows a broad inventory search of their person, even though they are not under arrest for a criminal act. However, this holding is in line with the reasoning of the Supreme Court[143] and a majority of jurisdictions that have considered this issue.[144] It is customary procedure in most jurisdictions for an inventory to involve an exhaustive search of everything in the pockets or on the body of a person going into the jail, regardless of whether it is criminal, civil, or protective detention.[145] This includes looking into his wallet or into containers found on the detainee.[146]

There have been a number of cases in which courts have found it permissible to inventory the contents of a detainee's possessions if such inventory is done pursuant to established police procedure.[147] Inventory searches have been upheld by the Supreme Court and in most jurisdictions because of their relationship to legitimate jail custodial purposes.[148] The policies behind routine jail inventory searches of arrestees have been found to be equally applicable when a person is brought into jail for detoxification.[149]

The *Johnson* court's reasoning also follows New Mexico precedent with regard to inventory searches in the arrest context. Although the New Mexico precedent dealt only with inventory searches incident to arrest, the *Johnson* court used general principles established in those cases.[150] However, the *Johnson* court's position would

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141. *See id.* at 717-18, 930 P.2d at 1168-69 (citations omitted); *see also* Addington v. Texas, 441 U.S. 418 (1979); State *ex rel.* Schwartz v. Kennedy, 120 N.M. 619, 904 P.2d 1044 (1995); State v. Warren, 103 N.M. 472, 709 P.2d 194 (Ct. App. 1985).

142. *See id.* at 718, 930 P.2d at 1170.

143. *See* Florida v. Wells, 495 U.S. 1 (1990); Colorado v. Bertine, 479 U.S. 367 (1987); Illinois v. Lafayette, 462 U.S. 640 (1983); South Dakota v. Opperman, 428 U.S. 364 (1976).

144. *See, e.g.*, State v. Friend, 711 S.W.2d 508 (Mo. 1986); State v. Gelvin, 318 N.W.2d 302 (N.D. 1982); State v. Lippert, 856 P.2d 634 (Or. 1993).

145. *See Lafayette*, 462 U.S. at 648; *Opperman*, 428 U.S. at 376; LAFAVE, *supra* note 53, § 5.3(a), at 112.

146. *See* LAFAVE, *supra* note 53, § 5.3(a), at 113. *See also Lafayette*, 462 U.S. at 648 (arguing that it is not unreasonable for police to search any container or article in the possession of an arrestee, in accordance with established inventory procedure).

147. *See Lafayette*, 462 U.S. at 648; *Opperman*, 428 U.S. at 376; State v. Gelvin, 318 N.W.2d 302, 305 (N.D. 1982).

148. *See Lafayette*, 462 U.S. at 646; *Opperman*, 428 U.S. at 376; *Gelvin*, 318 N.W.2d at 306; *see also Friend*, 711 S.W.2d at 510-11 (explaining that inventory searches meet legitimate jail custodial purposes in that they prevent the introduction of dangerous items into the jail and prevent the loss of detainee property).

149. *See Friend*, 711 S.W.2d at 510; *Gelvin*, 318 N.W.2d at 307.

150. As mentioned earlier, these cases established four requirements to determine whether a lawful inventory search has been conducted. The requirements are: 1) that police have control or custody of objects of the search; 2)

have been stronger if it applied the analysis of these cases to the facts of *Johnson*. For instance, the requirements set out in *Williams*[151] and *Ruffino*[152] could have been applied to determine whether the inventory search in *Johnson* was reasonable.

Finally, the *Johnson* court decision that the Life Savers container was properly opened cannot be challenged because the container was transparent.[153] There can be no claim of invasion of privacy "when evidence is discovered because it is in plain view."[154] Discovery of evidence in plain view does not constitute a search.[155]

C. *Arguments Against Following the Majority Position*

While the decision in *Johnson* is in line with the reasoning of a majority of jurisdictions and New Mexico precedent with regard to inventory searches, Johnson's argument that detainees under the Detox Act are not criminals and therefore entitled to greater Fourth Amendment protection is a valid one. The Supreme Court has even determined that "[i]t is the fact of the lawful arrest which establishes the authority to search."[156] Thus, it can be inferred that mere detainment of a person for detoxification purposes does not give police the authority to conduct an inventory search. Without the arrest, there is no authority.

It was the New Mexico Legislature's intention when it enacted the Detox Act that an intoxicated person held in protective custody should not be considered an arrestee or a criminal.[157] In a minority of jurisdictions, persons taken into custody for detoxification are afforded greater protection than criminal arrestees because there is no arrest involved.[158] As a result, exhaustive inventory searches of intoxicated persons taken into protective custody are not permitted and any search should be less intrusive than in a criminal arrest situation.[159] The emphasis on the non-criminal nature of taking an intoxicated person into custody requires that the individual privacy interest of that person be "accorded maximum weight when determining the reasonableness of police conduct."[160]

Johnson involved an intoxicated person being taken into custody for detoxification, not for an arrest. Following the rationale in the previously discussed cases,[161] Johnson should have been entitled to greater Fourth Amendment protection

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that the inventory is made according to established police procedure; 3) that the search is reasonable; and 4) that there is some reasonable connection between the arrest and the reason for taking possession of the property. *See* State v. Williams, 97 N.M. 634, 636-37, 642 P.2d 1093, 1095-96, *cert. denied*, 459 U.S. 845 (1982); State v. Ruffino, 94 N.M. 500, 502, 612 P.2d 1311, 1313 (1980).

151. 97 N.M. at 636-37, 642 P.2d at 3095-96.

152. 94 N.M. at 502, 612 P.2d at 1313.

153. *See* State v. Johnson, 122 N.M. 713, 719, 930 P.2d 1165, 1171 (Ct. App.), *cert. denied*, 122 N.M. 578, 929 P.2d 269 (1996).

154. *Id.* (citing State v. Williams, 117 N.M. 551, 555-56, 874 P.2d 12, 16-17 (1994)).

155. *See id.*

156. *Lafayette*, 462 U.S. at 645 (quoting United States v. Robinson, 414 U.S. 218, 235 (1973)).

157. *See* N.M. STAT. ANN. § 43-2-22 (C) (Repl. Pamp. 1993).

158. *See, e.g.*, State v. Perry, 688 P.2d 827, 831 (Or. 1984).

159. *See id.*; *see also* People v. Chaves, 855 P.2d 852, 855 (Colo. 1993) (en banc); People v. Dandrea, 736 P.2d 1211, 1217 (Colo. 1987) (en banc); State v. Lawrence, 648 P.2d 1332, 1337 (Or. App. 1982).

160. *Dandrea*, 736 P.2d at 1217.

161. *See, e.g.*, *Lafayette*, 462 U.S. at 645 (explaining that the existence of a lawful arrest establishes the authority to search); *Perry*, 688 P.2d at 831 (arguing that persons taken into jail for detoxification have greater protection than criminal arrestees).

than a criminal arrestee.[162] An inventory search of a detoxification detainee conducted in such a broad manner as to allow a search inside containers based merely on the fact that it is standard procedure is a weak argument.[163] Courts have been too quick to uphold inventories that result in evidence of a crime simply because of the "routineness" of the procedures.[164] The institutionalization of a constitutionally questionable procedure, however, does not make it permissible.[165] Jail security is not jeopardized by setting aside an item or container and not opening it, or waiting to obtain a search warrant before opening it.[166]

It has been proposed that items found during an inventory prior to incarceration should be inadmissible in criminal proceedings.[167] Discovery of evidence of a crime is not the purpose of an inventory search.[168] An inventory search permits officers to remove and isolate all dangerous possessions and to retain the items while a defendant is in custody, but should not permit the officers to search closed containers unless a warrant is first obtained.[169] Once a package or container is "confiscated and identified as a probable weapon,"[170] the limited purpose of the inventory search has been accomplished.[171] Thus, there must be further justification for any additional intrusion to support a search of the seized package or container.[172]

Broad inventory searches, when a person is in jail for detoxification, invite police intrusion on the fundamental right to be free from unreasonable searches and seizures. The inventory search is particularly susceptible to abuse by officers with an investigatory motive to conduct a search, without having probable cause.[173] The broad scope of the search, the abusive manner in which it can be used by officers, and the potential for its use as a device to circumvent constitutional requirements, makes the procedure allowed by the *Johnson* court appear unreasonable.[174]

D. Least Intrusive Means—Alternatives to Allowing an Inventory Search Inside Containers

While the Supreme Court has not required courts to second-guess police officers by considering less intrusive means to meet the governmental interests behind inventory searches, the objective of safeguarding a suspect and other prisoners could be met by methods other than an exhaustive generalized search.[175] There is no

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162. *See id.*; *see also Dandrea*, 736 P.2d 1211; State v. Newman, 637 P.2d 143 (Or. 1981), *cert. denied*, 457 U.S. 1111 (1982).

163. Goldfried, *supra* note 52, at 866.

164. *See id.*

165. *See id.*

166. *See Chaves*, 855 P.2d at 854-55.

167. *See* LAFAVE, *supra* note 53, § 5.3(a), at 115.

168. *See* Goldfried, *supra* note 52, at 866; *see also* Florida v. Wells, 495 U.S. 1, 4 (1990) (arguing that the inventory search must not be used for the purpose of discovering incriminating evidence); *Chaves*, 855 P.2d at 855 (explaining that the purpose of an inventory of a detainee is not to find drugs, but to ensure that all the detainee's possessions are safe).

169. *See Chaves*, 855 P.2d at 855.

170. *Dandrea*, 736 P.2d at 1218.

171. *See id.*

172. *See id.*

173. *See* Goldfried, *supra* note 52, at 866-67.

174. *See id.* at 866 ("The question is one of reasonableness, not routineness.").

175. *See id.*

sufficient justification to conduct an exhaustive search with the sole purpose of taking inventory when there are other alternatives available.[176] An invasion of the fundamental right to be free from unlawful searches and seizures may be more acceptable to the public if the invasion is the least intrusive possible.

Legal scholarship suggests that inventory searches should be limited in scope, so that a search into closed or sealed containers, including packages or purses, would be prohibited.[177] The basis for limiting inventory searches and preventing a search into closed containers is that discovery of further evidence hidden inside a container is not a proper function of an inventory search.[178] If there is probable cause that a detainee has committed other crimes, a search warrant could be obtained later to examine such containers.

There are alternatives the New Mexico courts and legislature can consider to lessen the possible harm caused by inventory searches. These suggestions would make it impermissible for officers to search containers belonging to detoxification detainees during an inventory search. One suggestion would allow a detainee to store in a privileged place, such as a safety deposit box, personal items which he would not like to take into the jail.[179] Other suggestions would provide the detainee with a storage locker.[180]

These alternative methods would provide greater protection of the fundamental right to be free from unlawful searches and seizures. They would also meet the objectives of an inventory search: 1) to protect the detainee's possessions while in jail; 2) to protect the police from claims of theft and stolen property; and 3) to safeguard a detainee and other prisoners by placing any dangerous possessions of a detainee in a safe place.

VI. CONCLUSION

The court in *Johnson* essentially affirmed the standard of reasonableness for officers on the street in determining whether a person is intoxicated, disorderly, and a danger to others. The *Johnson* court also effectively applied Supreme Court principles with regard to inventory searches in arrest situations to a Detox detention. Therefore, the court has followed the conclusion of a majority of jurisdictions that an inventory search of a person being placed in jail for detoxification can have as broad a scope as an inventory search in an arrest situation. This includes allowing a search inside containers found on the person. The objectives behind this type of search is to protect the detainee's property, to protect officers from claims of theft, and to protect officers, the detainee and other jail inmates from dangerous items. However, New Mexico should consider the position of the minority of jurisdictions that limit the scope of inventory searches of detainees. This position advocates a type

176. *See id.*

177. *See id.* at 869.

178. *See* Goldfried, *supra* note 52, at 866.

179. *See* Paul R. Friedman, Note, *Scope Limitations for Searches Incident to Arrest*, 78 YALE L.J. 433, 445 (1969); *see also* LAFAVE, *supra* note 53, § 5.3(a), at 114-15 (supporting the placement of detainees' belongings in closed or sealed containers); State v. Kaluna, 520 P.2d 51, 62 (Haw. 1974) (supporting the placement of detainees' possessions in a sealed envelope).

180. *See* Goldfried, *supra* note 52, at 869-70.

of search that still protects the objectives behind the inventory search, while at the same time protecting the individual privacy rights. Placing the property in a secured area would protect the property, protect the officers from claims of theft, and protect the detainee and other persons from dangerous items, but would not infringe on the detainee's right to be free from unlawful searches and seizures.

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