probable cause determination, and the delay is even longer if there is an intervening holiday. Moreover, the lower courts, on remand, must determine whether the County's practice as to arrests that occur early in the week—whereby arraignments usually take place on the last day possible—is supported by legitimate reasons or constitutes delay for delay's sake. P. 1671.

888 F.2d 1276 (CA 9, 1989), vacated and remanded.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and WHITE, KENNEDY, and SOUTER, JJ., joined. MARSHALL, J., filed a dissenting opinion, in which BLACKMUN and STEVENS, JJ., joined, *post*, p. 1671. SCALIA, J., filed a dissenting opinion, *post*, p. 1671.

Timothy T. Coates, Beverly Hills, Cal., for petitioners.

Dan Stormer, Los Angeles, Cal., for respondents.

[47]Justice O'CONNOR delivered the opinion of the Court.

In *Gerstein v. Pugh*, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed.2d 54 (1975), this Court held that the Fourth Amendment requires a prompt judicial determination of probable cause as a prerequisite to an extended pretrial detention following a warrantless arrest. This case requires us to define what is "prompt" under *Gerstein*.

I

This is a class action brought under 42 U.S.C. § 1983 challenging the manner in which the County of Riverside, California (County), provides probable cause determinations to persons arrested without a warrant. At issue is the County's policy of combining probable cause determinations with its arraignment procedures. Under County policy, which tracks closely the provisions of Cal.Penal Code Ann. § 825 (West 1985), arraignments must be conducted without unnecessary delay and, in any event, within two days of arrest. This 2-day requirement excludes from computation weekends and holidays. Thus, an individual arrested without a warrant late in the week may in some cases be held for as long as five days before receiving a probable cause determination. Over the Thanksgiving holiday, a 7-day delay is possible.

The parties dispute whether the combined probable cause/arraignment procedure is available to *all* warrantless arrestees. Testimony by Riverside County District Attorney Grover Trask suggests that individuals arrested without [48]warrants for felonies do not receive a probable cause determination until the preliminary hearing, which may not occur until 10 days after arraignment. 2 App. 298–299. Before this Court, however, the County represents that its policy is to provide probable cause determinations at arraignment for all persons arrested without a warrant, regardless of the nature of the charges against them. *Ibid.* See also Tr. of Oral Arg. 13. We need not resolve the factual inconsistency here. For present purposes, we accept the County's representation.

In August 1987, Donald Lee McLaughlin filed a complaint in the United States District Court for the Central District of California, seeking injunctive and declaratory relief on behalf of himself and " 'all others similarly situated.' " The complaint alleged that McLaughlin was then currently incarcerated in the Riverside County Jail and had not received a probable cause determination. He requested " 'an order and judgment requiring that the defendants and the County of Riverside provide in-custody arrestees, arrested without warrants, prompt probable cause, bail and arraignment hearings.' " Pet. for Cert. 6. Shortly thereafter, McLaughlin moved for class certification. The County moved to dismiss the complaint, asserting that McLaughlin lacked standing to bring the suit because he had failed to show, as required by *Los Angeles v. Lyons*, 461 U.S. 95, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983), that he

would again be subject to the allegedly unconstitutional conduct—*i.e.*, a warrantless detention without a probable cause determination.

In light of the pending motion to dismiss, the District Court continued the hearing on the motion to certify the class. Various papers were submitted; then, in July 1988, the District Court accepted for filing a second amended complaint, which is the operative pleading here. From the record it appears that the District Court never explicitly ruled on defendants' motion to dismiss, but rather took it off the court's calendar in August 1988.

[49]The second amended complaint named three additional plaintiffs—Johnny E. James, Diana Ray Simon, and Michael Scott Hyde—individually and as class representatives. The amended complaint alleged that each of the named plaintiffs had been arrested without a warrant, had received neither a prompt probable cause nor a bail hearing, and was still in custody. 1 App. 3. In November 1988, the District Court certified a class comprising "all present and future prisoners in the Riverside County Jail including those pretrial detainees arrested without warrants and held in the Riverside County Jail from August 1, 1987 to the present, and all such future detainees who have been or may be denied prompt probable cause, bail or arraignment hearings." 1 App. 7.

In March 1989, plaintiffs asked the District Court to issue a preliminary injunction requiring the County to provide all persons arrested without a warrant a judicial determination of probable cause within 36 hours of arrest. 1 App. 21. The District Court issued the injunction, holding that the County's existing practice violated this Court's decision in *Gerstein*. Without discussion, the District Court adopted a rule that the County provide probable cause determinations within 36 hours of arrest, except in exigent circumstances. The court "retained jurisdiction indefinitely" to ensure that the County established new procedures that complied with the injunction. 2 App. 333–334.

The United States Court of Appeals for the Ninth Circuit consolidated this case with another challenging an identical preliminary injunction issued against the County of San Bernardino. See *McGregor v. County of San Bernardino*, decided with *McLaughlin v. County of Riverside*, 888 F.2d 1276 (1989).

On November 8, 1989, the Court of Appeals affirmed the order granting the preliminary injunction against Riverside County. One aspect of the injunction against San Bernardino County was reversed by the Court of Appeals; that determination is not before us.

[50]The Court of Appeals rejected Riverside County's *Lyons*-based standing argument, holding that the named plaintiffs had Article III standing to bring the class action for injunctive relief. 888 F.2d, at 1277. It reasoned that, at the time plaintiffs filed their complaint, they were in custody and suffering injury as a result of defendants' allegedly unconstitutional action. The court then proceeded to the merits and determined that the County's policy of providing probable cause determinations at arraignment within 48 hours was "not in accord with *Gerstein*'s requirement of a determination 'promptly after arrest'" because no more than 36 hours were needed "to complete the administrative steps incident to arrest." *Id.*, at 1278.

The Ninth Circuit thus joined the Fourth and Seventh Circuits in interpreting *Gerstein* as requiring a probable cause determination immediately following completion of the administrative procedures incident to arrest. *Llaguno v. Mingey*, 763 F.2d 1560, 1567–1568 (CA7 1985) (en banc); *Fisher v. Washington Metropolitan Area Transit Authority*, 690 F.2d 1133, 1139–1141 (CA4 1982). By contrast, the Second Circuit understands *Gerstein* to "stres[s] the need for flexibility" and to permit States to combine probable cause determinations with other pretrial proceedings. *Williams v. Ward*, 845 F.2d 374,

386 (1988), cert. denied, 488 U.S. 1020, 109 S.Ct. 818, 102 L.Ed.2d 807 (1989). We granted certiorari to resolve this conflict among the Circuits as to what constitutes a "prompt" probable cause determination under *Gerstein*.

II

As an initial matter, the County renews its claim that plaintiffs lack standing. It explains that the main thrust of plaintiffs' suit is that they are entitled to "prompt" probable cause determinations and insists that this is, by definition, a time-limited violation. Once sufficient time has passed, the County argues, the constitutional violation is complete because a probable cause determination made after that point [51] would no longer be "prompt." Thus, at least as to the named plaintiffs, there is no standing because it is too late for them to receive a prompt hearing and, under *Lyons*, they cannot show that they are likely to be subjected again to the unconstitutional conduct.

[1, 2] We reject the County's argument. At the core of the standing doctrine is the requirement that a plaintiff "allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright*, 468 U.S. 737, 751, 104 S.Ct. 3315, 3324, 82 L.Ed.2d 556 (1984), citing *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472, 102 S.Ct. 752, 758, 70 L.Ed.2d 700 (1982). The County does not dispute that, at the time the second amended complaint was filed, plaintiffs James, Simon, and Hyde had been arrested without warrants and were being held in custody without having received a probable cause determination, prompt or otherwise. Plaintiffs alleged in their complaint that they were suffering a direct and current injury as a result of this detention, and would continue to suffer that injury until they received the probable cause determination to which they were entitled. Plainly, plaintiffs' injury was at that moment capable of being redressed through injunctive relief. The County's argument that the constitutional violation had already been "completed" relies on a crabbed reading of the complaint. This case is easily distinguished from *Lyons*, in which the constitutionally objectionable practice ceased altogether before the plaintiff filed his complaint.

[3] It is true, of course, that the claims of the named plaintiffs have since been rendered moot; eventually, they either received probable cause determinations or were released. Our cases leave no doubt, however, that by obtaining class certification, plaintiffs preserved the merits of the controversy for our review. In factually similar cases we have held that "the termination of a class representative's claim does not moot the claims of the unnamed members of the class." See, *e.g.*, [52] *Gerstein*, 420 U.S., at 110–111, n. 11, 95 S.Ct., at 861, n. 11, citing *Sosna v. Iowa*, 419 U.S. 393, 95 S.Ct. 553, 42 L.Ed.2d 532 (1975); *Schall v. Martin*, 467 U.S. 253, 256, n. 3, 104 S.Ct. 2403, 2405, n. 3, 81 L.Ed.2d 207 (1984). That the class was not certified until after the named plaintiffs' claims had become moot does not deprive us of jurisdiction. We recognized in *Gerstein* that "[s]ome claims are so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the proposed representative's individual interest expires." *United States Parole Comm'n v. Geraghty*, 445 U.S. 388, 399, 100 S.Ct. 1202, 1210, 63 L.Ed.2d 479 (1980), citing *Gerstein, supra*, 420 U.S., at 110, n. 11, 95 S.Ct., at 861, n. 11. In such cases, the "relation back" doctrine is properly invoked to preserve the merits of the case for judicial resolution. See *Swisher v. Brady*, 438 U.S. 204, 213–214, n. 11, 98 S.Ct. 2699, 2705 n. 11, 57 L.Ed.2d 705 (1978); *Sosna, supra*, 419 U.S., at 402, n. 11, 95 S.Ct., at 559, n. 11. Accordingly, we proceed to the merits.

III

A

In *Gerstein*, this Court held unconstitutional Florida procedures under which per-

sons arrested without a warrant could remain in police custody for 30 days or more without a judicial determination of probable cause. In reaching this conclusion we attempted to reconcile important competing interests. On the one hand, States have a strong interest in protecting public safety by taking into custody those persons who are reasonably suspected of having engaged in criminal activity, even where there has been no opportunity for a prior judicial determination of probable cause. 420 U.S., at 112, 95 S.Ct., at 862. On the other hand, prolonged detention based on incorrect or unfounded suspicion may unjustly "imperil [a] suspect's job, interrupt his source of income, and impair his family relationships." *Id.*, at 114, 95 S.Ct., at 863. We sought to balance these competing concerns by holding that States "must provide a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before *or promptly after* arrest." *Id.*, at 125, 95 S.Ct., at 868–869 (emphasis added).

[4] [53]The Court thus established a "practical compromise" between the rights of individuals and the realities of law enforcement. *Id.*, at 113, 95 S.Ct., at 863. Under *Gerstein*, warrantless arrests are permitted but persons arrested without a warrant must promptly be brought before a neutral magistrate for a judicial determination of probable cause. *Id.*, at 114, 95 S.Ct., at 863. Significantly, the Court stopped short of holding that jurisdictions were constitutionally compelled to provide a probable cause hearing immediately upon taking a suspect into custody and completing booking procedures. We acknowledged the burden that proliferation of pretrial proceedings places on the criminal justice system and recognized that the interests of everyone involved, including those persons who are arrested, might be disserved by introducing further procedural complexity into an already intricate system. *Id.*, at 119–123, 95 S.Ct., at 865–868. Accordingly, we left it to the individual States to integrate prompt probable cause determinations into their differing systems of pretrial procedures. *Id.*, at 123–124, 95 S.Ct., at 867–868.

[5] In so doing, we gave proper deference to the demands of federalism. We recognized that "state systems of criminal procedure vary widely" in the nature and number of pretrial procedures they provide, and we noted that there is no single "preferred" approach. *Id.*, at 123, 95 S.Ct., at 868. We explained further that "flexibility and experimentation by the States" with respect to integrating probable cause determinations was desirable and that each State should settle upon an approach "to accord with [the] State's pretrial procedure viewed as a whole." *Ibid.* Our purpose in *Gerstein* was to make clear that the Fourth Amendment requires every State to provide prompt determinations of probable cause, but that the Constitution does not impose on the States a rigid procedural framework. Rather, individual States may choose to comply in different ways.

[6] Inherent in *Gerstein*'s invitation to the States to experiment and adapt was the recognition that the Fourth Amendment does not compel an immediate determination of probable[54] cause upon completing the administrative steps incident to arrest. Plainly, if a probable cause hearing is constitutionally compelled the moment a suspect is finished being "booked," there is no room whatsoever for "flexibility and experimentation by the States." *Ibid.* Incorporating probable cause determinations "into the procedure for setting bail or fixing other conditions of pretrial release"—which *Gerstein* explicitly contemplated, *id.*, at 124, 95 S.Ct., at 868—would be impossible. Waiting even a few hours so that a bail hearing or arraignment could take place at the same time as the probable cause determination would amount to a constitutional violation. Clearly, *Gerstein* is not that inflexible.

Notwithstanding *Gerstein*'s discussion of flexibility, the Court of Appeals for the Ninth Circuit held that no flexibility was permitted. It construed *Gerstein* as "requir[ing] a probable cause determination to be made *as soon as the administrative steps incident to arrest were completed*, and that such steps should require only a brief period." 888 F.2d, at 1278 (emphasis added) (internal quotation marks omitted). This same reading is advanced by the dissents. See *post*, at 1671 (opinion of MARSHALL, J.); *post* at 1672–1673, 1674 (opinion of SCALIA, J.). The foregoing discussion readily demonstrates the error of this approach. *Gerstein* held that probable cause determinations must be prompt—not immediate. The Court explained that "flexibility and experimentation" were "desirab[le]"; that "[t]here is no single preferred pretrial procedure"; and that "the nature of the probable cause determination usually will be shaped to accord with a State's pretrial procedure viewed as a whole." 420 U.S., at 123, 95 S.Ct., at 868. The Court of Appeals and Justice SCALIA disregard these statements, relying instead on selective quotations from the Court's opinion. As we have explained, *Gerstein* struck a balance between competing interests; a proper understanding of the decision is possible only if one takes into account both sides of the equation.

Justice SCALIA claims to find support for his approach in the common law. He points to several statements from the [55]early 1800's to the effect that an arresting officer must bring a person arrested without a warrant before a judicial officer " 'as soon as he *reasonably* can.' " *Post*, at 1672 (emphasis in original). This vague admonition offers no more support for the dissent's inflexible standard than does *Gerstein*'s statement that a hearing follow "promptly after arrest." 420 U.S., at 125, 95 S.Ct., at 869. As mentioned at the outset, the question before us today is what is "prompt" under *Gerstein*. We answer that question by recognizing that *Gerstein* struck a balance between competing interests.

B

Given that *Gerstein* permits jurisdictions to incorporate probable cause determinations into other pretrial procedures, some delays are inevitable. For example, where, as in Riverside County, the probable cause determination is combined with arraignment, there will be delays caused by paperwork and logistical problems. Records will have to be reviewed, charging documents drafted, appearance of counsel arranged, and appropriate bail determined. On weekends, when the number of arrests is often higher and available resources tend to be limited, arraignments may get pushed back even further. In our view, the Fourth Amendment permits a reasonable postponement of a probable cause determination while the police cope with the everyday problems of processing suspects through an overly burdened criminal justice system.

But flexibility has its limits; *Gerstein* is not a blank check. A State has no legitimate interest in detaining for extended periods individuals who have been arrested without probable cause. The Court recognized in *Gerstein* that a person arrested without a warrant is entitled to a fair and reliable determination of probable cause and that this determination must be made promptly.

Unfortunately, as lower court decisions applying *Gerstein* have demonstrated, it is not enough to say that probable [56]cause determinations must be "prompt." This vague standard simply has not provided sufficient guidance. Instead, it has led to a flurry of systemic challenges to city and county practices, putting federal judges in the role of making legislative judgments and overseeing local jailhouse operations. See, *e.g.*, *McGregor v. County of San Bernardino*, decided with *McLaughlin v. County of Riverside*, 888 F.2d 1276 (CA9 1989); *Scott v. Gates*, Civ. No. 84–8647 (CD Cal., Oct. 3, 1988); see also *Bernard v. Palo Alto*, 699 F.2d 1023 (CA9 1983); *Sanders v. Houston*, 543 F.Supp. 694 (SD Tex.1982), aff'd, 741 F.2d 1379 (CA5

1984); *Lively v. Cullinane*, 451 F.Supp. 1000 (DC 1978).

[7] Our task in this case is to articulate more clearly the boundaries of what is permissible under the Fourth Amendment. Although we hesitate to announce that the Constitution compels a specific time limit, it is important to provide some degree of certainty so that States and counties may establish procedures with confidence that they fall within constitutional bounds. Taking into account the competing interests articulated in *Gerstein*, we believe that a jurisdiction that provides judicial determinations of probable cause within 48 hours of arrest will, as a general matter, comply with the promptness requirement of *Gerstein*. For this reason, such jurisdictions will be immune from systemic challenges.

[8] This is not to say that the probable cause determination in a particular case passes constitutional muster simply because it is provided within 48 hours. Such a hearing may nonetheless violate *Gerstein* if the arrested individual can prove that his or her probable cause determination was delayed unreasonably. Examples of unreasonable delay are delays for the purpose of gathering additional evidence to justify the arrest, a delay motivated by ill will against the arrested individual, or delay for delay's sake. In evaluating whether the delay in a particular case is unreasonable, however, courts must allow a substantial degree of flexibility. Courts cannot ignore the [57] often unavoidable delays in transporting arrested persons from one facility to another, handling late-night bookings where no magistrate is readily available, obtaining the presence of an arresting officer who may be busy processing other suspects or securing the premises of an arrest, and other practical realities.

[9] Where an arrested individual does not receive a probable cause determination within 48 hours, the calculus changes. In such a case, the arrested individual does not bear the burden of proving an unreasonable delay. Rather, the burden shifts to the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance. The fact that in a particular case it may take longer than 48 hours to consolidate pretrial proceedings does not qualify as an extraordinary circumstance. Nor, for that matter, do intervening weekends. A jurisdiction that chooses to offer combined proceedings must do so as soon as is reasonably feasible, but in no event later than 48 hours after arrest.

Justice SCALIA urges that 24 hours is a more appropriate outer boundary for providing probable cause determinations. See *post*, at 9. In arguing that any delay in probable cause hearings beyond completing the administrative steps incident to arrest and arranging for a magistrate is unconstitutional, Justice SCALIA, in effect, adopts the view of the Court of Appeals. Yet he ignores entirely the Court of Appeals' determination of the time required to complete those procedures. That court, better situated than this one, concluded that it takes 36 hours to process arrested persons in Riverside County. 888 F.2d, at 1278. In advocating a 24-hour rule, Justice SCALIA would compel Riverside County—and countless others across the Nation—to speed up its criminal justice mechanisms substantially, presumably by allotting local tax dollars to hire additional police officers and magistrates. There may be times when the Constitution compels such direct interference with local control, but this is not one. As we have explained, *Gerstein* clearly contemplated a reasonable [58] accommodation between legitimate competing concerns. We do no more than recognize that such accommodation can take place without running afoul of the Fourth Amendment.

Everyone agrees that the police should make every attempt to minimize the time a presumptively innocent individual spends in jail. One way to do so is to provide a judicial determination of probable cause immediately upon completing the administrative steps in-

cident to arrest—*i.e.*, as soon as the suspect has been booked, photographed, and fingerprinted. As Justice SCALIA explains, several States, laudably, have adopted this approach. The Constitution does not compel so rigid a schedule, however. Under *Gerstein*, jurisdictions may choose to combine probable cause determinations with other pretrial proceedings, so long as they do so promptly. This necessarily means that only certain proceedings are candidates for combination. Only those proceedings that arise very early in the pretrial process—such as bail hearings and arraignments—may be chosen. Even then, every effort must be made to expedite the combined proceedings. See 420 U.S., at 124, 95 S.Ct., at 868.

IV

[10] For the reasons we have articulated, we conclude that Riverside County is entitled to combine probable cause determinations with arraignments. The record indicates, however, that the County's current policy and practice do not comport fully with the principles we have outlined. The County's current policy is to offer combined proceedings within two days, exclusive of Saturdays, Sundays, or holidays. As a result, persons arrested on Thursdays may have to wait until the following Monday before they receive a probable cause determination. The delay is even longer if there is an intervening holiday. Thus, the County's regular practice exceeds the 48-hour period we deem constitutionally [59]permissible, meaning that the County is not immune from systemic challenges, such as this class action.

As to arrests that occur early in the week, the County's practice is that "arraignment[s] usually tak[e] place on the last day" possible. 1 App. 82. There may well be legitimate reasons for this practice; alternatively, this may constitute delay for delay's sake. We leave it to the Court of Appeals and the District Court, on remand, to make this determination.

The judgment of the Court of Appeals is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Justice MARSHALL, with whom Justice BLACKMUN and Justice STEVENS join, dissenting.

In *Gerstein v. Pugh*, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed.2d 54 (1975), this Court held that an individual detained following a warrantless arrest is entitled to a "prompt" judicial determination of probable cause as a prerequisite to any further restraint on his liberty. See *id.*, at 114–116, 125, 95 S.Ct., at 863–864, 868. I agree with Justice SCALIA that a probable-cause hearing is sufficiently "prompt" under *Gerstein* only when provided immediately upon completion of the "administrative steps incident to arrest," *id.*, at 114, 95 S.Ct., at 863. See *post*, at 1673. Because the Court of Appeals correctly held that the County of Riverside must provide probable-cause hearings as soon as it completes the administrative steps incident to arrest, see 888 F.2d 1276, 1278 (CA9 1989), I would affirm the judgment of the Court of Appeals. Accordingly, I dissent.

Justice SCALIA, dissenting.

The story is told of the elderly judge who, looking back over a long career, observes with satisfaction that "when I was young, I probably let stand some convictions that should have been overturned, and when I was old, I probably set aside some that should have stood; so overall, justice was [60]done." I sometimes think that is an appropriate analog to this Court's constitutional jurisprudence, which alternately creates rights that the Constitution does not contain and denies rights that it does. Compare *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973) (right to abortion does exist), with *Maryland v. Craig*, 497 U.S. 836, 110 S.Ct. 3157, 111 L.Ed.2d 666 (1990) (right to be confronted with witnesses, U.S. Const. Amdt. 6, does not). Thinking that neither