

LESSON B

Arrest and Search

Overview

In this lesson, students are introduced to laws that govern police officers as they conduct searches or make arrests.

First, students read and discuss a handout describing laws pertaining to arrest, requirements for a valid search, and exceptions to the warrant requirement. Then, in a paired writing activity, they take the role of teleplay writers and create scenarios illustrating legal arrests and searches.

Teacher Tips

While not required, this lesson would benefit from the participation of a lawyer or police officer as an outside resource person. If utilized, the outside resource could expand on the concepts presented and debrief the student-created arrest and search scenarios.

Objectives

Students will be able to:

- Identify the Fourth Amendment as a source of law governing arrests and searches.
- Identify and define probable cause as a requirement for arrests and most searches.
- Recognize various situations in which police officers do not need a warrant to make a search.
- Create a scenario illustrating one of the situations in which officers do not need a warrant to make a search.

Materials and Preparation

- **Handout B1: Arrests and Searches**—1 per student
- **Handout B2: Police Drama**—1 per student
- **Handout B3: Story Lines**—Cut 1 section for each pair of students.
- **Handout B4: Sample**—1 per student (optional)

Procedure

I. Focus Discussion—Privacy

- A. Conduct a class discussion using the following questions:
- How would you feel if the principal made all students in the class empty their pockets, purses, and backpacks onto their desks and searched through all of the items? (Students might respond with anger, it's not fair, it would be embarrassing, etc.)
 - Why would you feel that way? (Continue questioning until students identify the desire for privacy as a cause.)
- B. Explain to students that our society puts a value on individual privacy and that we have rules and laws to protect it. Explain that is why police officers must follow certain rules about privacy even when they are dealing with people suspected of committing crimes.

II. Reading and Discussion—Arrests and Searches

- A. Distribute and have students read **Handout B1: Arrests and Searches**.
- B. Lead a class discussion on the reading using the following questions:
1. What does the Fourth Amendment say about arrests and searches? (It forbids unreasonable searches and seizure and requires probable cause for both.)
 2. Why must police officers be careful about following the rules about arrests and searches? What can happen if they don't? (Judges can declare the arrest illegal and items seized from a search can be excluded from evidence.)
 3. What is probable cause? Why is it important to both arrests and searches? (Probable cause is a strong belief based on evidence that a person is guilty of a crime or that items are connected to criminal activity. It is required to get a warrant or make searches and seizures.)
 4. What is a search warrant? What must it contain? (It is a document provided by a judge that is based on probable cause and describes the place to be searched and the items to be seized.)
 5. When don't police officers need to get a search warrant? What are some examples? (The recognized exceptions to the warrant requirement include consent, plain view, emergency, hot pursuit, stop-and-frisk, motor vehicle, and searches during arrest.)
 6. What is the exclusionary rule? It is a good way to protect citizen rights? Why or why not? (The judge-made rule excludes evidence gathered in violation of the Fourth Amendment from use in criminal trials. Students should be encouraged to state and support their opinions about the rule.)

III. Writing Activity—Police Drama

- A. Divide the class into pairs of students. Distribute **Handout B2: Police Drama** to each student. Then review the activity by explaining that working in pairs students will get a chance to use their creativity in applying what they have learned about arrests and search and seizure. Review the instructions and answer any questions.
- B. Distribute one section of **Handout B3: Story Lines** to each pair of students. Explain that each pair must incorporate the assigned topic into their stories. Encourage students, as they develop their pieces, to refer to **Handout B1**.
- C. If desired, share **Handout B4: Sample** with the students for a guide in developing their stories.
- D. When students have completed the assignment, call on pairs one at a time to make a presentation of their story—one student taking the narrator part, the other the story line part. When each is finished, lead a brief discussion using the following questions:
 - Was this story realistic and accurate? Why or why not? (Students should be encouraged to state and support opinions.)
 - Would this story line make a good scene in “Police Drama”? Why or why not? (Students should be encouraged to critique the piece in terms of plot, setting, and characterization.)

Additional Activity

Consider having students further develop some of the characters and/or situations to create an actual script for “Police Drama.” Students could take the various roles and produce their own show with costumes, props, etc. If desirable, these scenes could be videotaped and shared with other classes or police officers.

Arrests and Searches

Making arrests and searching for evidence of crime are two important parts of police work. It may surprise you to know that both are controlled by the Fourth Amendment of the U.S. Constitution. The amendment covers “searches and seizures.” A seizure can be an arrest or the seizure of property. The amendment forbids unreasonable arrests and searches and requires that police officers have good reasons, and sometimes a formal warrant, before making them.

Breaking these rules can have serious consequences. An arrest may not be valid and a suspect could go free. Evidence of a crime could be thrown out of court and conviction for a crime could be overturned.

MAKING AN ARREST

An arrest means taking a suspect into custody to be held for trial. This does not mean the person is guilty or not guilty. That is decided by a judge or jury at a criminal trial. To put someone under arrest, an officer must actually restrain the suspect. This usually involves the use of handcuffs or placing the suspect in an enclosed space, such as the back of a police car.

A police officer may make an arrest with or without an arrest warrant. A police officer gets a warrant from a

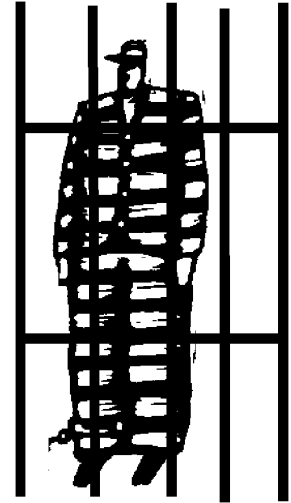
judge after filing a complaint.

The complaint explains why the person is being arrested. It also shows that the police officer has **probable cause** for the arrest. Probable cause means

that the officer has strong reasons for believing that the suspect committed a crime. A police officer making an arrest without a warrant must also have probable cause for believing the person arrested actually committed the crime.

It is against the law for a person to resist a lawful arrest. Fighting with an officer or trying to run away can make things worse. It can also bring additional criminal charges. A police officer has the right to use force if someone resists arrest. For these reasons, it is always better to give in to an arrest, even if a mistake has been made. Officers who do not have probable cause sometimes can be charged for making a false arrest.

An officer can stop and question a person, and sometimes even make a quick search for weapons, without



actually making an arrest. To do so, the officer must have reasonable suspicion that the person may be involved in criminal activity.

MAKING SEARCHES

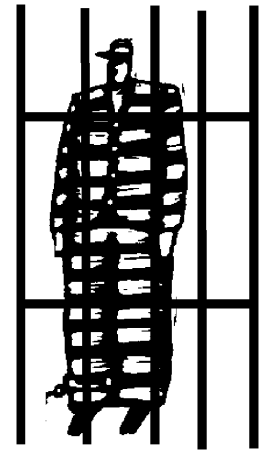
Another important part of police work involves making searches. Searches can turn up illegal goods, such as drugs, weapons used in a crime, stolen property, or other physical evidence. All of these things can be used as evidence in a criminal trial.

But just as with arrests, an officer must follow certain rules when making a search or seizing evidence. According to the Fourth Amendment, searches and seizures cannot be “unreasonable.” Like arrests, they require probable cause.

As a general rule, police officers must get a warrant to search. To get one, the officers must show that there is probable cause that the items being searched for are connected to a crime. For example, suppose officers have witnesses who claim they saw Peter break into several cars to steal stereos. They might take the information to a judge and ask for a warrant to search Peter’s house and garage for the stolen items. The warrant must describe what kinds of things are being searched for and exactly where the search will take place. The warrant also puts time limits on when the search can be conducted.

The U.S. Supreme Court has ruled that officers do not always need a warrant to make a search. In fact, today most

searches take place without a warrant. Even without a warrant, officers usually need probable cause to make a search. Here are some examples of when a warrant is not required.



Consent. A person agrees to let officers make a search. For example, an officer asks a person to search his car. If the person allows the search, no warrant is required.

Plain view. An item in plain view of officers or the public can be seized without a warrant. For example, the officers see marijuana plants growing in someone’s yard. They can seize the plants without getting a warrant.

Emergency. The police may search to prevent injuries or death. For example, acting on a phone tip, officers might search a house for a drug lab using explosive materials.

Hot pursuit. If the police are chasing a suspect of a crime who runs into a house, they do not have to stop and get a warrant. They can force their way into the house to make an arrest.

Stop-and-Frisk. If the police reasonably believe that a person on the street might be connected with criminal activity, they can stop the person and ask questions. If they reasonably believe the person might be armed, they can

pat down the outer clothing and seize any weapons found.

Motor Vehicles. The police may search a car without a warrant if they have probable cause to believe that it contains illegal materials such as drugs or stolen goods.

Searches During Arrest. An officer may search an arrested person and the area around him or her. The search may be for concealed weapons or to prevent evidence from being destroyed.

THE EXCLUSIONARY RULE

If police officers seize evidence in violation of the Fourth Amendment, there can be serious consequences. This is because of a judge-made rule called the **exclusionary rule**.

This rule holds that if evidence is taken in violation of the Fourth Amendment, it cannot be used as evidence in a crim-

inal trial. For example, imagine that Jamie stole a watch and hid it in his house. The police enter the house when a warrant is required and find the watch. Even if Jamie stole the watch, he might go free because the evidence of the watch cannot be used against him.

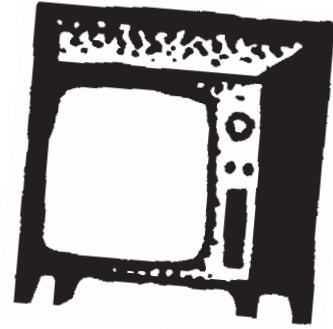
Some people think the exclusionary rule is unfair, because a guilty person can go free because of it. They believe there are other ways to make sure police follow the rules, such as filing lawsuits against officers who act unlawfully. Others believe the exclusionary rule is the best way to protect citizens' rights. They believe that police officers will not violate the Fourth Amendment if they know any evidence they seize cannot be used in court. While this debate goes on, the exclusionary rule is still the law of the land.

For Discussion

1. What does the Fourth Amendment say about arrests and searches?
2. Why must police officers be careful about following the rules about arrests and searches? What can happen if they don't?
3. What is probable cause? Why is it important to both arrests and searches?
4. What is a search warrant? What must it contain?
5. When don't police officers need to get a search warrant? What are some examples?
6. What is the exclusionary rule? Is it a good way to protect citizen rights? Why or why not?

B2**Police Drama**

Imagine that you have been hired as script writers for a hit, new television show called "Police Drama." The show tells about the everyday lives of two police officers on the streets. It is your job to create a one-page story line for an episode. To write your story line, follow these steps.



Step 1. Write a one paragraph introduction for a narrator. The introduction should describe the two police characters, where they work, and what assignment they have. This might be investigating a burglary, patrolling traffic, or working on a drug bust.

Step 2. Create a story line about the situation you are assigned. Describe the police characters making a legal search and an arrest without a warrant. Be sure to describe how the officers got probable cause to arrest or make the search.

Step 3. Write a one paragraph ending for the narrator telling why the arrest and search were valid.

Step 4. When you have completed the writing, prepare to present your story to the class. One of you will read the narrator parts and one will read the story-line part.

A. A story about police officers making a consent search.

B. A story about police officers making a plain view search.

C. A story about police officers making an emergency search.

D. A story about police officers making a hot pursuit search.

E. A story about police officers making a stop-and-frisk search.

F. A story about police officers making a motor vehicle search.

G. A story about police officers making a search during an arrest.

B4
Optional**SAMPLE**
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Youth & Police

Narrator: Casey and Sam were police officers assigned to traffic patrol in Big City. They worked the night shift. One holiday, the desk sergeant told them to be extra alert for drunk drivers.

Story Line: Casey and Sam were cruising down the strip. Suddenly, they saw a car weaving in and out of traffic and going too fast. They put on their red lights and the car pulled over. Inside was a driver and one passenger. Sam took a spot to the rear of the car; Casey approached the driver's door. As Casey approached, she smelled marijuana smoke. The officers instructed both suspects to exit the car. Sam searched the area around the front seat of the car. He found a bag of marijuana stuck into an area next to the driver's seat. Casey searched the passenger and found a handgun in his coat pocket. Casey and Sam handcuffed and arrested the two men.



Narrator. The officers had probable cause to stop the car because it was speeding. They had probable cause to search the car because Casey smelled marijuana. They had the right to search the car without a warrant because of the motor vehicle exception. They had the right to frisk the passenger without a warrant because they were searching him during an arrest. The officers had probable cause to arrest them for possession of drugs and a concealed weapon.