

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Directions: Read the article below on the arrest stage of the criminal justice process. Then, answer the questions that follow.

### **Criminal Justice: Arrest**

The criminal justice process typically begins when a police officer places a person under arrest, which is when a person has been taken into police custody and is no longer free to leave or move about. This can occur when a police officer simply tells a suspect that they're "under arrest," and the suspect submits without the officer's use of any physical force. The use of physical restraint or handcuffs isn't necessary. Instead, the key is the exercise of police authority over a person, and that person's voluntary or involuntary submission.

The following article discusses the circumstances under which an officer can take someone into custody and when an arrest may be challenged because it's unlawful.

#### **The Police Officer Personally Observes a Crime**

If a police officer personally sees someone commit a crime, the officer may take that person into custody. For example, while on street patrol, a police officer sees a purse-snatching take place. The officer can apprehend the purse-snatcher and take them to jail, based on the officer's personal observation of the theft.

Driving under the influence is a common example of a police officer detaining someone after observing a crime. Here's a more specific scenario: a police officer pulls over a car that's being driven erratically, administers a Breathalyzer test and discovers that the driver's blood alcohol concentration is twice the state's legal limit, so the officer takes the driver into custody.

#### **The Police Officer Has Probable Cause**

When a police officer has a reasonable belief, based on facts and circumstances, that a person has committed or is about to commit a crime, the officer may detain that person. This belief, known as "probable cause," may arise from any number of different facts and circumstances.

For example, a police officer receives a report of an armed robbery that has just occurred at a liquor store, then sees a man who matches the suspect's exact description running down the street near the store. The officer stops and searches the man, finding a gun and a large amount of cash in his pockets. The officer can take the man to jail based on a probable cause belief that he committed a robbery.

#### **A Warrant Has Been Issued**

An arrest is lawful when a police officer has obtained a valid warrant to do so. A warrant is a legal document issued by a judge or magistrate, usually after a police officer has submitted a sworn statement, that sets out the basis for taking the individual into custody. A warrant typically:

- Identifies the crime(s) committed;
- Identifies the individual suspected of committing the crime;
- Specifies the location(s) where the individual may be found; and
- Gives a police officer permission to take that person(s) into custody.

Keep in mind that there are a variety of different types of warrants and police and other authority figures must conduct their duties within the parameters of that warrant.

## Challenging an Unlawful Arrest

At all stages of the criminal process, police officers must be mindful of citizens' constitutional rights. These rights include the right to remain silent and the right to be free from unreasonable searches. If these rights are violated, a court may deem the arrest unlawful and dismiss the case. It's also possible that while the case isn't dismissed, but certain evidence may be deemed inadmissible because it was discovered during an unlawful arrest.

Source: FindLaw, "Criminal Law: Arrest", <https://criminal.findlaw.com/criminal-procedure/arrest.html>.

### Questions:

1. What is "probable cause"?
  - (a) How does this allow an officer to take a suspect into custody?
2. What information is included in a warrant?
3. When might an arrest be considered "unlawful"?
4. In your opinion, should a case in which a criminal was proven to have committed the crime but was arrested unlawfully be dismissed? Why or why not?

