The Hackers Guide to Search and Arrest

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I. When Can an Officer Legally “Stop” an Individual?

A. Voluntary Stops

B. Investigative Stops

C. Administrative Stops

D. Road Blocks
Voluntary Stops

- It is legal for an Officer at any time to "Ask" a person to stop and talk.

- A person has the right to say "yes" or "no".
Investigative Stops

- Reasonable Suspicion required.
Road Blocks
Border Checkpoints

- Officers can check everything coming into the country.
- Routine searches no RS or PC needed.
- Strip Search: Reasonable suspicion required
- Body Cavity: Probable cause
Drunk Driving Checkpoints

- Checkpoints are valid if procedure is followed.
Other Roadblocks

- Drivers license, registration, and Insurance Checkpoints: Valid
- Fleeing felon Checkpoints: Valid
- Crime Witness Checkpoints: Valid
- Security Checkpoints: Valid
- Weigh Stations for trucks: Valid
- Game Warden: Valid
- Agricultural Inspection: Valid
When Can an Officer Legally Arrest an individual?
All Arrests must be based on Probable Cause.

Probable Cause defined: PC exists when there are enough facts and circumstances to lead police officers, in the light of their experience, to the reasonable belief that a person has committed, is committing, or is about to commit a crime.
Arrests in Public Places

- No warrant required.
Arrests in a person’s own home.

- Arrest requires a warrant or emergency circumstances.
Searches

When does an Officer have the legal right to conduct a “Search” of a Person, Auto, or Building?
“Consent” Search

- Consent Search of a person.
- Can only give consent to the search of yourself or your minor child.
Consent to Search Property

- If a person has legal control over an Auto or Building they can give consent.
Who Can Give Consent?

- **Landlord**: Can Not give consent to search tenant’s property.
- **Hotel Manager**: Can Not give consent to search tenant’s room.
- **Parents**: Can Give consent to search all rooms of their home they maintain control over.
- **Roommates**: Can Give consent only to common areas and spaces under their control.
If Law Enforcement Has a Warrant you must let them Search.

The Police will not wait while you call your lawyer.
Warrant for Home

- Usually a search of a home requires a Warrant
- Knock and Announce Requirement
Plain View, Plain Smell, Plain Hear

- Officer must have legal right to be there.
- Officer must use normal senses.
- Discovery is by chance.
Emergency Circumstances

- **Ask**: Is the evidence going to be destroyed, is there some type of danger, or will the suspect avoid capture unless the officer acts quickly?

- An Emergency Search is limited to the circumstances.
The Frisk

- A Frisk is for Weapons only.
- Officer must have reasonable suspicion a crime is “afoot”.
- Must have reasonable suspicion that suspect is armed.
- A “frisk” is a pat-down Only.
- Any item seized must be a weapon or “immediately apparent” it is contraband.
“Search Incident to an Arrest”

- Requires:
  - Lawful arrest
  - Search is limited to person and immediate area in control of person.

- Cars included.
“Protective Sweeps”

- Officers may perform a protective sweep for other people and weapons.
Intimate body Searches (Stomach, Cavity, etc.)

- Non surgical searches require reasonable suspicion or probable cause depending on circumstances.
- Surgical searches require probable cause.
Abandoned Property

- Any property that is “Abandoned” can be examined and taken by the police.

- Once your trash has been taken to the edge of your property it can be taken by anyone, including the police.
Student Searches

On High School Property

- No warrant or probable cause required to run dog.
- Only reasonable suspicion required to search students and lockers.
Student Searches

On College Property

- Warrant required to search dorm rooms unless for safety or health reasons.
When and How Can An Officer Use a “Tool” to aid in his Search?
Vision Enhancers: Binoculars, Night Vision

- Can only use for area in the public view otherwise a warrant is needed.
- Can’t peep into windows.
Hi-Tech Devices

- **Infra Red**: Need warrant

- **X-Ray**: Need Warrant except in safety related areas with advanced notice.

- **Metal Detector**: Usually Consent Search that turns into a ‘Frisk’.
Dogs

- Ask does the officer have “right” to be there?
Interception of Electronic Data

- Wire Tapping
- Pen Registers
- Cordless Phones
- Email and other Internet Communications
Wire Tapping

- No wire tap without a warrant.

- Warrant for Wire tap must show:
  - Crime has been, is being, or is about to be committed.
  - The communications to be intercepted will contain information about the offense.
  - The place monitored is used in the offense.
Pen Registers

- Not A Search. NO Warrant Needed.
Cordless Phones

- It Depends on the frequency.
- No warrant needed to intercept conversations from older Cordless telephones.
Email and other Internet Communications

- Easiest Interception is via Employers.
- Employer can access their own email system.
- Email warrants.
The Use of “Bugs” by Law Enforcement.
On agent

- Legal as long as agent has the “right” to be there.
Bug In suspect’s home or business

- Warrant required.
Bug In Police Car or Jail Cell.

- Is there an Expectation of Privacy?
Fighting Back against Illegal Searches and Arrests.

- **Exclusionary Rule:** Illegally obtained evidence cannot be used in court.
- **Criminal Law:** Prosecuting the officer. Rodney King
- **Civil Law:** Law Suits Section 1983…. Your attorney fees are paid if you win.
- **Internal Affairs:** Police department discipline. Time off, reduction in rank, fired.