

Constitutional law: arrest

Law



Constitutional Law: Arrest Number Introduction Even in the absence of wrongdoing, a law enforcement officer may approach someone and initiate a conversation with him, and the constitution will still not have been violated. This is as long as an individual remains free to end the discussion and walk away. As long as the individual has these freedoms, the experience can be best dismissed as consensual encounter. Interestingly, these freedoms are the factors that may define what an arrest, a stop and a simple encounter are.

An Arrest

Simply put, an arrest is the act of depriving an individual his liberty, in relation to aid an investigation, prevent an impending crime or to present the arrestee before the court of law, as part of a criminal justice system. In order for an arrest to be made, there has to be a probable cause, or an arrest warrant. The probable cause constitutes an objective indication that the potential arrestee more likely than not, committed, or is committing a crime. An example of a probable cause is when gunshots are heard in a church worship service and someone in a balaclava immediately rushes out of the church's precincts, and boards a motorcycle, gun-in-hand. An arrest may also be accompanied with a search, after the arrestee has been arrested (Campbell, 2005).

A Stop

A stop is a brief detention of a person or persons by police, on grounds of reasonable suspicion. The crux of the matter herein is that a stop is made if there is reasonable suspicion that the individual that the police has held is [or was] involved in a criminal activity. Apart from the fact that a stop lasts for a short time, the main or fundamental difference between a stop and an <https://assignbuster.com/constitutional-law-arrest/>

arrest is that a stop has no probable cause. In fact, in the event that probable cause has been established, a stop may lead to an arrest. Nevertheless, there are instances when a police officer may stop an individual without reasonable suspicion. This is when a crime [such as a terrorist attack] has just taken place and people are running away from the site of attack. Conversely, this may also happen when officers are acting on a tip-off on a crime that is about to occur.

A Simple Encounter on the Street between a Police Officer and a Citizen Not Suspected of Any Criminal Activity

A simple encounter in the street between a police officer and a citizen not suspected of any criminal activity may be akin to the aforementioned consensual encounter and is nearly inevitable since an officer can talk to any citizen at any time. In a simple encounter, the police officer may only speak to [or with] the citizen. This is the case since, the fact that the citizen is not suspected to have engaged in any criminal activity, deprives the police officer any reason to curtail any of the citizen's rights. As long as the citizen becomes suspect of any criminal activity through probable cause, reasonable suspicion or an arrest warrant, the encounter between the citizen and the police officer ceases to be simple. In case of reasonable suspicion, the police may conduct a stop, while probable cause or an arrest warrant elicits an arrest.

References

Campbell, B. J. (2005). Encounters with the Authorities. *River Teeth: A Journal of Nonfiction Narrative*, 6 (1), 103 - 114.