

## Arrests

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## 4<sup>th</sup> Amendment

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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## Modern Interpretation

1. An arrest is a seizure of a person
2. No arrest may be made without probable cause

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## Probable Cause

- That quantum of evidence that would lead a reasonable officer to believe that a crime has been or is being committed and that a certain person is responsible for that crime



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## Building Probable Cause

1. Personal Observation
2. Suspect Admission
3. Named Reliable Sources
4. Physical Evidence
5. Anonymous or Un-Named Sources + One of the Above

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## Arrest Authority

- 345.22 Authority to arrest without a warrant. A person may be arrested without a warrant for the violation of a traffic regulation if the traffic officer has reasonable grounds to believe that the person is violating or has violated a traffic regulation.

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### Arrest Authority

- 968.07 Arrest by a law enforcement officer.
  - A law enforcement officer may arrest a person when:
    1. The law enforcement officer has a warrant commanding that such person be arrested

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### Arrest Authority

- 968.07 Arrest by a law enforcement officer.
  - A law enforcement officer may arrest a person when:
    2. The law enforcement officer believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state

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### Arrest Authority

- 968.07 Arrest by a law enforcement officer.
  - A law enforcement officer may arrest a person when:
    3. The law enforcement officer believes, on reasonable grounds, that a felony warrant for the person's arrest has been issued in another state

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## Arrest Authority

- 968.07 Arrest by a law enforcement officer.
  - A law enforcement officer may arrest a person when:
    4. There are reasonable grounds to believe that the person is committing or has committed a crime

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## Arrest Authority

- 968.07 Arrest by a law enforcement officer.
  - A law enforcement officer making a lawful arrest may command the aid of any person, and such person shall have the same power as that of the law enforcement officer

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## Search vs. Frisk

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Search Authority

Custodial Arrests  
Vs  
Non-Custodial Arrests  
aka Cite and Release

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Juvenile “Arrests”

- Taking into custody is not an *arrest* except for the purpose of determining whether the taking into custody or the obtaining of any evidence is lawful.

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Juvenile “Arrests”

- A juvenile may be taken into custody if an officer has reasonable grounds to believe that:
  - A *capias* or other order has been issued by a judge in this or another state
  - The juvenile is committing or has committed an act which is a violation of a state or federal criminal law

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### Juvenile "Arrests"

- The juvenile has run away from his or her parents, guardian or legal or physical custodian
- The juvenile is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary
- The juvenile has violated the conditions of an order for temporary physical custody made by an intake worker

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### Juvenile "Arrests"

- The juvenile has violated a civil law or a local ordinance punishable by a forfeiture, except that in that case the juvenile shall be released as soon as reasonably possible
- The juvenile is absent from school without an acceptable excuse

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### Juvenile "Arrests"

- When a juvenile is taken into physical custody the person taking the juvenile into custody shall immediately notify a parent, guardian or legal custodian of the juvenile by the most practical means. The person shall continue such attempt until a parent, guardian and legal custodian of the juvenile is notified, or the juvenile is delivered to an intake worker

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## Use of Force

- Graham v. Connor
  - The use of force must be objectively reasonable
    1. The severity of the alleged crime at issue
    2. Whether the suspect poses an imminent threat to the safety of officers and/or others
    3. Whether the suspect is actively resisting or attempting to evade arrest by flight

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## Use of Force

- Privilege [939.45](#)
- Self Defense [939.48](#)

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## Police Jurisdiction

- Municipal Limits
- Deputization
- Mutual Aid
- Out of Town Traffic
- Out of Town Misdemeanors
- Out of Town Felonies
- Off Duty Responsibilities
- Fresh Pursuit [175.40](#)

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## False Arrest

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## Entrapment

- The act of inducing a person to commit a crime so that a criminal charge will be brought against him
- A police officer or other law enforcement officer induces a person to commit a crime that the person wouldn't have committed otherwise for the purpose of bringing a criminal prosecution against that person

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