CHAPTER 4

Searches and Arrests with Warrants
Chapter Agenda

• Summarize activities governed by the Fourth Amendment.
• Outline the components of search and arrest warrants.
• Explain when arrest warrants are required and how they should be served.

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Chapter Agenda

• Explain when search warrants are required and how they should be served.
• Explain how bodily intrusions, the use of tracking devices, and electronic surveillance create "special circumstances" for Fourth Amendment purposes.
Learning Objective

Summarize the activities governed by the Fourth Amendment.
Activities Governed by the Fourth Amendment

- Searches with a warrant
- Searches without a warrant
- Arrests without a warrant
- Arrests with a warrant

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Activities Governed by the Fourth Amendment

- Seizure of evidence
- Stops
  - Terry
  - Vehicle
Learning Objective

Outline the components of search and arrest warrants.
Components of Warrants

- Must be issued by a neutral and detached magistrate
- A showing of probable cause
- Must conform to the Fourth Amendment's particularity requirement

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Components of Warrants

- Neutral and detached magistrate
  - *Johnson v. U.S.*
  - Most judges

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Components of Warrants

- Show of probable cause
  - Arrest warrant
    - Probable cause that the person committed the crime
Components of Warrants

• Show of probable cause
  ▪ Search warrant
    • Probable cause that the items to be seized are connected with criminal activity
    • Probable cause that the items to be seized are in the location to be searched

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Components of Warrants

• Arrest warrant
  ▪ Supply suspect's name
  ▪ If name unknown, specific description of the suspect is sufficient.
  ▪ "John Doe" warrant will be issued

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Components of Warrants

• Search warrant
  § Specify the place to be searched
  § Specify the items to be seized
FIGURE 4-4  Warrant Requirements.

Neutral and detached magistrate

Probable cause showing
(arrest warrant—probable cause person sought committed the crime; search warrant—probable cause items sought are at a specific location and connected with a crime)

Particularity (arrest warrant—description of person sought; search warrant—specify place to be searched and items sought)
Learning Objective

Explain when arrest warrants are required and how they should be served.
Arrest Warrant

- Types of seizure along continuum of seriousness
- No ready-made definition
Arrest Warrant

- **Arrest**
  - Requires probable cause
- **Stop**
  - Only requires reasonable suspicion
Factors for Arrest

- **Purpose**
  - Intent to arrest
- **Manner**
  - Person not free to leave
Factors for Arrest

- Location
  - In private or police station
- Duration
  - Lengthy
When an Arrest Warrant is Required

- Arrest in one's home or third party home without exigent circumstances
- Hidden demeanor
FIGURE 4-9  Summary of Arrest Warrant Requirements.

When an arrest warrant is required

- In a home/residence absent exigent circumstances
- In a third-party home; a separate search warrant is also required

When an arrest warrant is not required

- The arrest is made in public
- Exigent circumstances exist
Serving Arrest Warrants

- Knock and announce
- Property damage
  - Reasonable if knocked and announced

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Serving Arrest Warrants

• Use of deadly force
• Presence of media
  ▪ Violation of Fourth Amendment
Learning Objective

Explain when search warrants are required and how they should be served.
Search Warrant

- Knock and announce
- Destruction of property
- Use of deadly force
- Mistaken identity
Learning Objective

Explain how bodily intrusions, the use of tracking devices, and electronic surveillance create "special circumstances" for Fourth Amendment purposes
Special Circumstances

- Bodily intrusions
  - *Rochin v. California*
- Electronic surveillance
  - Wiretapping
  - Computer hacking

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Special Circumstances

- Tracking devices, video recordings, and detention devices
  - Beeper
  - GPS
Search Warrant

- Time constraints
- Scope and manner of search
- Procedure after service
- Media presence