

GETTING ARRESTED—APPLICATIONS

QUIZ: Will I Be Arrested?

When a crime is committed, a person accused of the crime can be arrested by the police. However, it is not always easy to tell when a crime has actually been committed, or what people may be arrested. The following quiz provides some examples of when such difficulties may occur.

Q: Roger takes his neighbors' car without permission and drives it around for a night. He then sneaks it back into their garage. The next morning, the neighbors notice a large dent on the hood of their car that was not there before. They call the police. The police arrive and knock on Roger's door to ask him if he saw anything suspicious the night before. Roger willingly tells them that he took the neighbor's car and was involved in an accident. Can he be arrested?

A: Yes. Roger has admitted to committing a crime in taking his neighbor's property without permission and, in addition, causing damage to it.

Q: Keith is walking down the street one day when he sees an elderly woman being attacked by a young woman. He does not do anything to help the elderly woman. Can he be arrested?

A: No. Keith cannot be charged with a crime for failing to help the elderly woman. Some people may argue that Keith had a moral duty to assist her, but he did not have a legal duty to come to her aid.

Q: A man was recently murdered in Sarah's neighborhood. The police have questioned a number of people in the area, and have developed evidence that Sarah likely committed the crime. Can they arrest her?

A: Yes. If the police have probable cause to believe that Sarah committed a crime they may arrest her on suspicion of murder. Arresting Sarah does not mean, conclusively, that she actually committed murder. That issue will be left for Sarah's murder trial.

Q: One night, Jerry and Kevin are at a bar, and Kevin tells Jerry that he wants to rob a local convenience store. As they are leaving the bar, Jerry agrees to drive Kevin to the store, knowing that Kevin is going to rob it. Kevin does in fact rob the store as Jerry waits in the car. Can Jerry be arrested?

A: Yes. Jerry can be arrested as an accomplice to the crime. He acted in a way that aided Kevin in committing the robbery.

Q: Joel has sent a series of letters to senior citizens in his community, asking them to donate money to a fictitious charity in exchange for receiving a commemorative plaque. He receives thousands of dollars in the mail, which he then spends on a new stereo. Through a series of complaints from the senior citizens, who never received their plaques, the police are led to Joel. Can he be arrested for duping the senior citizens?

A: Yes. Although Joel did not physically injure the seniors, he did engage in mail fraud, which is a "white collar" crime. He can be arrested for cheating them out of their money.

Q: Kim is walking down the street one day wearing a bulky parka. Two policemen cruising the neighborhood in their squad car see her, and suspect that she might be concealing a weapon under her coat. Can they arrest her based on that suspicion?

A: It depends. This is a touchy area of law concerning the right of citizens to be free in their movement and free from police interference when they are not committing an obvious crime. The police can stop Kim and ask her questions about what she is doing, and where she is going. They can also perform a "pat-down" of her clothing if they have reasonable suspicion that she may be concealing a weapon. They cannot immediately arrest her, however, based only upon the suspicion that she "looks" like she is doing something wrong.

Q: Larry and Michelle are roommates. The police believe that Larry may be involved in a local prostitution ring, and they arrive at his apartment one night hoping to question him about his involvement. They ring the doorbell, and Michelle answers the door. When she opens the door, she holds out a large bag of cocaine. Michelle is a drug dealer and had expected one of her drug buyers to be at the door, not the police. Can the police arrest her?

A: Yes. Although the police were not at Michelle's door to question her, or initially to arrest her, they caught her with an illegal substance in plain sight. When the police witness or stumble upon the commission of a crime, they may arrest the suspect even though they did not have that intent from the start.

Q: Stan is having a sexual relationship with a fifteen-year-old girl. Stan thinks that the girl is actually eighteen years old. During one of their meetings together, the girl produces a bag of marijuana. They are laying in bed, naked, smoking a marijuana cigarette when the police show up at the door. Stan lets them in. It turns out that the police have been suspicious of Stan's

activities for quite some time and have been watching him under surveillance. Can Stan be arrested? Can the girl be arrested?

A: Potentially, both Stan and the girl can be arrested. Stan can be arrested for having a sexual relationship with a minor (even though he believed she was legally an adult). The girl can be arrested, as a juvenile offender, for possession of a controlled substance. There is a chance, as in all criminal cases, that the prosecutor will favor leniency for the girl in exchange for her testimony against Stan, or that the prosecutor will determine for one or another reasons that no charges should be filed against the girl. In addition, Stan and the girl may both argue that their right to privacy has been invaded. However, that right, if it exists at all, is probably outweighed by society's interest in protecting minors from sexual abuse or assault and society's interest in eradicating drug use. In addition, Stan let the police into the room. The police did not break in unannounced.

Q: Karen is shopping in a drug store when she decides to steal a pack of gum that is sold for \$1.09. As she is walking out the store, the store security guard stops her and asks for her to empty out her pockets. When she pulls the gum out of her pocket, and lamely tries to explain why she has no receipt for it, the guard informs her that he has a store video of her stealing the gum and that he is going to call the police. Can Karen be arrested?

A: Karen can be arrested for shoplifting. It does not matter that the gum was an inexpensive item. She still tried to take it without paying for it. She will likely not be given a lengthy jail sentence for stealing one pack of gum, but she may have to pay a fine or perform limited community service on probation if she is found guilty.

Q: Lynn is awoken one night by the sound of breaking glass. He grabs the baseball bat that he keeps under his bed and walks out into his living room. Lynn sees a man crouched over his stereo. He sneaks up behind him and proceeds to beat the man with the baseball bat until he has, unfortunately, killed him. Can Lynn be arrested?

A: Yes. While civil law provides that Lynn is entitled to use force to defend his property, that force must be reasonable in light of the circumstances. Deadly force, such as beating someone to death, is only allowed in situations where Lynn had an immediate fear for his safety or the safety of others. If the man had stood up and fired a gun in his direction, Lynn's reaction may have been more reasonable. However, as it is, Lynn may be charged with a crime because he killed the intruder.