Entry Into the System: Arrests

Course
Law
Enforcement I

Unit V
Arrest

Essential Question
Do law enforcement officers have to follow certain guidelines when they arrest suspects?

TEKS
§130.293(c)
(6)(A)(C)

Prior Student Learning
Familiarity with due process and the Fifth Amendment (Bill of Rights Lesson Unit III)

Estimated time
4 to 6 hours

Rationale
In this lesson, students will apply their understanding of the duties and responsibilities of law enforcement during arrests of suspects as required by established criminal procedure and case law.

Objectives
The student will be able to:
1. Advise a person of their constitutional rights using the Miranda warning requirements.
2. Conduct a non-custodial and custodial interview.

Engage
Divide the class into two groups. The teacher will determine which side will argue that US citizens (those authorized to be in the US, but involved in terrorist acts) 1) Should or 2) Should NOT be read their Miranda Rights upon arrest. Have students discuss among their group members for approximately 15 minutes. Have the groups come back and write their best arguments on the board. Guide the class discussion as issues are raised.

For articles and a video on this topic go to the links below:
http://www.washingtonpost.com/wp-dyn/content/article/2010/05/06/AR2010050603380.html

Video link to Eric Holder testifying:
http://www.washingtonpost.com/wp-dyn/content/video/2010/05/06/VI2010050603331.html

Key Points
I. Key Terms:
A. Arrest – Taking a person suspected of committing a crime into custody and curtailing the individual’s freedom to leave, until the person can be brought before a judge to answer the charges against him or her.
B. Arrest Warrant – A court-ordered document giving law enforcement the authority to arrest someone on a specific charge.
C. Due Process – The constitutional rights of citizens against government actions that threaten the denial of life, liberty, or property. In criminal cases, arrests and trials must meet certain minimum standards of fairness, and laws cannot violate constitutional rights.
D. Reasonable Suspicion – Warranted suspicion that a person may be engaged in criminal conduct. Not quite to the level of probable cause.
E. Probable Cause – Reasonable suspicion or belief that a crime has been committed and that a particular person committed that crime.
F. Miranda Warning – The warning given to suspects by law enforcement, advising suspects of their legal rights to counsel, to refuse to answer questions, to avoid self-incrimination, and other privileges. Named after the landmark case of *Miranda v. Arizona* (1966).

G. Fifth Amendment – The right to a grand jury for a capital or serious crime; protection against double jeopardy; protection against self-incrimination; prohibition of the taking of life, liberty, or property without due process of law.

H. Self-incrimination – Giving evidence and answering questions that would tend to subject one to criminal prosecution.

I. Right to Counsel – The right to be represented by an attorney at critical stages of the criminal justice system.

II. Arrest
   A. Without Arrest Warrant
      1. Officer observes crime being committed
      2. Officer establishes probable cause to arrest an individual
         a. Responds to a call
         b. Person at scene identified by a witness
   B. With Arrest Warrant
      1. After investigation
      2. Sufficient evidence of probable cause

III. Miranda Warning
   A. Right to remain silent
   B. Any statements can and will be used against the arrested person in a court of law
   C. Right to an attorney
   D. If someone cannot afford an attorney, one will be provided

IV. Consequences of no Miranda Warning
   A. Statement/Confession cannot be used against person in court
   B. Evidence discovered based on statement/confession will likely be suppressed

Activities
Attorney-Client Role Play: Divide students into small groups. Hand out a copy of the Instructions sheet to each group. Assign roles to students: two clients in each group (one playing the role of a good and cooperative client; the other playing a difficulty and uncooperative client); one legal assistant for each group (to take notes); and the remainder of students are attorneys. Students read instructions. First, the students will come up with questions to ask their “client.” Second, the students will question each client. Use this as an opportunity to reinforce the idea that lawyers and clients work together for the benefit of the client. Remind students of confidentiality in the lawyer-
client relationship, and why it is important. Teams question the difficult client first. Teams question the cooperative client next. The students should figure out that some violations of rights occurred. Have groups share their answers to discussion questions at the end of the activity.

The “lawyers” should be able to determine from the easy client that a Miranda rights violation occurred. However, the difficult client will not disclose that information. The uncooperative client has not shared many of the important details with the lawyer (like the illegal search and not reading the Miranda rights) that will make evidence inadmissible at trial. If your lawyer doesn’t know about things like this, she can’t do her job as well, and can’t help her client as much. Also discuss the importance of being observant if you are ever arrested. There will also be a search and seizure violation; see if the students catch that too!

Assessments
Arrest and Miranda Warning Quiz
Discussion Rubric
Role Play Rubric

Materials
Entry Into the System: Arrests PowerPoint
Entry Into the System: Arrests Key Terms handout
Attorney-Client Role Play Activity Instructions
Attorney-Client Role Play Activity Client’s Story
Legal pads
Computers

Resources
The Courts and Criminal Procedure, Instructional Materials Service, Trade and Industry Education


Our Rights (1st Edition), David Bodenhamer
http://www.sunnylandsclassroom.org/Asset.aspx?Id=1329

The Annenberg Classroom http://www.annenbergclassroom.org

FindLaw http://www.findlaw.com
Justice Learning http://www.justicelearning.org

Accommodations for Learning Differences
For reinforcement, students will list terms and explain how each term relates to the arrest process.
For enrichment, students will research *Dickerson v. United States* (2000) and *Yarborough, Warden v. Alvarado* (2004). Students will apply *Miranda* to each case by making a chart divided into similarities and differences between the cases. Students will write short essays to the following questions:

1. Do you agree with the Court’s ruling in each case? Why or why not?
2. How did the Supreme Court apply the precedent of *Miranda* to *Dickerson*?
3. How did the Supreme Court apply the precedent of *Miranda* to *Yarborough*?

**State Education Standards**

Texas Essential Knowledge and Skills for Career and Technical Education

§130.293. Law Enforcement I (One to Two Credits).

(6) The student analyzes custody and interrogation as they relate to the United States Supreme court decision in *Miranda v. Arizona*. The student is expected to:

(A) advise a person of their constitutional rights using the Miranda warning requirements

(C) conduct a non-custodial and custodial interview

**College and Career Readiness Standards**

Social Studies Standards

V. Effective Communication

A. Clear and coherent oral and written communication

1. Use appropriate oral communication techniques depending on the context or nature of the interaction.
Entry Into the System: Arrests

Key Terms

**Arrest** – Taking a person suspected of committing a crime into custody and curtailing the individual’s freedom to leave, until the person can be brought before a judge to answer the charges against him or her.

**Arrest Warrant** – A court-ordered document giving law enforcement the authority to arrest someone on a specific charge.

**Due Process** – The constitutional rights of citizens against government actions that threaten the denial of life, liberty, or property. In criminal cases, arrests and trials must meet certain minimum standards of fairness, and laws cannot violate constitutional rights.

**Reasonable Suspicion** – Warranted suspicion that a person may be engaged in criminal conduct. Not quite to the level of probable cause.

**Probable Cause** – Reasonable suspicion or belief that a crime has been committed and that a particular person committed that crime.

**Miranda Warning** – The warning given to suspects by law enforcement advising suspects of their legal rights to counsel, to refuse to answer questions, to avoid self-incrimination, and other privileges. Named after the landmark case of *Miranda v. Arizona* (1966).

**Fifth Amendment** – The right to a grand jury for a capital or serious crime; protection against double jeopardy; protection against self-incrimination; prohibition of the taking of life, liberty, or property without due process of law.

**Self-incrimination** – Giving evidence and answering questions that would tend to subject one to criminal prosecution.

**Right to Counsel** – The right to be represented by an attorney at critical stages of the criminal justice system.
Attorney-Client Role Play Activity Instructions

1. Your attorney team should come up with a list of questions to ask your client. Like real attorneys, the only thing you know before the interview is that the client was charged with armed robbery. Usually when lawyers meet clients for the first time, they only know the charges. Lawyers usually do not know any personal information about the client, either (family, life, history, etc.). It is up to the client to tell the lawyer what happened. Think about what you need to know in order to help your client.

   Brainstorm all of the following:
   ➢ Background information
   ➢ Description of the scene
   ➢ Narrative of crime
   ➢ Relationship with the other people in the story
   ➢ What the officers said and did
   ➢ Etc.

2. Answer the following about your two interviews:
   ➢ What is the difference between the two clients?
   ➢ What could the first client have done to make the meeting easier or better?
   ➢ Which client do you think will get into less trouble?
   ➢ Were any of your client’s rights violated? Which ones, if any?
Attorney-Client Role Play Activity Client’s Story

Only distribute to students playing the parts of clients.

Difficult Client: Be very difficult and uncooperative. Just deny everything. I didn’t do it; this whole thing sucks, etc. Only give the lawyers minimal information. Maybe ask the lawyers how to break out of prison or to hold some drugs for you.

Cooperative Client: Be very helpful and cooperative. Give information about you and what happened, before and after your arrest, carefully and politely.

The Client’s Story: I was hanging out with two of my friends in the parking lot of a Walgreens. After I had been there for about 15 minutes or so, my cousin pulled up and parked, then asked me to come inside with him and his friend. I went inside with him and while I was looking at the candy aisle, out of the corner of my eye, I saw him at the check-out. I walked over to him, and as I did, I realized that he had pulled a gun on the cashier, and she was handing him something.

I hurried to the door, and as I was leaving, he grabbed my arm and pulled me with him out of the door. As he did, he slipped the gun into my backpack without me noticing. When we got outside, he ran to his car with his friend and they took off. I went over to my friends who were still in the parking lot and told them what happened. We decided to get out of there so we walked down the street.

A few minutes later, the police drove by and stopped when they saw me and my friends. They pulled me aside, started asking me questions about what happened at Walgreens. I denied everything. One police officer started looking in my bag while another one was questioning me [search and seizure violation]. He found the gun in my bag. The officer said he was placing me under arrest and put me in the backseat of the squad car [but he did not read the Miranda rights]. Both officers kept asking me questions on the way to the police station. I was scared and didn’t know what I should do so I kept asking if I could call my parents or a lawyer. They ignored my questions and kept trying to get me to admit that I had robbed the store. I finally admitted that I was there when the store was robbed [this statement should not be admissible since no Miranda rights were read, and I asked for my lawyer].
Arrest and Miranda Warning Quiz

1. In which of the following situations would a law enforcement agent NOT be required to read a suspect the Miranda warnings?
   a. A police officer, disguised as a jail inmate, asks his cellmate, “Did you commit the murder?”
   b. A police officer arrests a person for robbery and assault. When traveling to the police station for booking purposes, the officer asks the suspect, “What do you know about this robbery?”
   c. An off-duty police officer apprehends a purse-snatcher. While waiting for a police car to transport the suspect, the officer asks, “How many purses have you stolen in the last month?”
   d. An off-duty police officer apprehends an 11-year-old murder suspect. The officer asks the boy, “Did you do it?”

2. Which of the following is the act of taking an adult or juvenile into physical custody by authority of law for the purpose of charging the person with a criminal offense?
   a. Emergency search
   b. Arrest
   c. Suspicionless search
   d. Inherent coercion

3. Which of the following refers to the level of suspicion that would justify an officer’s making further inquiry or conducting further investigation?
   a. Reasonable suspicion
   b. Fleeting-targets exception
   c. Compelling interest
   d. Suspicionless search

4. Which of the following refers to the advisement of rights that’s due criminal suspects by police before questioning begins?
   a. Psychological manipulation
   b. Confessional
   c. Sneak-and-peek search
   d. Miranda warnings

5. Which Constitutional Amendment guarantees the right against self-incrimination?
   a. Fifth
   b. First
   c. Third
   d. Seventh
6. Probable cause is a legal criterion residing in a set of facts and circumstances that would cause a reasonable person to believe that a particular other person has committed a specific crime.
   a. True  
   b. False

7. Arrest occurs whenever a law enforcement officer restricts a person's freedom to leave.
   a. True  
   b. False

8. Unreasonable suspicion is defined as a belief, based on a consideration of the facts at hand and on reasonable inferences drawn from those facts that would induce an ordinarily prudent and cautious person under the same circumstances to conclude that criminal activity is taking place or has occurred.
   a. True  
   b. False

9. Probable Cause is just a mere hunch that suspicious behavior has occurred.
   a. True  
   b. False

10. An arrest warrant is a court-ordered document that gives law enforcement the authority to arrest someone on a specific charge.
    a. True  
    b. False
Arrest and Miranda Warning Quiz Key

1. A
2. B
3. A
4. D
5. A
6. A
7. A
8. B
9. B
10. A
# Discussion Rubric

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<td>Shares thoughts actively while offering helpful recommendations to others</td>
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**Total Points (32 pts.)**

**Comments:**
# Role Play Rubric

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**Total Points (32 pts.)**

Comments: