

Mr. Aldunate

Searches

Power to search an essential tool for investigating crime –they need evidence for successful prosecutions

Police have no general right to search an individual or a place because they hope to discover evidence - **they must be explicitly authorized** (almost always with prior authorization)

- A searches legitimacy is based on an **oath**, of **reasonable and probable grounds that offence has been committed** and that **there is evidence to found at the place of search**

Exception to the requirement of prior authorization is the power of **search incidental to arrest**

- The police have the power to search an accessed as part of the arrest process

The three main purpose of **search incidental to arrest** are:

1. to ensure the safety of the police and public
2. to protect evidence from destruction at the hands of the arrested individual or others
3. to discover evidence

Pre-Trial Procedures

The complainant (usually a police officer, but sometimes a private citizen) swears an information on oath before a justice of the peace.

The officer issues an appearance notice, informing the accused of the offence with which he/she has been charged, the date he/she must appear for fingerprinting (if charge is indictable or hybrid), and the date he/she must appear in court.

If the accused is arrested for a summary or hybrid offence, the officer must decide whether to release the accused on an appearance notice, or a recognizance - a promise to pay a fine if the accused fails to show for fingerprinting or court.

If the accused is arrested for a more serious indictable offence, he/she must be taken before a justice for a bail hearing. This hearing determines the conditions upon which the accused can be released.