Fourth Amendment: The Influence of Knowledge And Warning on Consent to Searches

Kaylor Caldwell
Graduate Student Mentor: Josh Haby; Faculty Advisor: Eve M. Brank, J.D., Ph.D.
Department of Psychology, University of Nebraska–Lincoln

Introduction

- A common legal issue in warrantless search cases is whether consent to a search was "voluntary" under the Fourth Amendment (U.S. v Drayton, 2002; Florida v Royer, 1983; Schneckloth v Bustamonte, 1972)
- 90% of warrantless searches are accomplished through the consent exception (Simmons, 2005)
- The Fourth Amendment does not require police to inform people of their right to refuse consent (U.S. v. Drayton, 2002) or that the suspect is free to go (Ohio v. Robinette, 1996) in order for the consent to be voluntary
- Police warning of the right to refuse consent increased actual consents (Lichtenberg, 2004)

Methods

Data was collected from individuals participating in psychology courses at a large Midwestern university.

Design

- 2 (knowledge or no knowledge) x 2 (warning or no warning)

Dependent Variables

- Perceptions of search
  - Intrusiveness (0 = not at all, 5 = very)
  - Coercive (0 = not at all, 5 = very)

Questions

1. Does a lack of knowledge or understanding influence a person’s willingness to consent to a search request?
2. When given knowledge and a warning of the right to refuse, will an individual still consent to a search request?
3. Does a lack of knowledge of rights and warning of the right to refuse result in an individual to feel the search request was intrusive and/or coercive?
4. When given a warning of the right to refuse and no knowledge of rights, will the search request feel intrusive and/or coercive?

Sample

N = 84, (32.6%) were female, (50%) were Caucasian, and 45.4% were 18-19 year olds

Results

How Coercive was the search request?

The Influence on Consent

Knowledge X²(1) = 0.00, p = 1.00 NS
Warning X²(1) = .940, p = .940 NS

Warning F (1, 61) = .232, p = .632, MSe=.631
Warning* Knowledge F(1,61) = .087, p = .769 NS, MSe= 2.790

Discussion

Implications

- Knowledge and warning did not impact the consent decision
- Warning might have an impact on perspectives
- Verbal warnings may give suspects the feeling of choice to search request
- Impact of the verbal warning supports the Robinette decision

Limitations

- Study was conducted at a large Midwestern university where majority of our participants are Caucasian

Future Work

- Continue collecting and analyzing data
- How voluntary was participant’s consent to the search request?

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