

MICHIGAN STATE POLICE

LEGAL UPDATE

The *MSP Legal Update* is published as needed by the Executive Division. The *Legal Update* is intended to inform Michigan's police officers of recent changes in the law. Although the information provided in the *Legal Update* is current as of the date of publication, case law, statutes, and opinions change frequently. Therefore, officers should always consult their local prosecutor's office before applying any information found in the *Update*.

Use the links found in the table below to access each edition of the *Update*.

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No. 40 (10/04)	Evidence obtained in violation of <i>Miranda</i> ; First confession without warning may taint second confession; Venue for prosecution is where the crime occurred; Taser law amended; Hazing law created.
No. 39 (08/04)	Michigan adopts good faith exception; ID proceedings that occur prior to any adversarial judicial criminal proceeding; Knock and talk procedures and remaining in the home without consent; Mandated reporters and reporting suspected child abuse.
No. 38 (07/04)	False reports now include 911 operators; Urine can be considered a harmful substance for adulterated food charge; Perjury does not require proof of materiality; Eaves dropping statute amended; Carjacking statute rewritten; Armed Robbery statute rewritten; Unarmed Robbery rewritten; May arrest for OWI if have probable cause to believe subject operated under the influence.
No. 37 (10/03)	Emergency services providers may not detain an individual suspected of carrying a communicable disease; Officers may not initiate questioning when the Sixth Amendment is invoked; CSC fourth constitutes an assault for Home Invasion charges; District court judges may issue search warrants.
No. 36 (09/03)	OUIL/.08 Legislation-Public Act 61; Zero tolerance for certain controlled substances; Misconduct in office applies when a police officer acts with "corrupt purpose;" Uttering and publishing may include a copy of a document.
No. 35 (08/03)	False impersonation of a police officer statute rewritten; Registration violations are civil infractions; Assisting a subject does not automatically render liability; Statutory right to

	polygraph extends until the verdict; Eavesdropping charges may be brought against a subject who hides a camera in his own bedroom.
No. 34 (07/03)	Premeditation requires time for a second look; Officer's subjective reason for searching; No VIN exception to the search warrant rule; Accident scenes and the Fifth Amendment; Misconduct in office; The exclusionary rule.
No. 33 (05/03)	Suppression of a confession; Felony Firearm Conviction; Indecent Exposure; Reasonable suspicion for a Terry Stop; Accidental dog bite by a police K-9.
No. 32 (04/03)	One count carjacking, two occupants; False police report may apply to false crime details; Charges for felony murder could be brought against a mother who left children in locked car; Forceful act must occur at the time of the taking for armed robbery; "Confessing to all charges would be in your best interest" is not a promise leniency; Zero tolerance violation may be used to enhance OUIL charge.
No. 31 (03/03)	Child sexually abusive material is rewritten: New definitions, New penalties; Operating a locomotive under the influence; CSC includes actions by teachers; Possession of counterfeit tax stamps for cigarettes requires knowledge that they are counterfeit.
No. 30 (02/03)	Conspiracy charges may still occur even if the police become involved; Statute on stun guns rewritten; Traffic stops may be based on reasonable suspicion and Officers do not have to "verbally" identify themselves; Possession of stolen car is a felony; CCW and DNR violations; Changes made in drug penalties.
No. 29 (01/03)	Statements obtained in violation of M.C.L. 764.27; Liability may occur where an officer makes an arrest after being insulted; Second warrant is needed to reenter property already searched; Raising an OUIL Causing Death to a charge of Second-Degree Murder; Receiving and concealing stolen property.
No. 28 (09/02)	Violation of 48-hour rule may lead to liability; Admissible evidence; Claiming defense of an unborn child; Sexual contact has been redefined; Mental Health official added to Criminal Sexual Conduct; Force requirement under CSC; Police officers allowed to carry certain weapons.
No. 27 (08/02)	Questioning during an OUIL investigation; Robbery charges require some type of force or violence; The "Castle Doctrine;" Open fields exception and protected curtilage; A prevailing claimant in a forfeiture action; Use of drugs is no defense to criminal activity unless it was a specific intent crime and the defendant had an unforeseeable reaction to medication or other legal substance.
No. 26 (07/02)	Resisting and obstructing, along with assault upon officers, now under new law MCL 750.81d; "Reasonable" assistance in locating witnesses for defense; What is needed for forceful entry into a house; Illegal possession of a controlled substance can be actual or constructive; The offense of Fleeing and Eluding does not require a certain speed or distance.
No. 25 (06/02)	Concealing or storing a stolen firearm can be considered a continuing offense; Reasonable suspicion is the proper standard for investigatory detentions; "Household" is an all-inclusive word for a family unit residing under one roof; Detainment for on-scene-identifications, or shows, may take such time that is reasonable.
No. 24 (05/02)	A bail Bondsmen can be liable for a false arrest; An inoperable vehicle is still considered mobile for the automobile exception to a search warrant; Soliciting minor for immoral purposes does not require knowledge of actual age; "New" procedures for search warrants; etc.
No. 23 (03/02)	Simple assault and battery becomes a 93 day misdemeanor; Domestic Relationships includes dating relationships; Officer may arrest for violation of personal protection orders issued from other states, Indian Tribes or United States Territory; It is not entrapment where the police do nothing more than present the defendant with the opportunity to commit the crime of which he was convicted;

No. 22 (01/02)	Charges of "felon in possession of firearm;" Authority of local officers deputized by the County Sheriff; Prisoners giving testimony in court cannot be shackled; Gross indecency; Proving the offense of "carrying a firearm while under the influence;" Felonious driving now applies to all places open to the general public.
No. 21 (11/01)	The "knock and talk" tactic is constitutional; The scope of consent; "No-Knock Warrant"; Euthanasia is not justifiable homicide; New Terrorism Legislation; Increased penalties for other violations.
No. 20 (10/01)	Legal impossibility is not a defense in Michigan; Increased penalties for Construction Zone Injuries; Increased penalties for traffic injuries to farm workers; An unauthorized driver of a rental car may have standing to challenge search; "Just shy of" reasonable suspicion to detain a motorist; "Assault Upon an Employee of a Place of Confinement"; Interest on returned forfeiture.
No. 19 (08/01)	Examining the exterior of an item without a search warrant; The crime of making a false police report; Lying does not constitute resisting and obstructing; Depositing money from a business transaction to a personal account; Sex Offender Registration includes youthful offenders; Delivery of controlled substance includes social sharing.
No. 18 (07/01)	Requirements when stopping CCW license holder; CCW Free Zones; Carrying "while under the influence"; Seizure of pistols; Notice of suspension; Impersonating an FIA worker; Assault upon FIA workers; Lacking knowledge of drug amount-no defense for a delivery charge, but may be a defense for a conspiracy charge.
No. 17 (06/01)	Thermal Imaging violates Fourth Amendment without search warrant; Rioting includes actions aimed at police officers; Entering a residence when it's believed that a person within is in need of immediate help; Failure to look at officers-one factor to establish reasonable suspicion; A juvenile's confession is admissible if the statement is voluntarily made.
No. 16 (05/01)	Failure to leave copy of affidavit; The "public safety" exception for Miranda; Felons in "possession of a firearm"; Statute of Limitations-Public Act 6 of 2001 MCL 767.24; Two parties drag racing-both are "involved" when an accident occurs.
No. 15 (03/01)	Uttering and publishing; Questioning a suspect after requesting an attorney; "Reasonable beliefs" to armed robbery; Unrecovered buy money; Knowing and voluntary waiver of Miranda rights; "Totality of the circumstances" in determining if a confession is admissible.
No. 14 (02/01)	Attorney/Client privileges; A "spiritual" therapist; Use of audio tape to identify a suspect; Restitution under Crime Victims Rights; Listening to cordless phone conversations is eavesdropping; Sixth Circuit upholds stalking statute; Reasonable detention of a suspect is constitutional.
No. 13 (01/01)	First degree murder for killing a police officer; Retreat from one's porch; Pulling a telephone cord from the wall; Polygraph by a witness; Leaving a copy of an affidavit; Felony for training an animal to fight; CCW does not apply to double-edged knives.
No. 12 (12/00)	Officers must inform suspects that attorney is available; US Supreme Court invalidates drug checkpoints; Can be convicted of OUIL causing death <u>and</u> involuntary manslaughter; Obtaining blood results from hospital may invade doctor patient privilege; Absconding on a felony charge; PPO Violations; 1st degree murder for killing a police officer upheld.
No. 11 (11/00)	New law on sale of Nitrous Oxide; Increased penalties for Methamphetamine; Abandoned vehicles on trunklines; The authority of bordering states police officers; School officials can request vehicle info; Lawfully abandoning newborns; The smell of intoxicants may result in an investigatory detention; Gamma-Butyrolactone illegal for human consumption.
No. 10 (10/00)	Probable cause to issue a search warrant; Assault with intent to commit unarmed robbery is included in felony murder; Unarmed robbery charges; Statute of limitation when suspect lives in another state; Right to a jury for MIP trials; CSC 2nd degree.

No. 9 (09/00)	Investigative detention; Charges for leaving the scene of an accident; Sale of children; Felons in possession of body armor; Vulnerable adult fraud.
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No. 5 (03/00)	Anonymous call of man with a gun; Lying to a police officer; Felony firearms charges.
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No. 2 (12/99)	Crime Scenes, Equal Protection, Escape, Use of Fake Warrant, 48 Hours, Gross Indecency, Resisting and Obstructing
No. 1 (11/99)	OUIL, Home Invasion, Sex Offender Registration