



MICHIGAN STATE POLICE  
**LEGAL UPDATE**  
NOVEMBER 2006

This update is published by the Michigan State Police Executive Division.  
Questions and comments may be directed to the Executive Resource  
Section at [MSPLegal@Michigan.gov](mailto:MSPLegal@Michigan.gov).

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**STATUTES**

To read the full text of these statutes go to [www.michiganlegislature.org](http://www.michiganlegislature.org), or click on the public act or statute citation following each summary.

**MCL 750.316**

**First degree murder now includes murder during the commission of aggravated stalking and torture.**

**Effective December 1, 2006**

The "felony murder" portion of the first degree murder statute, MCL 750.316(b), lists crimes that automatically cause a murder to be punishable by life if the murder occurs during the preparation or attempt to commit them. That list of crimes has been amended by Public Act 415 of 2006, and now includes torture (MCL 750.85) and aggravated stalking (MCL 750. 411i).

[Public Act 415 of 2006](#)

**MCL 28.725 & 791.236**

**Sex Offender Registry notification process changed for parolees.**

**Effective December 1, 2006**

Public Acts 402 and 403 of 2006 change the law to require that convicted sex offenders report their address to the Department of Corrections before being discharged or released on parole. The changes further require that the DOC report the address to law enforcement in the area in which the parolee will reside. Under the former law,

parolees were responsible for registering themselves within 10 days of release, which gave them the opportunity to evade registration.

Refusal to provide an address before parole is a felony, and might be grounds for DOC to deny or revoke parole.

[Public Act 402 of 2006](#)

[Public Act 403 of 2006](#)

**DID YOU KNOW?**

Note: The following material does not represent new law. Instead, it addresses issues raised by worksites throughout the state.

**There is no "personal use" amount of untaxed tobacco. It is illegal to bring any amount of untaxed tobacco into Michigan.**

The [Tobacco Products Tax Act](#), MCL 205.421 – 205.436, requires that Michigan tax be paid on all tobacco sold or possessed in Michigan. The Act imposes criminal sanctions for possession of untaxed tobacco. Many believe that small amounts, for "personal use," may be brought into Michigan from another state without criminal sanctions. However, the Act contains no such provision.

Under the Act – [MCL 205.428\(3\)-\(5\)](#) - it is a five-year felony to possess 3,000 or more untaxed cigarettes (typically 15 cartons), and it is a one-year misdemeanor to possess 2,999 or less untaxed cigarettes.

### LEGAL RESOURCES

Looking for criminal justice data? The U.S. Department of Justice's [Bureau of Justice Statistics](#) website probably has what you need. The site contains national statistics on crime, the criminal justice system, and law enforcement agencies. The site also contains links to other resources and specialized reports.

## BACK TO BASICS

Note: The following material does not represent new law. Instead, it is intended to reinforce basic rules of law that police officers frequently apply.

### Advice of rights must be given when a person is in custody *and* subjected to interrogation.

In September's Back to Basics section, we noted that under current Michigan law, Miranda warnings are required when a suspect is both in custody and subjected to interrogation. Of course, that rule begs the question: What constitutes "custody" and "interrogation?" Below is a discussion of the interrogation prong of the Miranda test in Michigan.

Under Michigan law, police conduct an interrogation when they engage in express questioning or, when they do or say things they should reasonably know will likely elicit an incriminating response.

The following are examples of police conduct that will generally not be held to be interrogation:

- Voluntary statements by a suspect not in response to police questioning
- Prompt, on-scene questions as part of an initial fact-finding process (i.e., basic questions designed to establish that a crime had occurred)
- Questions asked during normal arrest and booking procedures (i.e., suspect identifying information)
- Communicating facts to a suspect
- Communications between a suspect and a non-police third party

The following will generally lead to a finding that a suspect was subject to interrogation:

- Questions regarding a crime posed directly to a suspect
- Engaging in a conversation designed to elicit an incriminating response (i.e., appeals to emotion)

For a discussion of the custody prong of Michigan's Miranda test, see the October edition of the Update.

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