

Basic Training Module Specifications

Functional Area: I. Investigation

Subject Area: C. Criminal Procedure

Module Title: 7. LAWS ON WARRANTLESS SEARCHES

Hours: Not less than 6 hours

Note to Instructor:

Must be taught by an attorney admitted to the Michigan Bar.

Review and understand United States v. Jones, 565 U.S. 400 (2012) <https://supreme.justia.com/cases/federal/us/565/400/> and any other law updates. These relate to the 4th Amendment and the use of GPS tracking devices on a vehicle without warrant.

Module Objectives:

- I.C.7.1. Conduct Searches Without a Warrant Only Under Court Recognized Exceptions to the Fourth Amendment Warrant Requirement.
- a. Demonstrates a working knowledge of the underlying issues surrounding warrantless searches including:
- (1) the majority interpretation of the Fourth Amendment of the U.S. Supreme Court as found in Katz v United States, 389 US 347 (1967);
 - (2) the minority interpretation of the Fourth Amendment of the U.S. Supreme Court as found in the dissenting opinion of Robbins v California, 453 US 420, (1981);
 - (3) the fundamental differences between the Fourth Amendment and Article 1, Section 11 of the Michigan Constitution (as articulated in Michigan v Long, 463 US 1032, 103 SCt 3469 (1983), footnote 10); also see People v Nash, 418 Mich 196; 341 NW2d 439 (1983); People v Chapman, 425 Mich 245; 387 NW2d 835 (1986); People v Collins, 438 Mich 8; 475 Nw2d 684 (1991).
 - (4) the reasonable expectation of privacy;
 - (5) the concept of governmental conduct; and
 - (6) the difference between the terms open view and plain view.

I.C.7.1. Conduct Searches Without a Warrant Only Under Court Recognized Exceptions to the Fourth Amendment Warrant Requirement (continued).

- b. Demonstrates a working knowledge of each of the exceptions to warrant requirement and the elements of each:
- (1) the search incident to an arrest exception (New York v Belton, 453 US 454 (1981); People v Chapman, 425 Mich 245 (1986); People v Bullock, 485 Mich 440 (1992); People v Alafara, 140 Mich App 551 (1985));
 - (2) the probable cause plus exigent circumstances search exception (United States v Ross, 456 US 798, 102 SCt 2157 (1982); US v Sharp, 470 US 675, 105 SCt 1568 (1985); California v Carney, 471 US 386 (1986), 105 SCt 2066 (1986); Meyers v Florida, 466 US 380, 104 SCt 1852 (1984); and see People v Bullock above);
 - (3) the plain view search exception (Coolidge v New Hampshire, 403 US 443 (1970); Texas v Brown, 460 US 730, 103 SCt 1535 (1983); Horton v California, 110 SCt 2301 (1990));
 - (4) the consent search exception (Schneckloth v Bustamonte, 412 US 218 (1973); People v Chism, 392 Mich 104 (1973); Illinois v Rodriguez, 110 SCt 2783 (1990); People v Grady, 484 NW2d 417 (1992));
 - (5) the stop and frisk exception, (Terry v Ohio, 392 US 1 (1968); California v Hodari, 111 SCt 1547 (1991); People v Mamon, 435 Mich 1; 457 NW2d 623 (1990); Michigan v Long, 463 US 1032, 103 SCt 3469 (1983); People v Parham, 147 Mich App 358 (1986); People v VanDiver, 140 Mich App 484 (1985));
 - (6) the inventory search exception (South Dakota v Opperman, 428 US 364 (1975); People v Toohey, 438 Mich 265; 475 NW2d 16 (1991));
 - (7) the emergency exception (People v Chapman, 72 Mich App 547 (1977); People v Washington, 77 Mich App 598 (1977); City of Troy v Ohlinger, 438 Mich 477; 475 NW2d 54 (1991));
 - (8) the hot pursuit search exception (United States v Santana, 427 US 38 (1976); People v Joyner, 93 Mich App 554 (1979); People v Reinhardt, 141 Mich App 173 (1985));
 - (9) the administrative search exception (Camera v Municipal Court, 387 US 523 (1966); Illinois v Lafayette, 462 US 640, 103 SCt 2605 (1983); Tallman v DNR, 421 Mich 585 (1985); People v Jones, 180 Mich App 625 401 NW2d 844 (1989)); and
 - (10) the border search exception (Almeida v Sanchez, 413 US 266 (1973)).

I.C.7.1. Conduct Searches Without a Warrant Only Under Court Recognized Exceptions to the Fourth Amendment Warrant Requirement (continued).

- c. Demonstrates a working knowledge of the consequence to conducting an unlawful warrantless search, including:
 - (1) the possible criminal and civil sanctions that may result; and
 - (2) the exclusionary rule implications for the evidence.

Module History:

Revised 7/04
Reviewed 10/21