

Basic Training Module Specifications

Functional Area: I. Investigation
Subject Area: C. Criminal Procedure
Module Title: 8. WARRANTLESS SEARCH PROCEDURES
Hours: Not less than 6 hours

Notes to Instructor:

Consider a review of *Lange v. California* (2021).

Module Objectives:

- I.C.8.1. Search Premises, Property or Passenger Compartment of a Vehicle Incident to an Arrest.
- a. Effects or establishes the fact of a legitimate arrest before conducting the search incident to the arrest based on laws of arrest, criminal law, and case law.
 - b. Restrains prisoner while searching incident to an arrest (e.g., handcuffs prisoner or has another officer observe and limit the prisoner's movement).
 - c. Searches area within immediate reach of arrested subject when appropriate.
 - d. Searches passenger compartment of a vehicle and containers therein in cases of bondable or custodial arrests (as distinguished by *Arizona v. Gant*, 556 US 332 (2009)).
 - e. Seizes any contraband, fruits of a crime, or evidence found during the search that are in plain view or in cases where exigent circumstances exist.
 - f. Documents all articles seized in search.

I.C.8.2. Search a Movable Vehicle with Probable Cause and Exigent Circumstances.

- a. Establishes that probable cause exists to search the vehicle for illegal articles based on probable cause that contraband, evidence or fruits of the crime are in the vehicle.
- b. Even if in police custody, recognizes that the mobility of the vehicle creates the exigency to search the vehicle.
- c. Searches the vehicle without a warrant, ensuring that occupants present no danger to officer.
- d. Seizes any contraband, fruits of a crime, weapons, or evidence found during the search.
- e. Documents all articles seized in search.

I.C.8.3. Search Buildings in Hot Pursuit Situations.

- a. Determines that there is legal authority to arrest for a crime and that the hot pursuit is legitimate (MCL 764.21; People v Reinhardt, 141 Mich App 173 (1985).
 - (1) "hot pursuit" arrests in a non-public building cannot be effected for warrantless misdemeanors;
 - (2) "hot pursuit" arrests can be effected for misdemeanors with a warrant or for felonies without a warrant.
- b. Maintains persistent pursuit of suspect using any practical means and keeping suspect in sight, if possible.
- c. Determines whether probable cause exists to believe that a felony has been committed by the fleeing suspect to justify entry into a building.
- d. Enters place of retreat of pursued suspect in cautious manner.
- e. Searches the area that is within reach of the pursued suspect.
- f. Seizes any contraband, evidence, weapons, or fruits of a crime found in the hot pursuit arrest:
 - (1) contraband, weapons, fruits of the crime, and other evidence found while effecting a "hot pursuit" arrest can be lawfully seized.

I.C.8.4. Search Premises or Property with Consent.

- a. Requests voluntary permission to search an area or item.
- b. Establishes the apparent right and ability of subject to give a legal consent to a search (e.g., individual is in control of the property/area which is to be searched and he/she gives consent voluntarily).
- c. Documents the consent to conduct the search by including it in reports, by using department waiver forms or witness statements.
- d. Conducts a consent search using appropriate techniques (e.g., searches within the perimeters consented to, searches in a systematic and thorough manner).
- e. Ensures that occupants present no danger to officers.
- f. Seizes any found contraband or evidence.
- g. Ceases the search if the consent is withdrawn.
- h. Maintains control of location if consent for search is withdrawn, but probable cause exists to justify seeking a search warrant (e.g., protects location or keeps location under surveillance).
- i. Documents all articles seized in search.

Module History

Revised	4/09
Reviewed	10/21
Revised	11/23