



MICHIGAN STATE POLICE
LEGAL UPDATE
OCTOBER 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.

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STATUTES

To read the full text of these statutes go to www.michiganlegislature.org, or click on the public act or statute citation following each summary.

MCL 750.217g and 750.217h

It is now illegal to misuse badges, patches, and uniforms of fire departments and emergency medical services.

Effective October 1, 2006

PA 405 of 2006 adds two new 93 day misdemeanors. The first, MCL 750.217g, makes it illegal to sell, furnish, possess, wear, or display a badge, patch, or uniform of a fire department, life support agency, or medical first response service, unless:

1. The person is authorized by the head of the agency, or
2. The person is a member of the agency, or
3. The person is a retired member of the agency using a retirement badge, or
4. The person is the spouse, child, or next of kin of a deceased member, or
5. The person is a collector and the item is transported in a container or display case.

The second section, MCL 750.217h, essentially prohibits impersonating a firefighter or first responder. The section makes it illegal to wear or display the

emblem, insignia, logo, service mark, or other identification of a fire department, life support agency, or medical first response service if:

1. The person represents themselves as a member of the agency, or
2. The wearing or display would lead a reasonable person to believe the person is a member and the item is worn to promote a commercial service or charitable endeavor.

Section 217h also includes replicas and imitations of the items listed in the statute.

[Public Act 405 of 2006](#)

DID YOU KNOW?

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

Deaf persons arrested by police must be provided an interpreter before their statements can be taken.

MCL 393.505 requires that when a deaf person is arrested and taken into custody, the police must provide a certified interpreter before conducting an interrogation. Statements made by the person without an interpreter are not admissible in court.

The Department of Labor and Economic Growth, Division on Deaf and Hard of Hearing, publishes the [Michigan Interpreter Directory](#) that lists certified interpreters who might assist with interviews of deaf persons.

LEGAL RESOURCES

Previous editions of the Update, including older versions published by the Training Division, can be found on the Legal Resource Unit's [Archives](#) web page.

This update is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update.

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.

For the purposes of Miranda, a suspect is in custody when...

In the Back to Basics section of the September Update, 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 custody prong of the Miranda test in Michigan.

Under Michigan law, suspects are in custody for the purposes of Miranda when: 1. The person is under arrest or, 2. The person’s freedom has been deprived in any significant way.

The first part of the custody test – arrest – is self-explanatory: If a suspect is under arrest, Miranda warnings must be given and waived before an interrogation can be conducted. The second part – deprivation of freedom – is a different matter.

In determining whether a person’s freedom has been significantly deprived, courts will view the facts objectively, not through the subjective view of the police. The question essentially comes down to whether the defendant felt free to leave.

Contrary to common misconception, the fact that a person is a suspect is not controlling; a person who is the focus of an investigation is not automatically entitled to Miranda (per the U.S. Supreme Court in *Stansbury v. California*). This is true even where officers have probable cause to arrest the suspect, but choose not to make the arrest before the interview (*Hoffa v. United States*).

Generally, officers should establish that a suspect is “free to leave” by doing things that an independent person would reasonably view as showing freedom. For example: tell the suspect he can leave at any time; have the suspect demonstrate that he can open the door to exit; or have the

suspect write that he is free to leave in his statement.

Each question of custody will be examined in the context of the totality of the circumstances surrounding the interrogation. However, the following are examples that will generally not be held to be custody:

- Questioning at a suspect’s home or office
- Phone conversations
- Traffic stops
- Pat-down searches
- Search and transport to station without handcuffs
- Questioning in a hospital room

The following will generally lead to a finding that a suspect was in custody:

- An arrest on a warrant, even if the suspect will soon be released on bond
- The suspect is in custody on unrelated charges

FEEDBACK SOUGHT!

Because the Update is published for you, we would like your opinion about how we’re doing. To that end, the editors of the Update have created a feedback survey for use by our readers.

A link to the survey can be found below. This survey will take less than 5 minutes for you to complete, but will help our staff ensure that the Update is useful and easy to read.

[Update Reader Survey](#)

Survey available until November 15, 2006

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