



# LEGAL UPDATE

MICHIGAN STATE POLICE  
TRAINING DIVISION

(517) 322-6704



***An investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop.***

Officers received information from undercover officers that two occupants in a vehicle were transporting narcotics. The officers stopped the vehicle and asked the occupants to step out. The officers patted the occupants down for weapons and then asked for consent to search the vehicle, which was granted. The officers searched the car, the woman's purse, and opened up a white plastic bag that was found inside. In the bag was a shrink-wrapped Yahtzee game. The two subjects were then placed in the back of the patrol car and transported to the police station. A half an hour later the officers located the drugs in the Yahtzee game.

While the court upheld the traffic stop and the consent search, they found that the lengthy detention of the defendants was unreasonable and thus suppressed the evidence. "Applying these Fourth Amendment jurisprudential principles to the case at hand, we hold that the district court erred in denying Defendant's motion to suppress the evidence where upon learning Defendant's identity and that she was not armed or carrying contraband (as determined by the patdown search), the officers unreasonably seized Defendant by placing her in the police car and questioning her further; transporting her to the police station; detaining her while at the police station; and questioning her further once there. Although the officers properly relied upon the bulletin from the undercover officers which indicated that Defendant was suspected as being involved in drug trafficking so as to justify the initial stop of the cab, once Defendant identified herself, answered the officer's questions, and consented to the patdown which did not reveal anything suspicious, the officers were required under the Fourth Amendment to allow Defendant to go free. In fact, the officer testified that at the time

he placed Defendant in the back of the patrol car, he had found nothing about the stop that led him to believe that Defendant was involved in drug activity. The officer's 'continued detention' of Defendant in the back of the locked patrol car ripened the investigatory stop into an arrest; and because the officers did not have probable cause to arrest Defendant at that time, the seizure was illegal." People v Butler, 2000 FED App 0253P (6<sup>th</sup> Cir.)

***Once officers determine that an item they seized under plain feel is not contraband, the items cannot be further examined.***

Officers arrested the driver of a vehicle for possession of marijuana. The officers then asked the passenger to exit the vehicle and patted him down for weapons. During the pat down, the officer felt what he believed to be a two-by-three inch card of blotter acid in defendant's pocket. He removed the objects and discovered they were Polaroid pictures. The officer then placed the pictures on the roof of the car face down and finished the pat down. The officer then examined the pictures, which depicted the driver holding one pound bags of marijuana. Based on the pictures, a search warrant was obtained for the driver's residence and fifteen pounds of marijuana was seized.

The Court of Appeals held that examining the pictures was unlawful and suppressed the fifteen pounds of marijuana. The court held that the pat down was justified. The officer was also justified in removing the pictures initially under plain feel since the officer had probable cause to believe that the items felt could have been blotter acid. "However, while the plain feel exception authorized removal of the items from defendant's pocket, an entirely separate question remains as to whether the officer was authorized to examine the photographs without

a warrant, after it became immediately apparent that the items seized were neither weapons nor contraband.”

“We find that this additional inspection of the photographs, unrelated to the initial justification of the warrantless search, and which revealed evidence of illegal activity that was not immediately apparent upon inspection, constituted an unlawful invasion of defendant's privacy that was unjustified by the exigent circumstances that validated the removal of the photographs from defendant's pocket.” People v Custer, C/A No. 218817 (July 28, 2000).

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***A person can be charged with leaving the scene of an accident when they are implicated in or connected with the accident in a logical and substantial manner.***

Defendant was driving a Jeep Wagoneer and pushing a small Honda that was not running. A friend was driving the Honda. At one point the Jeep bumped the Honda. The driver of the Honda lost control and struck another vehicle. The driver of the other vehicle was killed. The defendant stopped, looked at the scene and then drove to a friend's house to hide the Jeep.

The defendant was convicted of leaving the scene of an accident under 257.617. He argued on appeal that he was not involved in the accident because his vehicle was not in contact with the Honda when it swerved into the oncoming traffic and hit the victim. The Court of Appeals disagreed. “We conclude that defendant was ‘involved in’ the accident because evidence demonstrated that he was implicated in or connected with the accident in a logical and substantial manner.” People v Oliver, C/A No. 218342 (July 28, 2000)

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### ***Sale of children***

P.A. 205 effective 9-1-00 (MCL 750.136c)

This act makes it a felony to transfer or attempt to transfer legal or physical custody of a child under the age of 16 for money or other valuables except as otherwise permitted by law.

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### ***Felons in possession of body armor***

P.A. 224 effective 10-10-2000 (MCL 750.227g)

This act prohibits anyone convicted of a violent felony from owning, possessing or using body armor. (4 year felony)

Exception - A person convicted of a felony may petition the chief of a local unit of government or the county sheriff for written permission to possess body armor. If the chief or sheriff does issue the written permission, the person must carry it at all times he is in possession of body armor. Failure to carry the written permission is a 93 day misdemeanor.

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### ***Vulnerable adult fraud***

P.A. 222 effective 9-26-2000 (MCL 750.147a)

Creates penalties for a person who has a relationship of trust with a vulnerable adult and through fraud, deceit, misrepresentation or unjust enrichment, used or attempted to obtain or use the vulnerable adult's money or property for his or her own direct or indirect benefit.

A vulnerable adult means an individual age 18 or older who, because of age, developmental disability, mental illness, or disability, whether or not determined by the court to be incapacitated individual in need of protection, lacks the cognitive skills required to manage his or her property.

A person in relationship of trust means a person who is a caregiver, relative by blood, marriage or adoption, household member, court appointed fiduciary or other person entrusted with or has assumed responsibility for the management of the vulnerable adult's money or property.

**Less than \$200** = 93 day misdemeanor

**\$200 - \$1,000** (or less than \$200 if previously convicted) = 1 year misdemeanor

**\$1,000 - \$20,000** (or \$200 - \$1,000 if previously convicted) = 5 year felony

**Over \$20,000** (or \$1,000 - \$20,000 if previously convicted twice) = 10 year felony