



MICHIGAN STATE POLICE LEGAL UPDATE

No. 77
APRIL 22, 2009

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CRIMINAL PROCEDURE

Search Incident to Arrest Rules Limited

On April 21, 2009, the United States Supreme Court issued an opinion that significantly alters the current practice of searching the passenger compartment of a motor vehicle upon the arrest of an occupant.

In [*Arizona v. Gant*](#), the defendant was arrested for driving while his license was suspended. After Gant was handcuffed and secured in a patrol car, officers searched the passenger compartment of his car, finding a baggie containing cocaine and a gun.

The officers in *Gant* were presumably relying on the long-standing rule that allowed officers to search a vehicle without a warrant incident to the arrest of an occupant of the vehicle.

The Court's opinion in *Gant* changes that rule and held:

"Police may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest. When these justifications are absent, a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies."

What does this decision mean for the officer on the street? **Officers may no longer automatically search a vehicle incident to the arrest of an occupant.**

The Court emphasized that once a suspect has been arrested, handcuffed, and secured in the patrol car, a search of the car incident to a lawful arrest is not justified unless the

officer articulates a reason to believe that evidence of the crime of arrest can be located in the car.

While this ruling will impact how searches of vehicles incident to arrest are conducted, officers may still conduct a full search of a person incident to a lawful arrest.

In addition, officers may search vehicles using other exceptions to the warrant requirement (e.g. probable cause, inventory, consent).

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