

# MINNESOTA JUDICIAL TRAINING UPDATE

## WARRANTLESS MOTOR VEHICLE SEARCHES: SEVEN (7) EXCEPTIONS TO 4<sup>TH</sup> AMENDMENT WARRANT REQUIREMENT

**CONSTITUTIONAL RULE OF LAW:** In every case involving a warrantless motor vehicle search the court should always start its legal analysis by applying the following default constitutional rule of law:

**Under the 4<sup>th</sup> Amendment EVERY Warrantless Search  
of a Motor Vehicle is Presumptively Unlawful UNLESS**

**The Search Falls Within One of Seven (7) Recognized Exceptions to the 4<sup>th</sup> Amendment**

1. Search Incident To Arrest
2. Plain View Seizure
3. Probable Cause Search
4. Inventory Search

5. Protective Weapons Search
6. Consent Search
7. Medical Emergency Search

**A SUMMARY OF THE GENERAL RULES THAT APPLY TO EACH OF THE  
SEVEN EXCEPTIONS IS ATTACHED**

# WARRANTLESS MOTOR VEHICLE SEARCHES

Search Incident to Arrest	Protective Weapons Search	Probable Cause Search for Evidence
<p><b><u>GENERAL RULE:</u></b></p> <p>1. A peace officer who makes a lawful arrest of an occupant (i.e. driver or passenger) of a motor vehicle may contemporaneously search the person and the passenger compartment area of the vehicle including the contents of any containers (open or closed) found within the passenger compartment area, <b>if</b> it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.</p> <p>2. <i>Type of Arrest</i> – must be a custodial arrest for a misdemeanor or felony offense. Does not apply to petty misdemeanors.</p> <p>3. <i>Time of Arrest</i> – the actual arrest can occur after the search as long as probable cause to arrest existed before the search.</p> <hr/> <p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. Entire passenger compartment area including the glove box and all containers (open or closed) found within the passenger compartment area. The passenger compartment area includes all space reachable without exiting the vehicle. A container is any object capable of holding another object regardless of its size or shape.</p> <p>2. <i>Locked containers</i> – undecided in Minnesota, it is recommended that locked containers be opened only if access can be obtained without causing damage to the container (i.e. officer can locate a key, etc.).</p> <p>3. Once a non-arrested occupant removes an object (i.e. purse) from the car, is it still considered part of the passenger compartment area and thus subject to search? Other state jurisdictions have split on this issue - undecided in Minnesota.</p> <hr/> <p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. Must be conducted at scene of arrest, before defendant is removed from the scene, and as soon after the arrest as is reasonably possible (i.e. search must be conducted contemporaneously with arrest).</p>	<p><b><u>GENERAL RULE:</u></b></p> <p>1. <i>Persons</i> – following a lawful investigative stop, if a peace officer has a reasonable suspicion that the suspect is armed and dangerous, the officer may conduct a carefully limited pat-down search of the suspect’s outer clothing in an attempt to discover weapons which might be used to assault the officer or others nearby. Also includes the area within a suspect’s immediate control (i.e. the area from which the suspect might gain possession of a weapon).</p> <p>2. <i>Motor Vehicles</i> – following a lawful motor vehicle stop, if a peace officer has a reasonable suspicion that the vehicle contains weapons that may be dangerous to the officer; he/she may search the passenger compartment area including those areas from which an occupant could seize a weapon and harm the officer after re-entering the vehicle.</p> <hr/> <p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. <i>Persons</i> – during the pat-down, if the officer feels a hard object thought to be a weapon, or if he/she feels an object that can be immediately identified as contraband (i.e. plain feel exception), he/she may reach into the suspect’s clothing to recover the object.</p> <p>2. <i>Motor Vehicles</i> – the right to search includes the passenger compartment area limited to those areas in which a weapon may be placed or hidden.</p> <p>3. <i>Containers</i> – officers may not search a container unless the officer reasonably suspects the possibility of harm if the container is returned unexamined.</p> <hr/> <p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. At the scene, the search may continue as long as a reasonable person, under the same circumstances, would believe that their safety was in danger.</p>	<p><b><u>GENERAL RULE:</u></b></p> <p>1. <i>Vehicle Exception</i> – a peace officer who lawfully stops (or locates) a vehicle that is mobile or readily capable of being made so, and who has probable cause to believe that contraband or other evidence of a crime is concealed somewhere within, may search every part of the vehicle and its contents, including all containers capable of concealing the object of the search. Probable cause exists when a person of ordinary care and prudence would entertain a strong suspicion (fair probability) that the vehicle contains evidence of a crime.</p> <p>2. <i>Instrumentality of the Crime</i> – if police have probable cause to believe a vehicle is being used as an “instrumentality of a crime” and might contain evidence of the crime, they may search the vehicle without a warrant. A vehicle is an “instrumentality of a crime” if it was an integral part in the commission of a crime (i.e. used in commission of a burglary, or as a get-away-car, or to store or transport stolen property, or involved in a hit and run accident, etc.).</p> <hr/> <p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. Entire vehicle including the trunk, glove box and any other container (open, closed or locked) capable of concealing the object of the search.</p> <p>2. If probable cause is limited to a particular container inside the vehicle and does not extend to the entire vehicle, then, although the particular container may be searched, the rest of the vehicle may not be searched in the absence of additional probable cause.</p> <hr/> <p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. <i>No restrictions</i> – search may occur at the scene, impound lot, police station, etc. The search may be conducted immediately or may be delayed.</p>

Inventory	Plain View Seizure	Consent Search	Medical Emergency Search
<p><b><u>GENERAL RULE:</u></b></p> <p>1. When a motor vehicle is lawfully impounded by law enforcement, an inventory search of the vehicle is permissible if conducted for reasons other than to find evidence of a crime and if conducted pursuant to a standard departmental inventory policy that makes such inventories a part of routine procedure.</p> <p>2. To be valid, the initial impoundment of the car must be lawful and the inventory policy must be structured so that officers do not have unbridled discretion as to when, where, what or how to conduct an inventory search.</p>	<p><b><u>GENERAL RULE:</u></b></p> <p>1. Incriminating items that are located inside a vehicle in plain view of a peace officer, who has a lawful right to be where he/she is when the item is seen, may be seized if the incriminating nature of the item is immediately apparent (i.e. probable cause to believe the item is contraband or other evidence of a crime). Peace officers may rely on trained intuition and observations drawn from their experiences that may escape the untrained person.</p> <p>2. The Plain View Rule applies if: (a) the initial vehicle stop that affords the plain view is lawful; (b) the officer has a lawful right of access to the object; and (c) the incriminating nature of the evidence is immediately apparent.</p>	<p><b><u>GENERAL RULE:</u></b></p> <p>1. A warrantless search of a motor vehicle may be conducted whenever the owner or other person having authority to consent (i.e. usually the driver) voluntarily consents to the search: or when the facts surrounding the consent would lead a reasonable police officer to believe that the person giving consent has such authority (i.e. Apparent Authority Doctrine).</p> <p>2. To be valid, consent must be freely and voluntarily given without promises, threats, or coercion (i.e. totality of the circumstances). If consent is obtained subsequent to an arrest, the validity of the consent will be less readily inferred than consent obtained prior to arrest.</p>	<p><b><u>GENERAL RULE:</u></b></p> <p>1. If a peace officer finds a person unconscious or disoriented and incoherent in a motor vehicle, the officer may enter and search both the person and the vehicle for the purpose of giving aid to the person in distress and to find information bearing upon the cause of the person's condition.</p> <p>2. In order for the search to be valid, the officer must be acting in good faith and for the purpose of rendering aid, i.e. not searching for evidence of a crime (subjective test), and his belief that there is an emergency must be objectively reasonable (objective test). Both subjective and objective tests must be met.</p>
<p><b><u>SCOPE OF SEARCH:</u></b></p> <p>1. The scope is controlled by whatever the standard inventory policy is. It may extend to the entire vehicle including the trunk, glove box and containers (open, closed or locked) if such procedures are specifically allowed under the standard policy. Unless the inventory policy provides for the opening of closed or locked containers, including the trunk and glove box, such items may not be opened.</p>	<p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. Only the item(s) in plain view may be seized and searched.</p> <p>2. If the plain view seizure generates probable cause to believe that contraband or other evidence of crime is located somewhere inside the vehicle then officers may search every part of the vehicle and its contents, including all containers and packages capable of concealing the object of the search. See "Probable Cause Search for Evidence," opposite side.</p>	<p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. The scope is determined by the terms of the actual consent. The standard is one of objective reasonableness.</p> <p>2. <i>Locked containers</i> – if the consent does not specifically convey permission to break open a locked or sealed container, then to do so would exceed the scope of the consent.</p> <p>3. <i>Withdrawal of consent</i> – the person granting consent may, at any time, withdraw consent or place additional limitation on where and what can be searched.</p>	<p><b><u>SCOPE OF SEARCH</u></b></p> <p>1. How far a peace officer can go in searching the injured person and the vehicle is determined by what is objectively reasonable considering the nature and circumstances surrounding the medical emergency.</p> <p>2. <i>Containers</i> – if no identification, etc., is found during the search of the injured person or of the vehicle, a search of nearby "closed containers" may then be both reasonable &amp; necessary.</p>
<p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. Under most inventory policies, inventory searches may occur at the scene, impound lot or police station, within a reasonable period of time of the impoundment. A "reasonable period of time" means as soon after impoundment occurs as would be safe, practical, and satisfactory in light of the inventory objectives.</p>	<p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. No restrictions once above prerequisites are met. However, incriminating items in plain view should be seized immediately or as soon as is reasonably possible.</p>	<p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. No restrictions other than the terms of the actual consent</p>	<p><b><u>TIME &amp; PLACE OF SEARCH</u></b></p> <p>1. The right to search continues as long as the emergency continues.</p> <p>2. The time, place and search itself must be reasonable and justified by the exigent circumstances.</p>