



# Advanced Search & Seizure Outline

Blue to Gold Law Enforcement Training  
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# GOAL

## learners

In-service training for certified law enforcement, including patrol, investigations, specialty units, and administration

## length of instruction

8 hours

Advanced Search and Seizure will help you independently analyze and solve Fourth Amendment issues you face while on-duty. We will clear up any confusion so that you make good case law and eliminate liability. You should not expect a dry and boring legal class. The class is eye-opening, fast paced, fun, and compliant with state law.

## **Course Introduction – 10 minutes**

- 1) Instructor introduction.
- 2) Explain the course objective.
  - a. Recognize how the Fourth Amendment applies to each situation.
  - b. Demonstrate the understanding that every search and seizure requires consent, a recognized exception, or a warrant.
  - c. Demonstrating an understanding of the Fourth Amendment, thus reducing lawsuits.
  - d. Translate the Fourth Amendment to make good case law.
- 3) Encourage attendees to ask questions and share feedback with other attendees.
- 4) Explain that certificates will be emailed after the class and each student will be registered in the Blue to Gold University.
- 5) Go over the three disclaimers:
  - a) Laws and agency standard operating procedures may be more restrictive. Blue to Gold teaching the federal standard unless otherwise stated. Therefore, students must know their state and local requirements in addition to the federal standard.
  - b) If students have any doubts about their actions, ask a supervisor or legal advisor.
  - c) The course is not legal advice, but legal education. Therefore, nothing we teach should be interpreted as legal advice. Check with your agency's legal advisor for legal advice.

## **Course Introduction– 20 minutes**

1. Search and Seizure Golden Rules
  - a. The more you articulate why you did something, the more likely it will be upheld in court.
  - b. The more serious the crime, the more reasonable your actions are likely to be viewed.
  - c. Conduct all warrantless searches and seizures in the same manner as if you had judicial pre-approval.

## **Legal Fundamentals Agenda**

- Who did the search or seizure?
- Was it a protected area?
- Did a search or seizure occur?
- Did you have C.R.E.W?

**Module One – Who Conducted the Search or Seizure** – 20 minutes

1. Identify the two factors necessary for a private search to not fall under the Fourth Amendment's reasonableness requirements.
2. Searching digital devices.

**Module Two – Was it a Protected Area** – 70 minutes.

1. Identify the four areas or things protected by the Fourth Amendment: people, houses, papers, effects.
  - a. These four protected areas include much more than their common definitions. For example, "papers" protected digital equivalents.
2. Curtilage
  - a. The Four Factors of curtilage.
  - b. Defining curtilage using color codes (red, yellow and green)
  - c. Conduct that may be carried out on areas within curtilage identified as accessible areas for "uninvited guests."
  - d. Conduct that may be carried out on open fields.
  - e. Abandoned property. Discuss intentional abandonments, inadvertent abandonment, and lost property.
  - f. Identify when garbage is abandoned.

**Module Three – Did a Search or Seizure Occur?** 70 minutes

1. The constitutional definition of searches and seizures.
  - a. Identify the two types of searches under the Fourth Amendment.
    - i. Trespass with intent to gather information.  
The two requirements for a trespass to occur.
    - ii. Reasonable expectation of privacy.  
The two requirements for a reasonable expectation of privacy search to occur.
  - b. Discuss the broadening definition of reasonable expectation of privacy after the Carpenter decision, known as Mosaic Theory.
2. Seizure of a Person
  - a. There are two methods to seize a person under the Fourth Amendment: show of authority or a physical seizure.
3. Seizure of Property
  - a. A person's possessions are seized under the Fourth Amendment when the government interferes with the possessory interest of the item.

**Module Four – Did you have Consent, Recognized Exception, or Warrant (CREW).** 60 minutes

1. Courts will begin with the presumption that a warrantless search of seizure was unreasonable. Therefore, it is the officer's job to articulate why he or she did something.
2. Warrantless searches or seizures require either consent, or recognized exception or a warrant.
3. Identify some well-known exceptions to the warrant requirement.

**Module Five – Consensual Encounters** 40 minutes

1. How to begin a consensual encounter, i.e. with a question.
  - a. Tone of voice.
  - b. Use of language.
  - c. Under what circumstances is the request being made?
2. What constitutes a detention.
3. Can you ask and/or retain ID.

**Module Six- Third Party Consent** 50 minutes

1. Review the legal rule of third-party consent.
2. Explain the "Piggyback Rule" and how to apply that in the field.
3. What to do if you mistakenly thought an individual had authority and began a search?
  - a. Define "reasonable" believed and "apparent" authority.
4. Spousal authority.
5. Authority over a minor.
6. Traffic stops consent.
  - a. Searching car when driver gives authority and passenger remains silent.
  - b. Searching car when the owner is not present but is being driven by a third-party.
  - c. Searching car occupants' personal items.

**Module Seven – Investigative Detentions** 40 minutes

1. The duration of a stop is like a melting ice cube.
  - a. Once the reason for the stop is over the person must be released or converted to a consensual encounter.
2. Reasonable suspicion versus "hunches."

**Module Eight – Protective Sweeps** 30 minutes

1. The three types of protective sweeps you may conduct during an in-home arrest,
  - a. Immediate Control
  - b. Adjacent Areas
  - c. Throughout the home
2. Hot Pursuit
  - a. Re-entry - necessary and continuous

**Module Nine – Plain View & Plain Seizure** 30 minutes

1. Right to be, right to see.
2. Manipulating evidence.
3. Lawful access.

**Module 10 – Crime Scenes** 30 minutes

1. Obtaining a search warrant AFTER the emergency.
  - a. Obtaining consent from authorized party in lieu of warrant.

Conduct a question-and-answer session. 10 minutes

End of class