



DPSST Newsletter

September 2015

Department of Public Safety Standards & Training, 4190 Aumsville Hwy SE Salem, OR 97317

Legal Corner

By Lorraine Anglemier

This installment of Legal Corner will focus on a fairly common event, namely, an “MIP party.” A recent ruling of the Oregon Court of Appeals sheds some light on how high the bar will be set when trying to defend a warrantless entry into premises to investigate these events. The case in question is *State v. McHenry*, and was issued on July 1, 2015. The defendant had appealed the trial court’s denial of his motion to suppress evidence obtained in his residence, which led to his conviction for Interfering with a Peace Officer.

Here is a summary of the facts: Police responded to an anonymous report of a fight and an injured person in defendant’s home. Upon arrival, an officer found a group of about nine persons who appeared to be juveniles outside, and heard loud music playing inside. When he announced his presence, five of the juveniles ran inside. He talked to the remaining four, some of whom appeared intoxicated and admitted drinking alcohol. All provided dates of birth indicating they were minors. At trial, the officer testified the four identified defendant as “the host of the party involving the alcohol.” However, he also testified they were “ambivalent” about where the alcohol came from.

The officer knocked on the front door, which swung open. He saw multiple open beer cans and red Solo cups. He stood on the patio and ordered everyone outside, and entered to find defendant, after calling for him, but receiving no answer. At trial, the officer testified he entered because he believed the crime of furnishing alcohol to a minor had been committed, and he was concerned about the possible destruction of evidence. The defendant was found hiding in a bathroom and told not to leave. However, defendant snuck out while the officers were interviewing minors and issuing citations.

Several days later the officer returned to the house and interviewed defendant, who acknowledged he’d been told not to leave. He agreed “he was the host of the party,” but when asked if he had “brought the alcohol to the party,” he, “said no.”

At trial, defendant moved to suppress evidence that he disobeyed the officer's "lawful order," (the theory of his prosecution for interfering) arguing that the evidence was derived from a warrantless search. The trial court denied defendant's motion, finding that there was probable cause to believe that alcohol had been furnished to minors and that exigent circumstances (evidence destruction) supported the warrantless entry. Thus, applying the "probable cause with exigent circumstances" warrant exception, the court allowed the evidence. On appeal, defendant reiterated his argument that the officer never should have entered his residence.

The Court of Appeals declined to consider whether or not exigent circumstances existed, because they found that the officer did *not* have an objectively reasonable belief that the crime of furnishing alcohol to minors had more likely than not been committed and thus lacked probable cause. The court noted, "...none of [the minors] explained where the alcohol had come from; [the officer] testified that they were 'ambivalent' on that point...The question thus reduces to whether, on those facts, [the officer] could form an objectively reasonable belief that the alcohol had more likely than not been furnished to the juveniles by someone in the house."

The state had argued that because the facts involved, "an ongoing party with at least 25 people, where minors were drinking" and where the minors identified the defendant as the "host," it was objectively reasonable for the officer to believe the crime of furnishing was occurring. The court was not convinced. It observed, "The guests' description of defendant as the 'host' does not signify that defendant provided the alcohol; it is equally understandable as simply an acknowledgement that the party was occurring at defendant's house."

You might wonder what else the officer could have done to satisfy the court. The facts of this case likely look pretty good to most of you, and they did to me! Hindsight is always 20/20, but here, ideally, the officer would have pressed the minors a bit more to overcome their "ambivalence," about the "source" of the alcohol.

This all having been said, allow me to stir the pot a bit more. Please consider the following, from our Basic Police Procedural Law outline:

Federal law and minor offenses:

The Ninth Circuit has held that "an exigency related to a *misdemeanor* will seldom, if ever, justify a warrantless entry into a home." *Lalonde v. County of Riverside*, 204 F.3d 895 (2000). Further, the Ninth Circuit characterized the US Supreme Court as having "suggested that exigent circumstances can *rarely, if ever*, support entry into a home to investigate or arrest someone for a misdemeanor offense." (emphases mine)

The above language is not drawn from a case where a criminal defendant sought suppression of evidence; rather, a civil plaintiff had sued the police for a violation of his constitutional right to be free from an unreasonable search. Exigent circumstances are defined as, “a situation that requires the police to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or the destruction of evidence.” In light of the Ninth Circuit’s cautionary language, warrantless entries related to misdemeanors should be carefully considered, so as to avoid civil liability consequences.

As always, feel free to contact me with any questions or concerns at lorraine.anglemier@state.or.us

Center for Policing Excellence Section

By Theresa Janda

Have you passed through our area on the second floor of “A” Building and seen our super-sized whiteboard? You’ll notice it has been transformed into a year-long calendar that includes many exciting projects and activities happening in the Center for Policing Excellence.

In looking back since the last newsletter, as well as looking forward at what has been filling up the new CPE calendar, below are some highlights of projects we’ve been working on -

- On June 11, 2015 the 9th cohort of the 160-hour IPSLEI Leadership Development Program graduated.
- Graduates from DPSST included Steve Westerberg (Tactical), Ben Ward (Survival Skills) and Theresa Janda (CPE).
- This fall, CPE will be coordinating its 10th IPSLEI cohort in Central Point.
- Supervisory Leadership Academy Class # 9 graduated on June 19, 2015 and Class # 10 graduated on August 14, 2015.
- Two more Supervisory Leadership Academies will be held this year, as well as one Organizational Leadership & Management Academy for middle-managers. More classes have also been scheduled for 2016 – six SLA’s and two OLM’s.
- The OLCC Curriculum Committee and CPE’s Sara Tribbey have completed a student-centered development program for that agency’s Regulatory Specialists. The program was approved by the Board on Public Safety Standards and Training on July 23, 2015, allowing the first 4-week Basic OLCC Academy to commence on November 16th as planned.
- The 25th Annual Problem-Oriented Policing (POP) Conference is coming to Portland this October, and is being co-hosted by CPE, OACP, OSSA, Portland St. University, Portland

Police, and City of Portland Crime Prevention. This international event is an exciting opportunity for Oregon's law enforcement professionals to hear what agencies from all over the world have learned about reducing different crime and safety problems.

- CPE will also be coordinating a separate POP event in Portland immediately following the international conference that is designed for Oregon law enforcement to discuss and learn about problems and solutions from a more local perspective.
- In collaboration with the Criminal Justice Commission, CPE's Ryan Keck has been participating in the development of the "Oregon Knowledge Bank," an online resource for Oregon law enforcement. Based on input from focus groups, interviews and surveys conducted statewide, a website is in production that will provide access to progressive policing strategies used in Oregon, contact information for Oregon-based law enforcement, grant opportunities, and summaries of available research related to crime problems and/or community issues.

Thanks to the collaborative effort our team shares with so many partners, both internal and external, CPE keeps evolving DPSST training, with a focus on creating excellence in an ever-changing and dynamic public safety community. As we head into the last quarter of 2015, we are keeping our eye not only on "the giant white-board calendar," but also on future opportunities to promote leadership development, evidence-based practices, and quality training. Watch for more exciting developments to come!

Academy Training Section

By Captain Roger Eaton

This is my first opportunity to address the quarterly newsletter as the Academy Training Supervisor. In two short months the Academy Training Section has graduated two Basic Police (BP) classes and a Basic Corrections Local (BCL) class, but the training work of this year is just beginning to ramp up. We have started BP352 in the month of August. We will start BP353 in September, BP354 in October, and BP355 in November. In the same time frame we will start two Basic Telecommunication (BT) and two Emergency Medical Dispatch (EMD) classes. We will start and complete a BCL class and a Parole and Probation (BPP) class within a week of each other. Finally we will start and complete the first ever legislatively mandated Oregon Liquor Control Commission (OLCC) class. Additionally we will run a two week Police to Corrections (POLCOR) class in September and a two week Police Career Officer Development (PCOD) class in November.

We have asked George Dominy to assist us on a temporary full time basis to coordinate BP355. As you can see, our full time staff will be completely engaged with running these many classes; which will leave little time to instruct classes. During the next five months we will be as busy as we were back when we had twice as many Police and Corrections Coordinators. We relied then, and we again will need to rely, heavily on the support of our Agency Part Time (APT) staff to assist us with this robust time schedule.

Thank you for all of your fine efforts and sacrifices over the years to bring our students some of the finest training available anywhere. You are a huge part of our success. I look forward to working with you.

Special Note to Survival Skills APT's:

As we have made this rotation of supervisors on July 1st, I wanted to acknowledge the fine work done by each of the APT instructors in Survival Skills. For nine years I have enjoyed the luxury of working with some of DPSST's finest instructors. I can honestly say I have learned as much from you as the students you have served. It has been my distinct privilege to be your supervisor. Many thanks ... Roger

Tactical & Regional Training Section

By Captain Teresa Plummer

Tactical Section:

It has been 2 months now since the Training Division Captains rotated positions and I count myself extremely fortunate to have been blessed with the Tactical Section. Every time I wander down to OPSA Village to watch training events, I am truly impressed with the professionalism, dedication, and enthusiasm of every one of our APT's, volunteers and role players. You are the ones who bring our training to life and provide students with the combined skills necessary to sustain their lifelong careers.

So Long to Steve Thiessen

Our full-time staff is equally as dedicated and always strives to make the training environment dynamic, forward thinking and progressive. As many of you have noticed, we said 'so long' to one of our Tactical members who has been an icon on the EVOC track for the last several decades. On July 22, 2015, Lt. Steve Thiessen hung up the reins and retired from full-time employment. The good news is that he will be back in a few months to continue training as an agency part-time instructor. Lt. Steve Westerberg was an easy choice to fill in as the EVOC coordinator because of his extensive background and experience with EVOC and the Skid Car program. He is doing a great job and we look forward to future curriculum changes that will incorporate more student-centered learning approaches.

Tactical Coordinator Position

With the "Steve to Steve" move, it created an opening for the Tactical Coordinator position. This is an extremely important role because as you all know; this person is, among other things, responsible for Patrol Week and all of its complexities. On August 24th, we held an assessment

and Regional Coordinator Lt. Corbin Lantz, was chosen to fill that role. Congratulations to Corbin, and we look forward to taking our scenario training and patrol week to the next level.

Changes to Patrol Week

For those who haven't been around during patrol week lately, we have made some pretty significant changes to the structure. Gone are the days of rigid scheduling and moving students from one station to another at designated time periods. The creative minds of our staff elected to make all patrol shift days more fluid and student initiated. We look forward to continuing this practice and we have seen positive and more realistic results because of it. The other significant change is that we are no longer using simunition projectile rounds during this week. We tested and discovered that blanks produce the intended outcomes to our objectives and the added benefits include less maintenance on the sim guns and students. Instructors and staff no longer have to wear the helmets. This adds realism and comfort to all those participating.

You may have also noticed that Director Eriks Gabliks has been making appearances and playing the part of a suspended driver on day 2 of patrol week. It has been fun having him out there, although sometimes he goes a little rogue and 'just happens to pick up a hitchhiker' that turns out to be a bank robber who's on the run from the cops.

Moral of the story ----

If you don't want to get your pants dirty, don't pick up hitchhikers because you'll probably get pruned out on a felony stop.



Technology Advances

On the technology front, the Tactical Staff would like to thank IS Specialist Marsha Morin for her hard work with the iPads used for student scenario evaluations. She recently made it possible for the tracking application function to work independently from the network, thus removing the frustrating aspect of being dropped from the system. This application allows us to track the time each student participates in a scenario and allows for real-time exchange of student performance. We will continue to develop this tracking application in the hopes that someday all of the venues will be connected and can share information focused on individual students so training can be specifically tailored.

Venue Safety

Please continue to maintain your vigilance when going through the safety portal as you enter the training venue. Although it can feel like a cumbersome routine, the integrity of our weapon free zone is extremely important for the safety of our students and fellow instructors and staff. Help each other out as you enter the portal by physically checking and making verbal inquiries about items on your person or in bags or lunch boxes; or if you are by yourself, make sure you physically check rather than just performing a mental acknowledgement. Thanks for your help and continued support with this.

Regional Training:

Our regional training program is equally as busy and even with 4 of them, the coordinators' schedules are jam packed with everything from EVOG, SFST's, Firearms, MILO, Building Searches, and Active Shooter (among many others). For those that don't know much about our Regional Trainers, I thought it might help to list who they are and where they work.

- ❖ Lt. Mike Herbes – Eastern Oregon
- ❖ Sgt. Mark Linville – Central Oregon
- ❖ Lt. Corbin Lantz – Willamette Valley Corridor and NW Oregon
- ❖ Lt. Jeff Waite – Southern Oregon
- ❖ Lt. Dave Beatty – SFST/Radar/Lidar

As part of an advanced firearms program, Lt. Mike Herbes is constantly pushing the training envelope with new and advanced techniques related to building searches, active shooter courses and Firearms IDC's. He recently put on a marine firearms class to assist those deputies who may be involved in deadly use of force situations while on the water.

A recent class held in Ontario instructed door breaching techniques and the students walked away with some new skills and tactics. This great action shot shows the shotgun in full recoil with the hull being ejected from the port just prior to making entry.



Lt. Jeff Waite’s specialty lies in EVOC and vehicle stops, although he also has building search, active shooter and firearms in his portfolio. Jeff has extensive experience with SWAT based on his time with Salem PD.

Sgt. Mark Linville is the newest regional coordinator, taking over for Lt. Greg Peterson upon his retirement. Mark and I have been Drug Recognition Experts and DRE Instructors together for more than a decade, so I am confident in his abilities in this area. However, I know he is anxious to get out and do more. Mark recently added building searches to his background and will be attending a MILO IDC in the fall.

Lt. Corbin Lantz, as stated in the Tactical Section of the newsletter, will be transitioning to the Tactical Coordinator position in the next few weeks. We will continue to honor his training commitments to our constituent agencies that have already been set up. Corbin has extensive experience in Firearms,

Active Shooter, MILO, Defensive Tactics, and vehicle stops. We look forward to having his knowledge and experience at the academy so we can enhance our scenario based training for the students.

Lt. Dave Beatty moved from the academy training section to the Regional Training team on July 1, 2015. Dave has extensive experience in SFST and Radar/Lidar.

Survival Skills Section

By Captain Gary Ninman

I would like to start this quarter's newsletter with a sincere "thank you" to all the full and part-time staff in the Skills Training section for the warm welcome I received with our recent supervisor transition. Upon coming to this section, I immediately discovered that I would be working with some of the most talented, dedicated, and hardworking people that DPSST has to offer. I am humbled and honored to have this opportunity to explore and learn from a new section of our division.

As many of you may have already heard, we will begin a total Firearms curriculum re-write in early fall. Commander Anderson, myself, and some of the Skills section staff are forming a workgroup that will be leading this process. The purpose of this curriculum re-write is to ensure we are supporting the Center for Policing Excellence (CPE) in their task of reviewing, revising, ensuring best practices, and ability to continually evaluate training in all areas. CPE's task in reviewing the Basic Police curriculum is monumental and this gives us an opportunity to greatly assist that process. During this project, we will be concentrating on many areas to include, but not limited to; emotional and physiological factors affecting officers in deadly force situations, best practices regarding gun handling tactics, marksmanship, tactical movements within a deadly force environment, staff usage efficiencies, round expenditure efficiencies, facility efficiencies, and equipment. The end product will be a progressive curriculum that is evidence-based, and utilizes best practices as identified through copious research. Right now, we have a target implementation date of early 2017. Much more to come and we will keep you updated.

The Skills section staff has been extremely busy in preparation for the significant uptick in basic class deliveries that is quickly approaching. In addition to maintaining a constant basic curriculum delivery, staff has conducted regional deliveries to include Milo IDC, Con-Sim IDC, various Use of Force updates, and Tactical Athlete, just to name a few. Staff has also been working with CPE to help get the first "new" OLCC basic class scheduled and the curriculum defined.

As you know, we have been experiencing significant instructor shortages in most training areas across the division. These shortages have caused us to critically review our scheduling needs and usage of instructors. To help combat this shortage, we have hired several part-time trainers to assist in Firearms, Defensive Tactics, and Con-Sim. To help us maintain adequate instructor staffing to provide the best possible training to our students and constituents, we are urging each of you to actively review and update your availability through DPSST Instructor Scheduling to ensure that you are up to date and ready to work when needed.

Lastly, there has been some staffing movement within the section recently that I want to make you all aware of. Mr. Rich Daniel has been temporarily assigned to lead the Fire Training section in the absence of Captain Mark Ayers (retired) and subsequent filling of that position. As you can imagine, this has kept Rich extremely busy and he is doing a fantastic job. With that, we have made some staffing adjustments in the Skills section to relieve the large void in Rich's absence. Cpl. Scott Willadsen is graciously filling in as the Con-Sim Coordinator and Sgt. Ben Ward has been assigned as the section's lead worker. I feel extremely confident in all three of these gentlemen's ability to lead their perspective areas in my absence.

Lt. Brandon Herring and I have been selected as the first DPSST representation to fulfill the ICITAP Bangladesh Law Enforcement Program assignment. We will be departing from PDX on September 14 and returning on October 8, 2015. While in Bangladesh, we will be assisting the country's law enforcement personnel and trainers in areas of leadership and instructor development and assessing the effectiveness of their basic training. We are honored to have been selected and will represent the state of Oregon and DPSST to the very highest standard. Upon our return, subsequent teams from DPSST and our neighboring constituents will be assigned to future missions.

Take care all,
Gary

Fire Training Section Update

By Rich Daniel

At the Academy:

Operation Smokey is currently active. On 8/19/15, Governor Brown activated 125 National Guard personnel for 3 days of wildland fire training and within a week activated an additional 250 men and women of the Oregon National Guard to assist with wildfire suppression efforts. Operation Smokey is a combined effort of the Oregon Department of Forestry, Oregon Military Department, Oregon Emergency Management, and DPSST for troops to be deployed during times of emergency by the Governor to help with wildfire suppression efforts when all other resources are depleted. The troops were trained by DPSST Fire Training staff onsite and are going to start relieving fire troops in the field as early as Wednesday, August 26th.

In the month of July, a Fire Officer III/IV Series was held at the Academy. We hosted a Burn Tower training as well as Vehicle Fire Prop training with Salem Fire Department #6 which was provided to Probationary Firefighters of Salem Fire Department.

Around the State:

The Fire Training Section traveled to Tangent Fire Protection District participating in the burning of their new Class 'A' live fire trainer.

During the past few months DPSST has inquired at several Fire Departments whether or not they believed there is a need for Airport Rescue Firefighter training for those agencies responding to non-certified airport emergencies. Based upon the information received, Fire Training Staff researched, developed, and submitted a training proposal that was approved. This fall the program will take shape and be ready for delivery by January, 2016. Projected delivery of this program is for 300 students in calendar year 2016.

Eastern Oregon hosted the annual Oregon Volunteer Firefighters Association Conference in Pendleton Oregon. For this event DPSST provided two days of firefighter skills and Mayday training to 22 firefighters from across the State. Additionally, we have been preparing the new vent trailers for full implementation.

DPSST Fire Training Staff spent three days at Bend Fire & Rescue running the vent prop through its paces. Over 60 of Bend's firefighters got the opportunity to train on the prop and found that the diversity of what can be done with the prop is a great resource to them.

During the month of July, the vent prop went from Bend to Redmond where 80 of Redmond Fire & Rescues firefighters were able to train on the prop. Additionally, a joint recruit academy between Black Butte Ranch, Sisters, Camp Sherman, and Sunriver Fire Departments was conducted.

The Skid Truck Program trained for several weeks in Ontario in June and July training about 22 firefighters. We are constantly looking for and investigating new sites to run this program so we can bring the equipment to new areas. Currently, we are working on getting the truck to Eugene, and Albany, which would both be new training sites.

DPSST has moved their Central Oregon Regional Fire and Law Enforcement Training Offices to co-locate with Redmond Fire and Rescue. The Central Oregon Fire Training Staff is working on new guidelines for the Flammable Liquids and Gas props and field exercises.

In the Northwest Region we were able to teach 7 classes to a total of 158 students including Clackamas and Clatsop counties. Some of those classes included Traffic Incident Management, Pumper Operator, and Mayday. Classes scheduled through December include Pumper Operator, Vehicle Fire Safety (Hands-on), Flammable Liquids & Gas Class (Classroom & HOT), Firefighter Survival, Mayday, various Officer Development and Instructor I.

Matt Barnhart stepped in for the South Willamette Valley region while DPSST recruits for a permanent Fire Training Coordinator. He has scheduled training in the region and with the considerable help of other Fire Training Coordinators has maintained a busy schedule of training in the region. He has already had several very successful Flammable Liquids and Gases (F.L.A.G.) classes in the area.

SAVE THE DATE FOR WINTER FIRE SCHOOL

February 20 & 21, 2016



Important News Flash

To all DPSST Instructors

A recent upgrade to the ATOMS scheduling software will now allow us to automate dorm room reservations and room assignments. Though there is no guarantee you will get a single room, assignments will be generated randomly and priority for available single occupancy rooms will be based on your length of stay. For example, an instructor who schedules the entire patrol week will be given the highest priority for an available single room. Conversely, those who only stay one night will receive the lowest priority.

Please continue to contact Dorm Staff to make and confirm reservations. We hope this new, impartial computer-generated process will make things easier and more equitable. As we move forward, we will notify you of additional process changes. Thank you for all of your continued support and dedication to DPSST.

If you have any questions or concerns, please contact your Captain.