



DPSST Newsletter

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

Legal Corner

By Lorraine Anglemier

A recent case out of the Oregon Court of Appeals got me thinking about questions I get asked frequently, namely, “What do you mean a police officer is trespassing when they go around the side of the house? Or in the back yard? And what’s all this talk about curtilage?”

In *State v. Coffman*, (Oct. 8, 2014), defendant lived in the basement of a house, the door to which basement was located in the house’s backyard. There was nothing to indicate to any visitor approaching the front of the house, that there was any residence in the back of the house. However, in 2008, police investigated a marijuana grow at this house and learned defendant lived in the basement, and that the door to his living quarters was located in the backyard.

Fast forward to 2011, and officers once again suspect a grow at this same house, in defendant’s “residence.” The officers read the reports from 2008, and learned the only way to get access to defendant’s residence was to walk along the side of the house to the backyard. When the officers arrived at the house, they went directly to the backyard to knock on defendant’s door. To do so, they walked on a path alongside the house, through a closed gate, and into the fenced backyard. The officers knocked on the screen door, and defendant said, “Come in.” The officers requested and obtained consent to search and found an out of compliance medical marijuana grow site. Defendant moved to suppress all evidence seized, arguing his constitutional rights were violated when officers entered the backyard without a search warrant or applicable warrant exception. Further, defendant argued, because there was nothing indicating to an objective visitor that he or she could go into the backyard to contact defendant, the officers’ entry was a trespass.

The trial court denied the motion, finding that because of the special knowledge of the officers, which any member of the public dealing with defendant might also possess, the officers had not trespassed by going into the backyard. Defendant was convicted and appealed.

The Court of Appeals began by reciting established law on this topic. I’m omitting the numerous citations, but feel free to contact me if you’d like these.

Article I, section 9, (“Oregon’s Fourth Amendment”), “provides protection not only to an individual’s house proper, but also to the area surrounding the house, known as

the curtilage.” The “curtilage” of a home is the land immediately surrounding and associated with a person’s residence. Under the Oregon Constitution, a warrantless intrusion onto residential curtilage is presumptively a trespass, unless the entry is privileged or the defendant has given express or implied consent. A trespassory intrusion onto the curtilage of a person’s home violates Article I, section 9.

The defendant and the state had agreed that officers intruded upon curtilage when they entered the backyard. The legal question on appeal was whether that intrusion was a trespass or, instead, the officers had “implied consent” to enter the backyard. The court articulated, “...the precise issue on appeal is whether the trial court erred in concluding that the officers’ subjective knowledge that the door in the backyard was the only door to defendant’s apartment could be the basis for implied consent to enter the backyard without a warrant.” The state’s argument was that this *subjective* knowledge was sufficient. Defendant argued the test for implied consent onto curtilage is an *objective* one.

A resident impliedly consents to members of the public going to his or her front door, so long as the resident has not “manifested intent to forbid the intrusion of casual visitors onto the property.” This presumption derives from social norms and expectations. Examples of beneficiaries of this implied consent are Girl Scouts selling cookies, and political candidates. However, “such a presumption of implied consent to enter is not ascribed to other areas of the curtilage.” For example, “...going to the back of the house is a different matter. Such an action is both less common and less acceptable in our society. There is no implied consent for a stranger to do so.” And, “as a general matter, an officer may enter a front yard and knock on a front door, but an officer may not enter a backyard and knock on a back door” unless the resident has manifested a contrary intent.”

The court then reminded the parties that the presumption of implied consent to approach a front door is based on social norms and whether an *objective* member of the public would understand there to be an implied invitation to approach the residence. And by “front yard” or “front door,” they are referring “to what an *objective* visitor would regard as being the primary entrance to the property.”

Ultimately, the court ruled the fact that officers knew that defendant was using the back door as his front door does not establish his implied consent, absent a showing that an objective visitor would also have concluded that he or she was impliedly invited to contact defendant at that door. The state had the burden of proving an implicit invitation to public entry sufficient to overcome the presumption of trespass. The state had agreed they couldn’t “show anything about this door that would have reflected to the public that the public was generally invited back there.” Therefore, the court concluded that the officers’ entry in this case was a trespass, and a violation of defendant’s right against a warrantless search.

Questions? As always, feel free to contact me at lorraine.anglemier@state.or.us

Academy Training Section

By Captain Teresa Plummer

The holidays are upon us and the weather is getting colder. Over the past several weeks, we have had several accomplishments occur at the academy.

On September 26, 2014, Basic Telecomm 91 graduated and earned the academic and drill & ceremony guidon awards. This is only the second time in Academy's history that a telecomm class has earned both awards. Congratulations to BT91 and Lt. Tami Atkinson.

On October 10, 2014, Basic Parole and Probation 68 graduated. This class curriculum, which was completely re-written, utilized the student-centered learning model employing instructor facilitation and the use of iPad technology for their five weeks at the academy. This new methodology was a huge success and allowed students to develop and use their critical and higher order thinking skills. We look forward to expanding this methodology in the remaining disciplines over the next few years.

Basic Corrections Local 016 graduated on November 14th and became the second class ever, in any discipline, to graduate with all four guidon citations as well as the coveted Director's Award. The guidon awards include: Academic, Drill & Ceremony, Skills, and Tactical. These awards are not easy to achieve and the students must initially meet and continue to sustain the standards to keep the awards. Congratulations go out to Sgt. James Webb and all members of BCL016 for their outstanding effort.

For the fall quarter, the following activities took place:

- September 26, 2014 - BT91 graduated with Lt. Tami Atkinson as the primary class coordinator
- October 10, 2014 - BPP68 graduated with Training Officer Staci Yutzie as the primary class coordinator
- November 7, 2014 - BP345 graduated with Sgt. Lisa Trimble as the primary class coordinator
- November 14, 2014 - BCL016 graduated with Sgt. James Webb as the primary class coordinator
- November 24 - 28, 2014 - Thanksgiving **DOWN WEEK** at the Academy - *NO CLASSES IN SESSION FOR ONE WEEK

For the winter quarter, the following activities will take place:

- December 8, 2014 - BCL017 has begun with Sgt. James Webb as the primary class coordinator
- December 8, 2014 - BT92 has begun with Lt. Tami Atkinson as the primary class coordinator
- December 22 - January 2, 2015 - Christmas **DOWN WEEKS** at the academy * NO CLASSES IN SESSION FOR TWO WEEKS
- January 5, 2015 - EMD54 will begin with Lt. Tami Atkinson as the primary class coordinator

- January 5, 2015 - Supervision (SLA) # 7 will begin
- January 23, 2015 - BP346 will graduate
- January 26, 2015 - BP348 will begin with Lt. Don Sedlacek as the primary class coordinator
- January 30, 2015 - BCL017 will graduate
- February 9, 2015 - OSP Pre-Academy will begin
- February 16, 2015 - BCL018 will begin with Sgt. James Webb as the primary class coordinator
- February 20, 2015 - BP347 will graduate
- February 27, 2015 - BT93 will graduate

Fall Quarter Trivia Question:

What is the newest training prop in the OPSA village?

Answer: The school prop is the newest training “building” in scenario village. It has simulated classrooms, hallways, and offices to help officers train in the event of an active shooter situation.

*In order to ensure that our entire corps of part-time, agency loaned, and volunteers are receiving the most up to date information regarding policies mandated by the Department of Administrative Services (DAS), we will be attaching 6 policies annually to our winter newsletter. These policies should be reviewed by all. Please be advised that you will be signing a policy confirmation document at the time you renew your Limited Duration Agreement, indicating that you have reviewed and understand these policies.

If you are retiring effective this year with your current primary PERS employer, you **must also submit your retirement request to DPSST with the same effective date. Please work with your supervisor, DPSST Human Resources (HR) and DPSST Payroll to ensure all wages are paid to you in a timely manner. If you wish to continue your part-time employment with DPSST, notify HR of your desire to so and HR will work with you to ensure your retiree start date is the first of the next month. For example, retire effective 12/31/14, and re-employ as a PERS retiree effective 1/1/15. Note: this ‘next month’ reemployment may not be available for OPSRP retirees.

As a Tier 1 or 2 retiree, you may work up to 1039 hours with PERS employers in a calendar year, as an OPSRP retiree you may work up to 600 hours. As a Tier 1 or 2 retiree, you may be eligible to work ‘unlimited’ hours under a PERS exemption; however, you will still be limited to 300 hours in a calendar quarter under your limited duration agreement.

We invite any of our instructors and role players to provide feedback and ideas for our newsletter so that we may tailor this information to what you need or want to know. Please feel free to call me at 503-378-2191 or email me at teresa.plummer@state.or.us if you have any suggestions.

Tactical & Regional Training Section

By Captain Gary Ninman

Greetings all! The Tactical Training Section hopes that you have enjoyed the Holiday Season thus far and are able to spend time with friends and family in the process. As you know, down week(s) is also a time for the full time staff at the Academy to slow the hectic pace and for many take some much needed and deserved time off.

This break will undoubtedly be short lived as we begin to ramp back up with a fairly constant training schedule through late spring 2015. As some of you may have noticed, we have been experiencing some unprecedented instructor shortages in most of our venues for the past several months. In an attempt to help reduce those instances as much as possible, we ask that you update your availability with DPSST scheduling department as early as possible for the first quarter of 2015. We fully understand that things in life unexpectedly come up that we cannot predict nor control that would require one to cancel for scheduled days. The sooner that communication occurs, the better chance we (Amber) have of filling that void and maintaining minimally adequate instructor numbers to conduct training.

We have added a new unit to our fleet of patrol vehicles as a replacement for the Crown Victoria that was involved in a crash last spring. The vehicle is a 2014 Ford Police Interceptor Explorer. This is a higher center of gravity vehicle and serves a very specific purpose within our training fleet. The vehicle will be used by authorized certified EVOIC instructors only and will address the nuances posed by this type of vehicle. Students that will be utilizing this vehicle are those who will be driving like vehicles once back at their agency. We feel that this is a great example of our responsiveness to our constituent needs.

You may have also noticed the newest addition to the “threat or soft” vehicle fleet. Through many months of work and coordination, Lt. Wan was instrumental in acquiring an 18 passenger transit bus. This bus is similar to what you may have seen at a care facility or Cherry Lift type vehicle. It fills a void between our full sized transit buses and passenger cars. It will be utilized for scenario training, tour transport and role player protection from the elements.

Additionally, we will be completing our newest venue update within the next two months. The OPSA Village Video Store is being decommissioned and retrofitted into a more relevant and modern venue. “Smoke N Mirrors” will take the place of the Video Store and will help us address, by way of scenario based training, an evolving topic of law enforcement discussion and concern. Smokes N Mirrors will have numerous marijuana related paraphernalia, hydroponic grow products and alternative décor and products. This will allow the Tactical Training staff to write and administer scenarios to address recent and forthcoming legislation on the various topics.

DPSST is very fortunate to have an amazing group of individuals that volunteer their time to assist us in delivering training to our students. These folks are an essential element in the ability to adequately staff our scenarios and provide a level of realism that few other training entities enjoy. Often times, the volunteer roles players bridge the gap between needing to cancel a scenario and making it happen. Although, there

are so many that are worthy of significant recognition, we wanted to recognize just a few in particular. Of the 1538 total hours worked by our volunteer role players (not to include the hundreds of hours of DUII drinkers), five individuals went far and beyond our expectations. The Top Five (by Hours), Kathy Thiessen: 234 hours, Mark Stoddard: 197 Hours, Beth Mayer: 193 Hours, Amber Miller: 149 Hours, LuAnn Stoddard: 130 Hours

If you have an opportunity to thank these folks, please take a moment to express all of our gratitude for their service.

The Regional Training team is now fully staffed, equipped, and in full swing of delivering training to our constituents agencies throughout the state. The team has been very busy, in addition to delivering training; updating, purchasing and outfitting a vast majority of the training equipment used in the field. We have purchased and outfitted new trailers for ConSim, EVOC and Firearms related deliveries. This has included the purchase of new weapons (both FX and UTM Brand), AR-15 bolt conversions, safety equipment, blue handled guns, storage, traffic cones, scooters, and many other much needed items. The team is anticipating a very busy 2015 training year and is now equipped to handle the task.

In late November, the Regional Training staff, along with various Tactical team members, DPSST Fire Section personnel and Commander Anderson attended the ALLERT Active Shooter conference in Texas. We joined a group of national and international law enforcement, fire and EMS partners to discuss and train on the latest trends, tactics, philosophies and statistics with regard to the topic of active shooter incidents. One of the key focusses of this event was the topic of integrated response. This is global and holistic response to these incidents which include considerations of fire personnel, EMS, law enforcement, media, hospitals and various other affected entities. With the information learned, we will be meeting to develop a regional Active Shooter IDC as well as the potential for a command level type delivery. There will be more information coming on this topic in the next couple months.

In an attempt to bolster our regional APT staff, we recently open a hiring recruitment for Regional Instructors. This recruitment may be found on our website for those who have further interest. Although the recruitment will be open for some time as a continuous recruitment, we anticipate having the initial assessment sometime in late January, early February.

Lastly, the Regional Training staff has partnered with Sgt. Nick Hurley of the Academy Training Section to develop and deliver Police Training Officer (PTO) Course / Reno Model. *Overview:* The Reno Police Training Officer (PTO) model is based on the teaching principles of Problem-Based Learning (PBL) and emphasizes the need for the PTO to function primarily as a trainer rather than as an evaluator. PBL is firmly established in the fields of medicine and education, where it is used to facilitate the

transfer of knowledge. Similarly, in policing, recruits need to learn much more than just laws and police procedures. They must also understand how to transfer their academy knowledge effectively when dealing with individuals and issues within a community. As demands on police continue to increase, agencies must provide officers with the resources and the training necessary to fulfill their expanded role. This approach will help police recruits think about their roles and responsibilities as they approach specific problems in their daily work. Problem solving is an integral part of police work and requires a creative and flexible method of thinking. The PBL model encourages flexibility and creativity and this training model is designed to emphasize community-oriented policing principles and leadership development and train new recruits to be problem-solvers as they enter the field. This model is adaptable to any discipline within the criminal justice system (Corrections, P & P, etc.).

By early spring 2015, the goal is to have developed and begin delivering an Instructor Development Course so that we can begin to bring this innovative and progressive method of field training to all of our constituent agencies.

On behalf of the entire Tactical and Regional Training Section, we want to thank you for your continued support and dedication of our training programs. Please have a safe and prosperous New Year.

Survival Skills Section

By Captain Roger Eaton

As we approach the holiday season of 2014, Survival Skills along with the other sections of the Training Division have been very busy. We graduated BPP68 on October 10th, BP345 and PPFA22 on November 7th and BCL016 on November 14th. We currently have two basic police classes in session, BP346 and BP347.

All of this work could not have been accomplished without the dedication and commitment of our Agency Part Time (APT) instructors, Agency Loan instructors and volunteers. Albeit, our full time staff is talented and committed as well but we simply could not put on the amount and quality of training that we do without your help. Especially during this Thanksgiving season, I am thankful for each of you.

The Physical Training program within Survival Skills has recently purchased and taken delivery of a substantial and impressive amount of strength and conditioning equipment from a South Carolina based company, Sorinex. This will give our students the opportunity to improve their strength and conditioning while at the Academy. Our goal for our students in the Health and Fitness area of curriculum is that they adopt a lifestyle of fitness that will keep them healthy throughout their careers and throughout their retirement years. This equipment will be a great asset in accomplishing that goal.

The Firearms program will have their final National Rifle Association (NRA) instructor class for 2014 on December 1-5 at DPSST. We have already scheduled three more NRA instructor courses in 2015 to be held at DPSST; handgun in January, handgun/shotgun in June and rifle in December.

The Defensive Tactics (DT) program just finished offering a three day class in Extreme Close Quarter Concepts with guest instructor Craig Douglas from Mississippi. Highly physical, intense and demanding, the training was some of the best nationally regarding close quarter contact. The DT program will continue to offer nine two day Training Modules in 2015. This will be in addition to a one week DT Instructor Development Course (IDC) and a one week Confrontational Simulation (ConSim) IDC in March/April and August, respectively. The two day Use of Force module has been very popular and will be offered three times in March, April and September of 2015.

Thank you for all of your help in 2014. You have made it a very safe and productive training year.

Fire Training Section Update

By Captain Mark Ayers

Matthew Barnhart has accepted a position with DPSST and will replace the position vacated by Era Horton. Lt. Barnhart will begin his career with DPSST on December 1, 2014. Working out of the Salem office, Matt's primary duty will be delivering the Skid Truck program (Code 3 driving) around the state. He says that rescue diving is his passion so, to be able to work within this field, he needed to be in the fire service. Matt landed at Coburg Fire District in 1999 and over the years, he tested his way through Firefighter II, Apparatus Operator and Captain. He is currently one class shy of completing the Task Force Leader certification for conflagration. Although hoping to stay within the Eugene area to continue work and education, he is excited to begin his career in Salem with DPSST. He is looking forward to finding a new home and locating a fire district that is looking for a motivated volunteer. Matt is a water enthusiast who likes to dive and fish. Matt's contact information will be provided in early December.

Michelle Deazley has accepted a position with DPSST and will replace the position vacated by Steve Roehl. Lt. Michelle Deazley will begin her career with DPSST on December 1, 2014. Working out of the Eugene office, Michelle will support Lincoln, Benton, Lane and Linn counties. She comes to us from the Orange County Fire/Rescue Department (Florida) with 10 ½ years of experience. Starting out as a Firefighter/EMT, since she was already in Paramedic School, Michelle was quickly "promoted" to Paramedic. Since the department was still growing into the role of transport, she settled into the assigned position of a floating paramedic for six and a half years. During this timeframe, Michelle was taking all the Technical and Truck classes so she would have the chance to occasionally sneak off the box. Although she

did get to know every square inch of the County, the floating part gave her an incredible desire to study hard for promotional exams. Michelle promoted to Engineer and within 4 months, became a Lieutenant. She was sent to a Special Operations Station for her first two and a half years. Michelle worked for the past eight months at Station 56 in the high-rise commercial hotel district on International Drive. Additionally, as a part-timer at Walt Disney World, she participated as an Advanced Rescue Patrol cast member, performing boat rescue and safety enforcement on Bay Lake and Seven Seas Lagoon near the Magic Kingdom. In her spare time, Michelle obtained her Master's Degree in Emergency Management in 2011, and just started her third year in the Doctor of Science Program in Emergency Management at Jacksonville State University. Outside of the Fire Service, she teaches Scuba Diving and enjoys nearly every outdoor activity. As per Michelle, "I look forward to learning the ropes and I know I will truly enjoy meeting some amazing people along the way". Michelle's contact information will be provided in early December.

Reserve these dates now! What: Winter Fire School "2015". When: February 21-22, 2015. Location: Oregon Public Safety Academy, 4190 Aumsville Hwy, SE, Salem, OR 97317.

- Strategy & Tactics for Initial Company Operations: (16 hour class) (FGL - FO I)
- Incident Safety Officer: (16 hour class) (FGL - FO I or FO II)
- Preparation for Initial Company Operations: (16 hour class) (FGL)
- Training Operations in Small Departments (Maintenance)
- Health & Safety Officer: (16 hour class) (FO I or FO II)
- Leadership II (Maintenance)
- Decision Making for Initial Company Operation: (FGL - FO I)
- Vehicle Extrication: (16 hour class) (FF II)
- Chief's Toolbox 7, 8, & 9: (16 hour class) (Maintenance)

The registration form is available on the DPSST website at <http://www.oregon.gov/DPSST/FT>. Look for "Fire Training News" and select the "Winter Fire School 2015" link. This action will open the flyer (allowing you to select a class and register for Winter Fire School).

Fax applications to: Thelma Denney, Fire Training, (503)-378-3345, any questions? Email or call Thelma at 503-378-2408, or E-mail: thelma.denney@state.or.us.

NFA N0332 - Effective Leadership Skills for Fire and EMS Organizations: DPSST, in conjunction with FEMA Region 10 and the NFA, is pleased to host this 10-day course that is designed to prepare Fire/EMS managers to work more effectively with other personnel in their organizations. Participants begin with a critical self-assessment of their individual managerial strengths and weaknesses, which results in a specific plan for their own professional and personal development. Techniques for creating effective organizational environments are defined. Components of a successful human

resource development plan are examined. Prerequisites: ICS 100 level and ICS 200 level training. Preferred courses are Q462 and Q463 available through NFA Online at www.nfaonline.dhs.gov. Chief's signature attests that the applicant has completed this required training. Register: http://www.usfa.fema.gov/downloads/pdf/ff_119_25_1_75_5.pdf. Once you have completed the NETC 119-25-1 form, fax to Thelma Denney @ 503-378-3345. Deadline for registration is December 10, 2014. This class has been approved for delivery by the NFA.