Arizona Association for Property and Evidence

LOCK & KEY FALL EDITION 2012

Promoting Professionalism in Evidence Management since 1992

President's message

Once again, it was another successful training seminar. It was wonderful to see everyone and share stories. All the topics were engrossing and I came home with many new ideas.

Lt. Frank Caldwell spoke on ethics in Property & Evidence. He was so entertaining and simplistically accurate in his advice. " Documentation is your friend". Detectives Sullivan and Swanson from Scottsdale captured the full attention of the room with their technical savvy. They suggested verbiage be added to our agencies' general orders, outlining the exact steps for submitting a cell phone. A general order that requires investigators to turn off cell phones and remove the batteries will eliminate the constant ring in the ears of the property unit.

Phoenix Crime Scene Specialists Raponi and Barragan impressed the audience with their experience and thoroughness related to evidence collection. No longer are Crime Scene Specialists just operating under the instruction of the detective, but instead must independently justify why an item was collected or not collected at a scene. Support staff is being held at a higher standard than in the years past. Lastly, Attorney Greg Hazard spent a great deal of time researching the contradictions between the State and Feds, associated with the release of medical marijuana and firearms to a medical marijuana user. He provided so much valuable information my pen ran dry. He was able to clearly demonstrate none of us are wrong in the choices we are making, because there is nothing clearly outlining what is right or wrong. I left satisfied I am safe, as long as I am acting in the best interest of the agency.

I hope everyone who attended left with a piece of information that can promote a new change. Take time to review your notes and react quickly. Statistics show if you do not immediately implement a new idea, it most likely won't happen. Don't let the enthusiasm generated at the conference die without results.

Nancy

Arizona Governor Signs Bill Allowing Law Enforcement to Sell Confiscated Firearms

Yesterday, Arizona Governor Jan Brewer signed into law Senate Bill 1241, an important gun bill relating to forfeited and seized weapons. Introduced by state Senator Rick Murphy (R-9), SB 1241 passed in the state Senate by a 21 to 9 vote on February 16 and passed the House by a 43 to 12 vote on March 27.SB 1241 will allow law enforcement departments to sell or auction any firearms forfeited or seized from criminals to licensed gun dealers. Currently, law enforcement departments have been destroying these seized firearms. Thank you to Governor Brewer for signing SB 1241 into law and to the state legislators who voted for it.

Posted 04/05/12 on the NRA website. Too bad some of their facts are wrong. SB1241 may require the sale of forfeited firearms. And currently, not all law enforcement agencies are destroying seized firearms.

Editor

Editor's Ramblings

I hope those of you who weren't able to attend the annual seminar in Prescott this year can pick some gems from my short synopsis of the training. I know a few words on a page do not bring across all we were taught, so I hope you will start planning to attend next year's seminar to be held in Prescott, but at a new venue. Stay tuned for more information.

With the passing of Neil Armstrong I thought this sign might be appropriate.

And with the elections coming, this sign is definitely appropriate.

And with that, please get out and vote in November. It doesn't matter to me who you vote for, just that you exercise your right to vote. There are many who have fought and died to protect your rights; including the right to vote. Don't let them down.

Bob azevidence@gmail.com

CROSS POLICE LINE - DO NOT CROSS POLICE LINE - DO NOT CROSS POLICE

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LOCK & KEY FALL EDITION 2012

Arizona Association for Property and Evidence

By PoliceOne Staff July 12, 2012

MEDFORD, Ore. — Police can keep $1 million given to a lottery winner who purchased a ticket illegally in 2005, an Oregon court has ruled.

Christina Elizabeth Goodenow, 45, used the Visa card of her boyfriend's late mother to buy the ticket and $12,000 in other purchases, and pleaded no contest to the charges on three occasions, The Mail Tribune reported.

She was sentenced to probation, which required the money be forfeited to Medford police. She filed an appeal in 2007 to try to keep her prize.

The appeal was denied in the Oregon Court of Appeals Wednesday. Judges decided the forfeiture was not excessive because it took money collected via criminal means and did not impose a fine.

Chief Tim George said some of the funds will be used to expand the evidence and property room.

"This is long-awaited good news for the City of Medford," George said.

Lord, help us push our clouds away so we may more clearly see the paths you have chosen for us.
Help us look for and find the good in all things.
Help us remember You can turn our fears into courage, our weaknesses into strength and our trials into triumphs.

Amen

September Quarterly Meeting -
The fall quarterly meeting will be held on Wednesday the 12th at the Glendale Regional Public Safety Training Center Room 109 located at 11550 W. Glendale Ave, Glendale, AZ. 85307 (West of Glen Harbor Blvd on Glendale Ave, North side of Glendale).

Welcome to the Glendale Regional Public Safety Training Center

Speaker will be Tom Pennington, Forensics Tech, will be speaking about the NIBIN process conducted at Glendale PD.

Security of Property Used for Training Purposes

CALEA's Standards for Law Enforcement Agencies, Chapter 84, requires the property and evidence control function to provide for the security and control of seized, recovered, and evidentiary property as well as abandoned, lost, or found property in the custody of the agency. This is critically important in supporting investigations, in helping to guarantee successful prosecution at criminal/civil trials, in facilitating the timely return of property to its rightful owners, and in establishing the agency's reputation as an honest, reputable agency worthy of the public's confidence and trust.

To this end, it is critical that agencies develop and maintain strict measures for the receipt, handling, security, and disposition of property. This includes controlled substances, weapons, and other items the agency uses for training purposes, which are often illegal to possess. The most common example is narcotics used by canine handlers for the purpose of training drug detection in field situations.

Agencies using controlled substances, or other items of contraband for the purpose of investigation and or training, must establish in their procedures the legal requirement allowing its use and the method used by the agency to guarantee the integrity of the items. Not only is the requirement to establish accountability considered a best practice for public safety agencies, it provides for staff responsibilities which prevents unsubstantiated allegations of misconduct.

Examples of policies that work to support this standard include directives on the appropriate storage of such property, periodic inspection by supervisors, requisite weight or measure reports, and signatures for the acceptance by specific personnel. In short, the property should be considered evidence and handled with the due diligence required for chain of custody reporting. Like all good public safety policy, written directives that adhere to the tenets of this CALEA Standard provide safeguards for employees and agency leadership, while enhancing the public's confidence in the organization. To this end, the management of property that is otherwise illegal to possess will always be a high liability area for public safety agencies and requires the utmost care to maintain the agency's credibility and capacity as a component of the broader criminal justice system.

If you discover you need additional information as it relates to this standard, please contact your CALEA Regional Program Manager at 703.352.4225 or consult the CALEA website for a listing of staff email addresses found under the About Us tab.

Source: CALEA E-Communiqué #8

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Scottsdale, AZ 85258

Detective Sullivan
Scottsdale Police Department

Lane Darling
Mesa Police Department
Property & Evidence Supervisor

Arizona Association for Property and Evidence

b Our Daily Bread

Cherry Bliss Brownies

- 1 19.5-ounce package brownie mix
- ½ cup vegetable oil
- 3 eggs, lightly beaten
- ¼ cup water
- 1 8-ounce package cream cheese, softened
- 5 Tablespoons butter, softened
- 1/3 cup sugar
- 2 eggs, lightly beaten
- 2 Tablespoons all-purpose flour
- ¾ teaspoon vanilla
- 1 21-ounce can LUCKY LEAF ® Regular or Premium Cherry Pie Filling

Preparation

Preheat oven to 350ºF.

In a large bowl prepare brownie mix according to package directions, using oil, eggs, and water. Spread batter in a 13”x9” greased baking pan. Set aside.

Beat cream cheese and butter in large bowl until fluffy. Add sugar. Beat in additional 2 eggs, flour, and vanilla. Drop spoonfuls of the mixture over brownie batter in pan. Use a knife to gently cut through batters to create a marble pattern.

Spoon LUCKY LEAF Cherry Pie Filling over top. Bake for 50 to 60 minutes or until toothpick comes out clean. Cool completely before serving.

Servings: 24

Cooking Time: 60 minutes

Lee

This issue’s tee-hees!

All it takes is two eyewitness accounts of the same traffic accident to make you wonder about history!

You know you’re getting old when it’s the doctors and not the cops warning you to slow down.

There comes a time when you have to put your foot down. After all, keeping it in your mouth constantly will wrinkle your toes.

World Wide Web Resources

HB2371 AAPE Sponsored bill on unclaimed property:
http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=2371&Session_Id=107

Department of Health Services comments on medical marijuana:
http://www.azdhs.gov/prop203/

Find your state legislator, or what district you live in:
www.azleg.gov
And click on “How do I Find My Legislators”.

Find Arizona Revised Statutes at :
http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp

Find City Municipal Codes at :
www.municode.com/library/clientlisting.aspx?stateid=3

Find the Arizona Association for Property & Evidence at: http://208.106.133.174/

Find the International Association of Property & Evidence at: http://www.iape.org

Find the Arizona State Retirement System at:
www.azasrs.gov

Find the Arizona Public Safety Retirement System at:
http://www.psprs.com/

Arizona Emergency Information Network
http://www.azein.gov/azein/default.aspx

What else would you like to see here? E-mail me at azevidence@gmail.com ***Bob***

Arizona Association for Property and Evidence

Macayo's Mexican Kitchens have nominated the chimichanga as Arizona's official food. Vote here:

AZ100YEARS
CELEBRATE THE ARIZONA EXPERIENCE

This summer was so hot, Attorney General Eric Holder was selling water guns to Mexican drug gangs.

True story!

Sunglasses date to fifteenth century China where judges wore them during court to conceal their expressions?

2012 Seminar Presentations

Ethics in Property & Evidence Room

Presented by Lt. Frank Caldwell

Lt. Caldwell talked about ethics in general and then focused on Property & Evidence. Discussion included:

- Early warning systems
- "Be lazy—do it right the first time"
- How is the employee to blame if the supervisor does not train or verify?
- Turner's Evidence Technology magazine article *"Property Room—Friend or Foe?"* (http://evidencemagazine.com/v10n3.htm)

Computer & Phone Forensics

Detectives Sullivan & Swanson

The Scottsdale detectives discussed:

- Cellebrite software is the best computer and phone forensics tool
- Apple I-phone software serial numbers are only available in the software
- Phones use flash memory which requires battery power. Remove the battery to preserve the data
- Usually the battery needs removed to find the manufacturer, model number and FCC number—this number is unique to the type of handset
- Apple I devices push the power button and slide the red arrow to shutdown
- Blackberry devices that are password protected are not crackable

Crime Scene Processing

Crime Scene Specialists Barragan & Raponi

The Phoenix PD Crime Scene discussed:

- Processing at crime scenes
- Contaminated swabs from the manufacturer
- Final Exit assisted suicide networks
- Freeze decomposition evidence

Marijuana and Guns

Attorney Gregory Hazard

See page 7

Arizona's Medical Marijuana Law

Lane Darling

See page 9

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Attorney Gregory Hazard of the Pinal County Attorney's Office spoke on Medical Marijuana and firearms. Please remember the presentation represented his personal views as an attorney and do not represent the views of the Pinal County Attorney's Office or the Arizona Association for Property & Evidence (AAPE). The AAPE believes that each of our member's departments should obtain their legal advice from the appropriate legal representative for your agency.

Medical Marijuana is not recognized by the federal government. The Controlled Substances Act does not recognize any medical use for marijuana. Federal law trumps state law and may be prosecuted at the federal level.
Gonzales v. Raich 545 US1 (2005) Filing charges are up to "prosecutorial discretion"

ARS 36-2811 G says:

> "Property, including all interests in the property, otherwise subject to forfeiture under title 13, chapter 39, that is possessed, owned or used in connection with the medical use of marijuana authorized under this chapter or acts incidental to the medical use of marijuana authorized under this chapter, is not subject to seizure or forfeiture. This subsection does not prevent civil forfeiture if the basis for the forfeiture is unrelated to the medical use of marijuana."

We all rely on Title 21 (Controlled Substances) of the US Code Section 885 (d) for immunity for prosecution for possession of a controlled substance in the course of our duties.

(d) Immunity of Federal, State, local and other officials

Except as provided in sections 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

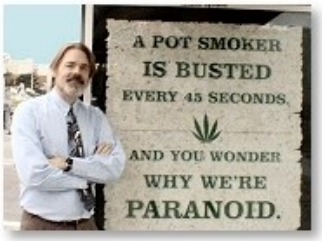
Unfortunately, Title 18 Chapter 44 (Firearms) US Code Section 922 (d) does not offer the same immunity from the requirements of this law.

In Willis v. Winters, the Oregon Supreme Court (part of our US 9th Circuit Court) rendered the decision that concealed weapons permits could not be denied to admitted regular users of medical marijuana. The Oregon Court decided that the Federal Gun Control Act did not preempt the state's concealed handgun licensing statute. Arizona Revised Statues (ARS) 36 Chapter 28.1 (Arizona Medical Marijuana Act - http://www.azleg.gov/arizonarevisedstatutes.asp?title=36) prohibits discrimination based on the medical use of marijuana. In spite of this, Federal Law does consider anyone who is "an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)" to be prohibited from possessing a firearm. As a Property & Evidence employee this means the Federal Government believes that transferring a firearm to a person that you know has a Medical Marijuana Card is a violation of Federal Firearms Laws, and your job duties provide no immunity from prosecution. Based on limited case law, Attorney Hazard believes the intent of the state law allows release of a firearm, as Property & Evidence employees are different from firearms dealers. If a person volunteers the information that they are a Medical Marijuana Card holder, it may be wise to withhold release of a firearm without a court order. There is no way to check a person for possession of a valid AZ Medical Marijuana Card without the card number, so unless the information is volunteered, it is impossible to "knowingly" transfer a weapon to a prohibited possessor.

Court decisions have been rendered that an "occasional" drug user is exempt from federal firearms laws. Possession of a firearm with personal use drugs is not enough to warrant a violation of those statutes.

Attorney Hazard's personal recommendation is not to return medical marijuana, "spice" or "bath salts" without a court order.

One of our members mentioned that ATF had provided training at their agency that ATF considers a medical marijuana cardholder to be prohibited from possessing a firearm for the time the card is valid, plus one year.
Also noted was ARS 13-3413 C states that all drugs (including legal prescriptions) are forfeited and need not be returned to the owner.



With the Arizona Medical Marijuana program being so new, there are sure to be court decisions to come, so please stay tuned. Please remember, the thoughts provided in this article are those of Attorney Hazard, my interpretation of his training and my personal views. Make sure you seek the guidance of your management and their legal advisors. *Editor*

Arizona Association for Property and Evidence

September 2012

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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October 2012

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November 2012

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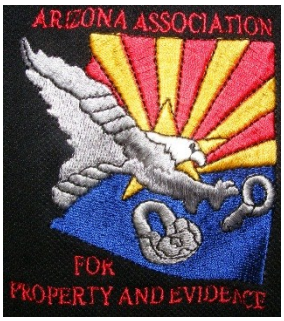
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Dates of interest

Sept. 3—Labor Day
Sept. 12—AAPE Quarterly meeting @ Glendale PD 1000 hours
Nov. 11—Veteran's Day
Nov. 22—Thanksgiving Day
Dec. 25—Christmas
Jan. 1, 2013 *Happy New Year*

Association polo shirts are available. Please see Nancy, Mary, or any board member for prices, sizes, colors and an order form.



Association Coin Back (front is same as the Seminar coin, but antique copper instead of bright copper)

2010 Seminar Coin Front

The 2010 Seminar coins are bright copper and the back is the Yavapai County Courthouse.

The front is the same as Association Coin.

2010 Seminar Coin Back

Association coins - $10.00

2010 Seminar coins - $10.00

Easels & Cases - $1.00 each

See Bob for purchase

2011 Seminar Coin Back

Antique copper 20 Year Anniversary coin—$10.00 *New*

Sale price** on **2010** or **2011 seminar coins
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Arizona's Medical Marijuana Law

Presented by Lane Darling

Lane Darling ended the seminar training with the Mesa PD's Legal Unit interpretation of Federal and Arizona law. The information presented is one interpretation and should be considered as one view. Make sure to discuss any information with your management or legal advisors. The following questions were addressed:

1. Are Arizona medical marijuana users prohibited from owning and possessing firearms and ammunition?
2. Can Arizona law enforcement agencies return seized medical marijuana to users and caregivers?
3. Can Arizona law enforcement agencies returned seized paraphernalia to users and caregivers?

Prohibited possessors were defined using state and federal laws. The Arthur Herbert "OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES" was discussed. This letter states the ATF opinion that medical marijuana users are "unlawful users" of a "controlled substance" and therefore 18 USC Section 922 (d)(3) "makes it unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person is an unlawful user or addicted to a controlled substance." 27CFR Section 478.11 was presented which provides "an inference of current use may drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers present time."

Question 1 was answered by Mesa PD's decision to not return a firearm if "Evidence Section Personnel have knowledge that the person requesting the return of his or her firearm is a medical marijuana card holder or user the firearm may not be returned absent a court order directing same. In all other circumstances, there has been no change in the federal law. Therefore, Evidence personnel should continue with current procedures."

Question 2 was answered with the Mesa PD policy that "it is a violation of federal law to transfer marijuana to a person, regardless if state law allows possession."

Question 3 was answered with the Mesa PD policies that "Marijuana or paraphernalia with residue must be destroyed when no longer needed for prosecution or court purposes" and "Spice or other questionable substances must be destroyed when no longer needed for prosecution or court purposes, or if determined the substances are not controlled."

Advertising rates for the Lock & Key

Please see our webpage for current rates.

Call any AAPE board member to reserve your advertisement in the next edition of the newsletter.

The deadline for submissions is the 1st day of February, May, August and November.

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Witnesses!

A slightly unsure witness to a car crash kept saying thins like "I think the light was yellow" or "I think it was still raining".

The cross-examining lawyer interrupted, saying derisively "We don't care what you think. What do you know?"

The harried witness paused for a moment and then replied "Then I may as well leave the witness stand. Since I'm not a lawyer, I can't talk without thinking".

Expert testimony!

Lawyer: Doctor, as a result of your examination of the plaintiff, is the young lady pregnant?
Witness: The young lady is pregnant, but not as a result of my examination.

Actual testimony!

Lawyer: Are you sexually active?
Witness: No, I just lie there.