



Academy Notes

Online at <http://www.nvcja.org/newsletter>



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October 2009

EXECUTIVE COMMITTEE

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- Chief John Skinner, Vice Chair
- Sheriff Beth Arthur
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- Chief Earl Cook
- Acting Chief Cheryl S. Creed
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- Bill O'Toole, Executive Director
- Tom Fitzpatrick, Dep. Director
- Lt. Randolph Dawson, Dep. Director
- Steve Hall, Basic Training Mgr.
- Bob Brendel, In-Service Mgr.
- Brian Schmidt, Operations Mgr.
- Albert Oglesby, Accreditation Mgr.

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New Deputy Director Basic Training

Lieutenant Randy Dawson joined the Academy staff on July 28 as the Deputy Director for Basic Training.

Lieutenant Dawson is a graduate of Session 71 of the NVCJTA and has been a member of the Metro Transit Police Department since 1988. In addition to his strong personal interest in and commitment to training, Randy will bring significant expertise to our Academy as a result of his varied career experiences.



Lieutenant Dawson was previously assigned to our Academy as an In-service Training Coordinator for several years beginning in 1994. Upon completion of his academy assignment, he was named the In-service Training Coordinator for the MTPD, a position he held for seven years. That assignment enabled him to continue his love of training by teaching new recruit officers and by ensuring that all mandated training requirements set forth by the Virginia, the District of Columbia, and the Maryland Training Commissions were completed for officers' continued certification. He provided instruction in First Responder and Defensive Tactics for his department and he is currently certified as a general instructor and as a defensive tactics instructor through the Maryland Police Training Commission.

In addition to patrol assignments, Lieutenant Dawson was also a member of the Robbery Pickpocket Squad. In 2004, Randy was promoted to Sergeant and assigned to the Patrol Division. In 2007, he was promoted to Lieutenant and was transferred to B-section District II, as the Commander. In 2008, Randy was transferred to the Administrative Commander's position where he supervised the communication division, quartermaster, warrant squad, crime prevention, records division, and human resources. This year, Randy was transferred back to the Patrol Division as the A-section, District I Commander, a position he maintained until being selected as the Deputy Director of Basic Training. The Academy is pleased to welcome Lieutenant Dawson to its team.

“You prove what you do by doing good. If you do good people are going to know about you, and if you do bad they're going to know about you.” Henry Taylor-Small Business Owner

New EVOC Construction Underway

S. W. Rodgers Construction Co. was awarded the construction contract for the new EVOC in early spring of 2009. The Notice to Proceed (to initiate work on the site) was issued on June 23rd and work started the next day. An official groundbreaking ceremony was held on July 10, 2009.

Most of the work so far has consisted of clearing the site of trees and vegetation with some work on drainage, demolition of standing buildings, rock excavation, etc. The next steps will be infrastructure, sewer, diversion dikes, water main, storm water ponds, stone parking areas, and classroom construction. Paving will be done in April of 2010 after the winter season is over. The construction contract calls for the project to be completed within 570 calendar days which is 19 months (January or February of 2011). Rodgers personnel believe that the project should be completed by September of 2010 if weather does not become a factor and rock obstructions don't interfere with the timeline.

When completed, the EVOC site will

consist of a highway course, urban grid/course, classrooms (two classrooms of fifty students each dividable into four classrooms of 25 each), skid pan, a skid track, parking lot, and observation tower. The new EVOC will greatly enhance our ability to provide top-notch driver training to both recruits and veteran officers. More information is available at this link:

<http://www.nvcja.org/emergency-vehicle-operations.php>



July 10, 2009 Groundbreaking at the new EVOC site.



Site work for the new track. The cleared area outlines the track configuration.

City of Alexandria Appoints New Police Chief



On August 25, the City of Alexandria appointed Chief Earl Cook as their new Chief of Police. Chief Cook is a highly respected leader and a 30 year veteran of the department. Perhaps less well known about him, he was also a member of the T.C. Williams High School football team that gained notoriety through the movie *Remember the Titans*.

The Academy staff congratulates Chief Cook on his selection and we look forward to his service as an Academy Board member!

The following information was copied from the City of Alexandria news release:

Alexandria City Manager James K. Hartmann announced the appointment of Acting Chief of Police Earl L. Cook as the new Chief of Police. He is a 30-year veteran of the Alexandria Police Department and the first African-American in the City's 260-year history to serve as the Chief of Police. Chief Cook, who is also a native Alexandrian, will be responsible for the administration of a 400-member police department. He replaces former Chief of Police David P. Baker, who resigned on July 28.

Chief Cook has spent his entire career as a member of the Alexandria Police Department. He began as a police academy recruit in January 1979. Upon graduation from the academy, he worked in patrol and criminal investigations until 1989. Over the next six years, he was promoted several times, advancing to sergeant, lieutenant, captain, and assistant chief. As assistant chief, he managed the criminal investigations bureau, and was named deputy chief in that role three years later. In 2006, he rose to the position of Deputy Executive Chief, serving as second in command; acting for the Police Chief in his absence; and providing significant direction on the police department's policy and budget.

Chief Cook was born and raised in the City of Alexandria. He grew up on Princess Street and attended Lyles-Crouch Elementary School, Parker-Gray Middle

School and George Washington High School through 10th grade. He transferred to T.C. Williams High School, after the school was integrated, and became a member of the historic Titans football team. After graduating from T. C. Williams in 1973, he attended Duke University, where he earned a bachelor's degree in history and education. He currently resides in Alexandria and has three children and two grandchildren.

Chief Scott to serve as VACP President



Two of the Academy's Board members were recently recognized for their leadership roles with the Virginia Association of Chiefs of Police

(VACP). At the annual VACP Conference in Newport News, VA on August 11, Arlington County Police Chief M. Douglas Scott was elected to serve as the 2009-2010 VACP President. Chief Richard Rapoport from the City of Fairfax Police Department completed his term as the 2008-2009 VACP President and passed the gavel to his friend and colleague at the conference.

The Academy staff congratulates both Chief Rapoport for his accomplishments and exemplary service at the statewide level and Chief Scott for his service as Vice President and on his election as the new VACP President.

Transit PD Appoints Deputy Chief

The Academy staff is pleased to congratulate Tracie Simmons from the Metro Transit Police Department upon her promotion to the rank of Deputy Chief. Deputy Chief Simmons, a graduate of the 71st Session and a former Basic Training Instructor at the Academy, was promoted on September 25. She will be assigned as the Deputy Chief of the Administrative Services Bureau.

Congratulations Chief Simmons!

Physical Fitness Corner

Robert Hammes, *M.S., CSCS*



As the political fallout intensifies and the healthcare hissy fits continue, let's keep one thing in mind... to a large measure, most of us are in control of our own health. The lifestyle we choose has an enormous impact on our future healthcare requirements. A wise gentleman named Franklin once said, "An ounce of prevention is worth a pound of cure." Type II diabetes has rendered that statement more meaningful today than ever. Type II Diabetes is a chronic and serious metabolic disease that generally results from poor eating habits, excess weight, and sedentary living. It has reached epidemic proportions in our country, with nearly 25 million known cases. And the cost you ask? It's staggering. 20 percent of all health care dollars is spent caring for someone with diagnosed diabetes.

Formerly called adult onset diabetes, the name changed to type II as cases among children skyrocketed in the 1990s. But that isn't the scariest part. Another 60 million adult Americans and perhaps 20 million children have what is called "pre-diabetes." This condition, aka impaired glucose tolerance, is a precursor to type II diabetes that has no apparent symptoms. More and more, doctors are recognizing the importance of diagnosing pre-diabetes, as treatment of the condition may prevent serious future health problems.

So... what is pre-diabetes and what is its relationship to full blown diabetes? People with blood glucose levels that are higher than normal (<100 mg/dl), but have not reached the threshold for type II diabetes (>125 mg/dl), are considered to have pre-diabetes.

Controlling Your Healthcare Costs 101

Once the threshold for type II diabetes is met, medical intervention is required and risk for a variety of serious health issues sharply increases. For example, those with diabetes have over twice the risk of a heart attack and stroke than those with normal blood glucose levels. And it's not just cardiovascular disease. Blindness, kidney and nerve diseases, and lower limb amputations due to poor circulation become more common. The good news is that pre-diabetes is very reversible with conscientious lifestyle modification. The bad news is that most people with pre-diabetes don't moderate their bad habits and end up developing type II diabetes.

A recent long-term European study looked at patients with pre-diabetes and found that moderate but consistent lifestyle changes, which included exercise and mild weight loss, decreased the likelihood of developing type II diabetes by two-thirds. This certainly didn't surprise me and it shouldn't surprise you either. To further buttress the benefits of healthy living, this study demonstrated that altering one's lifestyle habits with increased physical activity and mild weight loss was more effective than medications when it came to reducing the diabetes risk. This lifestyle change has the added benefit of reducing the risk of other chronic conditions such as arthritis and many forms of cancer. Sounds like a winner to me! So... by all means follow the healthcare deliberations if you have the time and energy (only try not to fall ill listening to all the politicians). Not for a minute am I intending to minimize the importance of this debate's outcome. To be sure, quality healthcare is important to all of us. However, please understand the value of caring for your own health. That guy Franklin sure knew what he was talking about.

Fitness Challenge Marks Fifth Year

The Academy's fifth Annual Fitness Challenge for Special Olympics took place on Saturday, September 19th. 10 athletes participated this year, as well as a sizable group of volunteers and supporters. A good time was had by all as five area jurisdictions were represented. In the men's division, Loudoun County's Jason Hough finally broke through for the overall victory. On the women's side, the Academy's own Sherry Sprague won for the third time by besting Loudoun deputy and current recruit Corrine Czekaj. The full results can be viewed on the Academy's website.



Legally Speaking

John Fitzgerald, J.D.

Searches of Vehicle Passengers



Re: Whitehead v. Commonwealth, 278 Va. 082458, S.E.2d (2009)

In *Whitehead v. Commonwealth* (decided September 18, 2009), the Supreme Court of Virginia determined that a positive alert on a vehicle by a trained drug-detection

dog did *not* provide sufficient particularized probable cause to permit a search of an occupant of the car.

IMPORTANT NOTE: In a previous case, the Supreme Court of Virginia held that a positive alert from a narcotics detection dog establishes probable cause to search a **vehicle** for drugs; that remains the law in Virginia today. This decision does NOT change that.

The Facts of Whitehead v. Commonwealth

In the afternoon of April 19, 2006, Officer Quigley of the Suffolk Police stopped a car for a traffic violation. The car was occupied by 4 persons. A canine unit arrived on the scene as routine backup, and the canine handler walked his drug-detection dog around the occupied car. The dog alerted outside the driver's door, and the handler notified Officer Quigley.

Officer Quigley told all 4 persons to get out of the car, and he then searched the car finding nothing. Quigley then searched the driver, the front passenger, and left rear seat passenger—again finding nothing. The defendant, Whitehead, had been seated in the right rear passenger seat, and he was the last person searched. In Whitehead's right front pants pocket, Quigley found two syringes and a paper towel wrapped around a bottle cap with a burnt residue in it. Quigley arrested Whitehead on a possession of heroin charge. Later, analysis showed that the bottle cap contained heroin residue.

The Virginia Supreme Court's Reasoning

The Virginia Supreme Court's opinion cited cases previously decided by the United States Supreme Court. The *Carroll* Doctrine (named after *Carroll v. United States*, 267 U.S. 132 (1925)) allows the warrantless search of an inherently mobile vehicle and its contents when probable cause exists to believe that the vehicle contains criminal evidence or contraband.

In *United States v. Di Re*, 332 U.S. 581 (1948), a World War II era case, police stopped a car occupied by three persons. Although the police had probable cause to search the car for contraband (counterfeit gasoline ration coupons), they also searched Mr. Di Re who had been sitting in the front passenger seat. Mr. Di Re was in the car, but beyond that, the police had no other evidence to show that Di Re was involved in criminal activity at the time of Di Re's arrest.

The U.S. government asked the Court to extend the scope of a car search to include a search of the occupants because "common sense demands that such rights exist in a case such as this where the contraband sought is a small article which could easily be concealed on the person."

The U.S. Supreme Court refused to expand mobile vehicle searches to allow searches of the occupants. The Court said:

We see no ground for expanding the ruling in the *Carroll* case to justify this arrest and search as incident to the search of a car. We are not convinced that a person, by mere presence in a suspected car, loses immunities from search of his person to which he would otherwise be entitled.

Based on *Di Re*, it is clear that occupants of a mobile vehicle cannot be searched incident to a *Carroll* Doctrine search of that vehicle. **Said another way, searches of vehicle occupants must be done pursuant to consent, a search warrant, or incident to a lawful arrest.** When a law enforcement officer develops probable cause to search a car, the officer may search the car, but without more, will not be able to perform a non-consensual search of any of the occupants.

The Virginia Supreme Court followed the above guidance provided by the U.S. Supreme Court related to *Carroll* Doctrine searches. In a footnote within the opinion, the Court reminded us that since the search of Whitehead's person was not consensual, it could not be justified as a *Carroll* Doctrine search; it could only be justified within the parameters of a **search incident to arrest**. The real question in this case, then, is whether probable cause existed to arrest Whitehead at

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(Legally Speaking Continued from page 5)

the time of the search. In deciding that probable cause was absent, the Court said:

After the positive alert by the trained narcotics detection dog, Officer Quigley unquestionably had probable cause to search the vehicle....However, **without something more**, the positive alert did not provide probable cause sufficiently particularized as to Whitehead to allow the search of his person....[T]he Commonwealth presented no evidence, other than Whitehead's status as a passenger in the vehicle, indicating that Whitehead and the other passengers were involved in any common enterprise involving criminal activity. There also was no evidence indicating Whitehead individually was committing, had committed, or was about to commit a criminal offense. (emphasis added)

The Commonwealth, however, argues that Xanto's positive alert indicated that contraband was present *somewhere*, and after no contraband was found in the vehicle or on the other three occupants, that *some-where* had to be on Whitehead's person. Based on the evidence in this record, we are unwilling to draw such a conclusion. While the fruitless searches of the vehicle and the other occupants increased the likelihood that the contraband detected by Xanto was on Whitehead's person, it also increased the likelihood that the dog alerted to the odor of contraband no longer present in the vehicle. Officer Carr testified at the suppression hearing that a positive alert by Xanto did not necessarily mean that drugs were currently present in the automobile; rather, Xanto could have alerted to an "old odor."

The positive alert by Xanto and the subsequent fruitless searches of the vehicle and three of its occupants may have created a strong suspicion that contraband was present on Whitehead's person; however, probable cause requires more than a strong suspicion.... Based on the record in this case, the positive alert and the fruitless searches were not sufficient to establish probable cause particularized as to Whitehead that he was concealing contraband on his person.

Suggestions for how to get "something more" to establish particularized probable cause

Remember that, unless you are granted consent to

search an occupant, the only way you can lawfully conduct a warrantless search of an occupant's person is to develop probable cause to arrest the individual; the search may then be done incident to the custodial arrest. Even if you search a vehicle under *Carroll* and find contraband—let's make it a drug case—you'll need to connect the drugs to the suspect in some way. The prosecutor will often want more than the drugs—they may want or need context.

Please note that *possession* comes in two styles: actual possession and constructive possession. When a person is holding an item or has it on their person (e.g. in their pocket, purse, backpack, etc.), they are in actual possession of it. If a person is not in actual possession of an item, they may still possess it constructively if it can be shown that they had **knowledge** of the item and they exercised some **control** over it. Below, I suggest some ways that help you get the facts that you need to establish probable cause to arrest and to strengthen your case for prosecution.

1. Ask a direct question. Just ask each occupant (speak to each separately whenever practical) if they have drugs on their person. An admission will give you probable cause to arrest them.

2. Establish ownership. Owners are presumed to have more control over the vehicle and its contents than a non-owner.

3. Use your senses. Stay alert to pick up on furtive movements, nervousness, evasive answers, odors, items in view, evidence of impairment, paraphernalia, etc. Be ready to articulate—verbally and in writing—what you have observed.

4. Get context. Find out where the suspect(s) have been and what they were doing there, and where they are headed and what they will do there. Find out who was recently in the car. You hope to establish that the occupants have been the only occupants recently, and that they have a reason to know what's in the car and to be in control of the contents.

5. Don't forget consent. It is very effective.

Welcome to Our Newest Instructor



We are pleased to welcome Officer Danny Webb as a new Basic Training Instructor. Danny is a 10-year veteran law enforcement officer, serving as a member of the Alexandria Police Department for the past six years. Previously, he was a deputy sheriff with the Arlington

County Sheriff's Office. Danny joined the Academy staff on September 8.

While assigned as a patrol officer, Danny has been a field training officer, a Taser operator, and a police mountain bicycle officer. He is currently certified as a General Instructor. Danny will be assigned to the Defensive Tactics team.

Danny is married and has three daughters. He is currently working toward a degree in counseling at Carolina University of Theology. He is also an active participant in the City of Alexandria's community outreach program.

Emergency First Aid "Go Packs"

The Academy has improved our ability to respond to medical emergencies by deploying Emergency First Aid "Go Packs" in several locations. Each Go-Pack contains an AED, emergency oxygen and other equipment that can be used by trained personnel, including visiting EMT and paramedic certified personnel, to mitigate a medical emergency. The packs are located in the academy fitness facility, the academy lobby, EVOC and one is taken to the firearms range when recruits are there. A pack is also carried by an instructor on a bicycle during the recruit's PT runs.

Academy instructors are all certified in CPR, AED and rescue oxygen. The Go-Packs are accessible so that any qualified person can use them in an emergency.



Accreditation Comments Sought

The Northern Virginia Criminal Justice Training Academy is scheduled for an on-site assessment as part of a program to achieve national re-accreditation by verifying it meets professional standards. Administered by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), the accreditation program requires Public Safety Training Academies to comply with state-of-the-art standards in nine basic areas: Certification, Organization, Direction and Authority, Human Resources, Recruitment and Selection, Instructional Systems, Program Development, Training Support and Student Welfare.

As part of the on-site assessment, agency employees, academy member law enforcement agencies, the law enforcement training community and the public are invited to offer comments by calling 703-729-4299 extension 318 on Wednesday, December 9, 2009

from 2 PM to 4 PM. Comments will be taken by the Assessment Team.

Telephone comments are limited to 10 minutes and must address the academy's ability to comply with CALEA's standards. A copy of the standards is available in room 215 of the Northern Virginia Criminal Justice Training Academy, located at 45299 Research Place, Ashburn, Virginia 20147-2600. The local contact is Albert C. Oglesby, Accreditation Manager, who can be reached by calling 703-729-4299, x 118.

Anyone wishing to submit written comments about the Northern Virginia Criminal Justice Training Academy's ability to comply with the standards for accreditation may send them to the Commission on Accreditation for Law Enforcement, Inc. (CALEA), 10302 Eaton Place, Suite 100, Fairfax, Virginia 22030-2215.

The Academy operates on a 4/10 schedule. All Academy operations are closed on Mondays. In-service class hours are 0700-1530 with some exceptions. Check the latest schedule at www.nvcja.org/in-service-training.php.

UPCOMING IN-SERVICE TRAINING

October

| Date | Course | Instructor | Location |
|-------|---------------------------------------------------------------------|-----------------------|-----------------|
| 1 | General Instructor Recert | Tokarchic | Academy |
| 6-9 | RADAR/LASER Operator | McCartney & Wolff | Academy |
| 6 | Legal Updates/Cultural Diversity | Porter/Pruitt | Academy |
| 6-9 | Basic Crime Scene Processing and Evidence Collection | Hackett | Academy |
| 7 | Hate Crimes and Domestic Extremism | Friedman | Academy |
| 8-9 | Leadership Development | Goodwin/Daly | Academy |
| 9 | Basic Search & Seizure | Fitzgerald | Academy |
| 12 | Columbus Day Holiday | Academy closed | |
| 13 | Prevention of Improvised Explosive Devices in Correctional Settings | Mercer | Academy |
| 13 | Cultural Diversity ONLY | Pilli | Alex Sheriff |
| 13-14 | Leadership Essentials Module 3 of 5 | Flanagan | Academy |
| 14-16 | Search Warrant Workshop | Comfort | Academy |
| 14-16 | Motor Refresher | EVOC Staff | ODS |
| 15 | Crisis Resolution Techniques for LEO | Ruiz | Academy |
| 16 | Emotional Survival for LE Professionals | Gil Martin | Academy |
| 19-23 | General Instructor Development | Valdes | Fairfax City PD |
| 20 | Cultural Diversity ONLY | Pilli | Alex Sheriff |
| 20-21 | Decision Making for LEO | Purdy | Academy |
| 20-21 | Verbal Judo | Manley | Academy |
| 21 | EVOC Refresher | EVOC Staff | ODS |
| 22 | Forensic Anthropology and Death Investigations | Palkovich | Academy |
| 22 | DT Instructor Recert | Academy Staff | Academy |
| 23 | Trafficking In Persons/Cultural Diversity | Davis/Bristol/Pruitt | Academy |
| 27-28 | Terrorism: Hidden in Plain Sight | Purdy | Academy |
| 28-30 | Search Warrant Workshop | Comfort | Academy |
| 29-30 | Effective Communications Skills for Officers and Deputies | Reintzell | Academy |

November

| | | | |
|-------|--------------------------------------------------------------|-----------------------|---------------------|
| 2-6 | Basic FTO Training | Moser | Manassas City PD |
| 4 | RADAR/LIDAR Recert | Rudolph | Academy |
| 4 | Legal Update Given during the morning only | Fitzgerald | Academy |
| 4 | Cultural Diversity Given during the afternoon only. | Pillai | Academy |
| 4 | Vehicle Trailering and Towing | EVOC Staff | ODS |
| 5 | Legal Update/Cultural Diversity | Porter/Pruitt | Academy |
| 5 | Auto Theft Identification for Patrol Officers and Detectives | Mandeville | Academy |
| 6 | General Instructor Recert | Tokarchic | Academy |
| 6 | Conflict Resolution in the Workplace | Flanagan | Academy |
| 9-13 | General Instructor Development | Valdes | Fairfax City PD |
| 11 | Veteran's Day | Academy closed | |
| 12-13 | Advanced Supervisors Training for Sgt and Lt | Means | Academy |
| 13 | Terrorism and Fraudulent Documents | Bryk | Academy |
| 18-20 | The New Detective | Various | WETA |
| 16-20 | Advanced Kinesic Interview and Interrogations | Sosnowski | TBD |
| 17-20 | Advanced Crisis Intervention and Crisis Negotiations | Flanagan/Beech | Academy |
| 17 | VCIN Operator Recert | Cox | Academy |
| 18-20 | VCIN Level A & B Operator | Cox | Academy |

December

The following classes are scheduled for December. (see website for dates):

EVOC Instructor Recert, Special Service Van & Wagon, Cultural Diversity, Legal Update, Advanced FTO, Preparing for the Suicide Bomber, 30 Minute Interview, Evoc Refresher, Correctional In-service, Firearms Instructor Recert, Preventing Suicides in Your Jail, Ground Defense, DT Instructor Recert.