CLEET

Council on Law Enforcement Education and Training

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3rd Annual Oklahoma Law Enforcement Training Initiative

"Preparing Oklahoma's First Responders Through Training"

Hosted by CLEET, The Oklahoma Office of Homeland Security and the National Domestic Preparedness Consortium

CLEET is providing you with the opportunity to complete your annual continuing education requirements during a 5 day training initiative. You can choose to take a single class or attend 5 full days of training. We are offering you many courses to choose from, including a Management Track, an Investigative Track, Basic Instructor Development and even an ALERRT course. CLEET is committed to the advancement of Oklahoma law enforcement, and meeting their training needs. All of the training initiative courses will are posted on the CLEET website.

Date: September 9-13, 2013

Registration will open June 13, 2013 on the CLEET website.

Location: Moore Norman Technology Center - 4701 12th Avenue NW
Norman, Oklahoma 73069

ADJUNCT INSTRUCTORS

Appeal to All Oklahoma Law Enforcement Agencies:
In recent months, CLEET has experienced a sharp decline in the number of adjuncts that have been able to assist with Basic Academy Training. Part of this decline is due to the severe weather crisis that we have experienced. All areas of training are experiencing these shortages; however, our skills classes in particular have been deeply affected. In addition to the needs for adjunct instructors, we need assistance in conducting practical exercises during the last week of an academy. Since these practical exercises have been added to the curriculum we have received great reviews from the students, commenting that they are able to put into practice the skills that they have learned during the 15 weeks of training.

CLEET provides housing and meals for persons assisting with training during a basic academy class. In addition, certified peace officers receive 8 hours of continuing education every year that they assist for at least 8 hours in basic academy instruction.

The needs in each of the areas are listed below:

Firearms Training – The recommended ratio of instructors to students is 1 to 5 during the daytime and 1 to 3 for night fire. We generally have 35 to 40 students on the range at any one time. CLEET employs 5 fulltime firearms instructors at the current time which, with one in the tower, allows us to train 15 people at a time (following the above ratio) safely. The remainder of the instructors is made up of adjuncts or are persons that are not instructors who watch for range safety violations. It should also be noted that we commonly split the class in half with those not on the handgun range receiving training on shotgun and handgun handling skills, etc. Although this configuration keeps students engaged it removes at least one of our full time instructors from the handgun range, further pushing our instructor to student ratio's.

The problem with our need for adjuncts on the firearms range is not a new one. We are constantly challenged with maintaining a safe ratio which recently has been increasing. We may be pressed into reconsidering the training conducted at the range and altering the curriculum to maintain a proper ratio. We have had great success at qualifying nearly 100 percent of firearms students and do not want to make adjustments to our current firearms training.

Law Enforcement Driving Training – we generally have between 12 and 15 vehicles operating during LEDT training. Each vehicle has one instructor and three students participating to complete the training in the required time. CLEET employs 7 full time LEDT instructors (some of which are teaching other courses at the time of LEDT due to our operating two basic academies at the same time, 12 months out of the year). Generally, we will need 8 to 12 adjuncts in every class.

Practical Exercises – during the final week of academy instruction, we provide 20 yours of practical exercise, hands on training, to the students. We will conduct 6 to 10 scenarios (based upon the number of personnel that we have available). Each scenario requires from 2 to 4 actors along with an officer to critique the students. That adds up to a minimum of 18 persons that are needed to assist with the training.

Other Instructors – it is our desire to have three or four instructors who can teach in each block of training provided in the basic academy. This would allow us to have several backups available to assist with instruction.

As we travel across the state we frequently hear people say that they would like to assist with basic academy training. This letter serves as an invitation to those of you that would be willing to assist with training periodically in the basic academies. Following is a list of dates for upcoming academy classes and skills courses in particular that

2013 Basic Academy Firearms Schedule

A1304: Session 1: October 8 (classroom)
October 9 (classroom a.m. / positions, dry fire p.m.)
October 10, 11, 15, 16, 17 (shooting)

Session 2: October 18 (classroom)
October 22 (classroom a.m. / positions, dry fire p.m.)
October 23, 24, 25, 29, 30 (shooting)

A1305: Session 1: November 13 (classroom)
November 14 (classroom a.m. / positions, dry fire p.m.)
November 15, 19, 20, 21, 22 (shooting)

Session 2: November 26 (classroom)
November 27 (classroom a.m. / positions, dry fire p.m.)
December 3, 4, 5, 6 (shooting)

Contact Info: Rick Amos - rick.amos@cleet.state.ok.us
(405) 239-5130

Greg Evans - greg.evans@cleet.state.ok.us
(405) 239-5102

2013 Basic Academy LEDT Schedule

A1304: September 20 (classroom)
Driving Session 1: September 24 – September 27
Driving Session 2: October 1 – October 4

A1305: December 13 (classroom)
Driving Session 1: December 17 – December 20
Driving Session 2: January 7 – January 10

Contact Info: Jeff Coble - jeff.coble@cleet.state.ok.us
(405) 239-5172

Rick Amos
(405) 239-5130
rick.amos@cleet.state.ok.us

2013 Basic Academy Defensive Tactics Schedule

A1304: Session 1: October 8 – 17

Session 2: October 18 – 30

A1305: Session 1: November 13 – 22

Session 2: November 26 – December 6

Contact Info: Jeanelle VanBuskirk - jeanelle.vanbuskirk@cleet.state.ok.us
(405) 239-5125

2013 Basic Academy Practical Exams Schedule

A1303:	September 3	1:00 p.m. – 6:00 p.m.
	September 4	7:00 a.m. – 6:00 p.m.
	September 5	7:00 a.m. – 12:00
A1304:	November 5	1:00 p.m. – 6:00 p.m.
	November 6	7:00 a.m. – 6:00 p.m.
	November 7	7:00 a.m. – 12:00 p.m.

Contact Info: Tracy Shivers - tracy.shivers@cleet.state.ok.us
(405) 239-5157

Note: CLEET's Basic Academy runs Tuesday-Friday, 7:00 a.m.-6:00 p.m.

MESSAGE FROM THE DIRECTOR

In 2012, the Council on Law Enforcement Education and Training worked closely with our Oklahoma law enforcement agencies and officers to advance the training needs for our great profession. Along the way CLEET teamed with the Oklahoma Sheriffs and Peace Officers Association to provide training at their annual conference in February. CLEET instructors teamed with outstanding law enforcement trainers from across the state and nation to provide up-to-the-minute curriculum.

The training relationship continued between CLEET and Oklahoma's other fine peace officer associations at each of their respective summer conferences. The Oklahoma Association of Chiefs of Police and Oklahoma Sheriffs Associations each conducted training that CLEET helped to provide. We enjoy a great partnership with each of these organizations and will continue to do so into the distant future. The state of training in Oklahoma and the interaction between all of the organizations to provide the best instructors and resources has never been better. We look forward to the future role that CLEET will play in teaming with each of these associations to further advance the level of training for our officers.

In addition to the peace officer training, CLEET has expanded its role in the Private Security industry training. We conducted our first continuing education class for Private Security in 2012 at our Ada campus. The Private Security Advisory Council was pleased with this first training session and the future holds additional opportunities to provide quality education for the private security industry.

CLEET is reemphasizing the distance education training for peace officers. It took some time to work through the technology issues which we have now cleared up. The most recent classes have been broadcast from Ada across the state with very outstanding results. As these tech issues have cleared up we have begun scheduling more classes, so watch for them in your regions.

Finally, CLEET is in the process of developing new on-line classes that will be available on the CLEET website. When the classes we have had posted for nearly ten years were removed we were aware that we would need to replace them quickly as many officers depend on them for annual training requirements. We are fortunate that there are many additional on-line training sites that can be used during the interim.

To all of our brothers and sisters in the peace officer and security field, I hope that you will continue to look to CLEET as a service agency. We will respond to your training requests and look forward to further serving you. We consider it a great honor to be a part of the profession and hope that you consider us as a close friend and a help to each of you. Please be safe in all that you do!

Steve Emmons
Executive Director

DID YOU KNOW?

State law requires agencies to notify CLEET within thirty (30 days) if an officer resigns while under investigation. 70 O.S. 3311 (K) (8).

Failure to submit Notice of Employment form may disqualify an agency from participating in training programs. 3310 (I) (1).

O.A.C.390:10-1-3 – All agencies are required to report employments and terminations within ten (10) days on the current Notice of Employment form. Cadets are now required to sign Promissory Notes when they enter the CLEET Academy. The Notification of Employment is an important document used to establish employment and days credited.

Accreditation – Agencies that conduct in-service training are required to submit an Accreditation Form with Instructor's information to CLEET for CLEET training credit. As of January 1, 2012 Course Accreditation will be for a period of 3 years instead of 1 year. Click here for accreditation information.

Training that does not require accreditation and is taught by someone other than CLEET, such as the Justice Department, FEMA, Federal Law Enforcement, BIA, Online and etc, requires a Report of Training Form to accompany the roster or certificate.

The new SDA concealed carry permit curriculum is available to licensed SDA instructors. Please email breanna.atkeson@cleet.state.ok.us for your copy. You will need to provide your name and SDA instructor number. The staff at CLEET thanks all of the people who assisted with the revision, including, but not limited to: Thomas B.W. Nation, Miles Hall, Jack Ostendorf, Dean Vassilakos, B. Branch, and Mike Miller.

Several universities are now giving credit or determining if they can give credit for time spent in the CLEET Basic Academy, and the Law Enforcement Terrorism Certification Program—Basic, Intermediate and Advanced Certification. If you are interested in gaining college credit for CLEET training hours, talk to your university and if they are giving this credit, you can request your training record from CLEET and submit it to your university.

Any adjunct instructor seeking compensation, should work diligently with CLEET to get contracts turned in no less than 60 days prior to the course that they are seeking payment for.

All emails sent and received by CLEET employees are considered property of CLEET and may be subject to disclosure to the public pursuant to the Oklahoma Public Records Act.

SATELLITE OFFICE

CLEET has a satellite office in Claremore at Rogers State University 1701 W Will Rogers, Prep Hall - Room 106. Tami Burnett will be officing there and it will be open to LE officers, security personnel and the general public if they want to come by on Mondays and Wednesdays from 8:00 a.m. to 12:00 p.m. beginning September 2nd. Tami Burnett is also handling accredidations now and you can email her at tami.burnett@cleet.state.ok.us or call 405-239-8156.

PRIVATE SECURITY

The Private Security Division would like to remind you that licensees need to check their insurance and the expiration of their license, since we now issue a 3 year license. Failure to maintain insurance may result in a fine and/or suspension of a license. Licensees also need to keep CLEET updated on address changes, this too could result in a fine.

If you would like to be fingerprinted for a Private Security license, please call at least a day ahead to ensure that CLEET will be able to do the fingerprinting in a timely manner.

BASIC ACADEMY

Schedule

October 02, 2013 - January 23, 2014
January 08, 2014 - April 18, 2014
March 12, 2014 - June 18, 2014

No one will be scheduled or confirmed for an academy until all paperwork is completed and received by CLEET. The reading, writing and comprehension test is a prerequisite for admission into the CLEET Basic Academy. For testing information click here. New hire full time non-certified officers must take this test within 90 days of hire.

RESERVES ENTERING FULL-TIME SERVICE

Beginning January 1, 2014, any reserve peace officer who has completed the two-hundred-forty-hour reserve peace officer certification program, and who has been in active service in that capacity in the past two (2) years, shall be eligible to attend a three-hundred-sixty-hour basic full-time training academy to become certified as a full-time police or peace officer.

Until we are able to implement a change of the administrative rules for any clarification to this statute we have established the following eligibility criteria:

Must have been employed with a Law Enforcement Agency as a Reserve Officer **during** the past two years.
Must be **Certified** as a Reserve Officer.
Must have obtained Reserve Officer Certification from attendance and participation of a **240 hour Reserve Academy**.

The statute does not have a provision for experience waiver if a person was certified in a Reserve Academy of less than 240 hours. The Academy date for the 9 week Bridge Academy has not been scheduled at this time but will probably begin in the later part of spring or beginning of the summer in 2014. I will be sure to inform everyone as soon as the dates are established.

If you have individuals with questions, comments or complaints that you cannot answer, please forward them to:

Chris Sutterfield, Chuck Gerhart, or Steve Emmons in that order depending on availability.

KEEPING KIDS ALIVE: SAFETY DRIVE

Academy 1303 - Community Service Project

WHEN: MONDAY, AUGUST 19, 2013 5:00 PM – 8:00 PM
WHERE: AGRI-PLEX - ADA, OKLAHOMA

The 1303 Basic Academy community service project was intended to create safety awareness for the children of the Ada community, while creating a fun, positive and free atmosphere for learning. The Basic Academy hoped that by educating the youth in the community and providing them with a positive image of Emergency Services Personnel that this project would act as a prevention method for crime. Approximately 300 people attended this community service project, and several agencies came out teach different areas of safety including; the Ada Police Department, Mercy Ambulance Service, Ada Fire Department, Deputy Brisco of OBN, Chickasaw Nation Youth, National Guard, and the O.U. Medical Helicopter. These agencies provided many different activities throughout the day, including a bicycle safety course, dunk tank, football toss, pingo, and a bouncy house. Each child that attended the event was entered into a drawing and 12 bikes and safety helmets were given away were given away at 7:00 p.m. The bikes and helmets were donated by the community of Ada as well as some of the Cadets home communities. The Cadets also collected close to $100.00 to be used to purchase special gifts for the women's shelter in Ada.

Donations were made by business throughout the community, Wal-Mart donated hot dogs that were cooked by Ada Works, which were later served by the Cadets. Bottled water was donated and given away by the Chickasaw youth.

Below is a success story from the Community Service Project: Keeping Kids Alive:

A man who attended A1303 community service project at the Agra-Plex contacted Tracy Shivers - Assistant Academy Coordinator. He said, "this project meant more to him than we could ever understand." He is a single father of two children, a 5 year old son and a 4 year old daughter. His son has night terrors receiving counseling for a long time. The terrors are very bad and his son is scared to sleep, scared of his bed, and cries when the sun goes down because he knows that it is getting close to bed time. He said, "his son is scared of sleep because of what waits for him in his dreams." But after attending the Academy 1303 community service project his son feels safe and believes that the police will protect him. The young boy slept all the way through the night for the first time in years after attending the event. The boy has not had one nightmare since and is now sleeping in his own room. He told his father, “the police dogs chase the monsters away at night.”

DAILY PHYSICAL TRAINING

Officers, deputies, and agents attending a CLEET Basic Academy will now be required to spend the last 30 minutes of each training day participating in various forms of light exercise and stretching. Physical Training during the Academy has been designed by CLEET staff that are certified Law Enforcement Fitness Specialists and Master Fitness Instructors by the Cooper Institute.

Physical fitness exercises that students will be participating in are:

- Power walking/Light Jog (Equivalent to a 20 minute mile)
- Basic Jumping Jack, Body weight squats (Slow count of 3 seconds down / 3 seconds up) Walking lunges
- Bear crawls
- Planks and/or crunches
- Pushup

Other exercises that will be done may include various portions for the actual CC/DT block such as patterns of movement, step and drag drills, officer survival drills and much more.

The goal is to take this 30 minutes each day and:

- Help better prepare each cadet for the upcoming training in CC/DT
- Allow them to have a small amount of extra time in order to help increase their knowledge in officer safety techniques
- Bring those who are lacking in physical conditioning to a higher level of self awareness and prepare them for the academy
- Possibly instill better eating and physical fitness awareness for their future in L.E.
- Possibly reduce injuries here at the academy as well as on the job related injuries and illness

ALERRT Program

The Homeland Security grant directing CLEET to provide active shooter training is progressing better than we had expected. There are classes being held across the state and the officers that have attended are expressing their support for the program. We have classes scheduled four months in advance and they are available for registration on the CLEET website. Over 2000 officers have been trained in the ALERRT End User courses and we have trained over 90 ALERRT instructors. The classes are two day sessions with 16 hours of CLEET continuing education credit. An additional $60,000 has been added to the Active Shooter grant. Homeland Security provided this additional funding to CLEET to accelerate the opportunities for campus officers to be trained. We are also planning to hold another Train-the-Trainer in the late summer or early fall.

Click here to login and enroll in an ALERRT course near you.

Upcoming ALERRT Courses

September 12-13 - Norman
September 12-13 - Broken Arrow
September 18-19 - Broken Arrow
September 26-27 - Broken Arrow
September 27-28 - Sapulpa
October 3-4 - Broken Arrow
October 7-8 - Broken Arrow
October 14-15 - Broken Arrow
October 18-19 - Sapulpa
November 7-8 - Broken Arrow
November 14-15 - Broken Arrow
November 21-22 - Broken Arrow
December 3 -4 - Broken Arrow
December 9 -10 - Broken Arrow
December 30 - 31 - Shawnee

CLEET SPONSORED LEGISLATION

CLEET sponsored legislation passed this session:

SB 398:

Reserve to Full-Time bridge academy – any reserve officer who completed a 240 hour reserve academy that has been hired as a full-time officer may, at their option, take a 360 reserve to full-time "bridge academy" to become certified as a full-time officer. *Note: This section of legislation becomes effective January 1st, 2014. CLEET expects to hold the first bridge academy in mid spring, 2014.*

All law enforcement agencies must submit to CLEET a complete list of all commissioned officers with a current mailing address and phone number for each employee on or before October 1st of each year.
Every officer that changes residence or phone number must submit, in writing, those changes within 10 days of the effected date.

SB 408:

Allows CLEET to combine the training of reciprocity students and Over-5 students into one 80 hour training session. (Previously reciprocity students had 50 hours of training and Over-5 students had 100 hours of training.) The classes will be held at the CLEET facility in Ada over two 40 hour work weeks.

BODY ARMOR PROGRAM

Program Administrator, Rick Amos started the body armor program after discovering that more than half of the law enforcement officers who graduate from CLEET's Basic Academy do not have body armor. CLEET's goal with the program is to make sure that every officer that graduates from the academy has some form of body armor protection.

If the body armor shows sign of use or it is an older piece of equipment we will still graciously accept it. These things will not stop the body armor from doing its job. If you are interested in donating body armor to CLEET for distribution to an officer that is lacking body armor you can contact Rick Amos at 405-239-5130.

Celebrating 50 Years Of Progress

SAVE THE DATE

You are invited to attend the 50th anniversary celebration at CLEET. All law enforcement agencies are encouraged to attend. CLEET will be serving refreshments and offering tours of our facility throughout the day.

Dates: October 04, 2013
Time: 9:00 a.m. - 4:00 p.m.
Official Ceremony begins at 1:00 p.m.
Location K.O. Rayburn Training Center
2401 Egypt Road

Speakers will include:

Lt. Governor - Todd Lamb

U.S. Marshall - Clayton Johnson

Representative - Todd Thomsen

DPS Commissioner - Michael Thompson

Chickasaw Nation Lt. - Jefferson Keel

TRAINING OPPORTUNITIES

Online training for CLEET credit can now be obtained through the Federal Law Enforcement Training Center (FLETC) website. Please click on the following web http://www.acadis.net/fletc/ . Once at the site, those who maintain a CLEET certification and are active law enforcement officers can register for an account to access 200 courses funded by FLETC (free to the departments). After completing the short registration form, LETN will follow-up with an e-mail/phone call to the agency head or supervisor to confirm the provided information. Access to the training should be granted within a few days. Until further notices, print, scan or forward certificates received from LETN training to CLEET so we can properly credit (e-mail [preferred], fax, or mail) training records.

BASIC INSTRUCTOR DEVELOPMENT

11-18-2013 - Lindsay Training Center (40 hours)

11-18-2013 - Stillwater - Payne County Sheriffs Office

BURGLARY INVESTIGATION

10-01- 2013 - Woodward - High Plains Technology Center

BLOODSTAINS

11-15-2013 - Woodward - High Plains Technology Center

BEHAVIOR ANALYSIS INTERVIEW TECH

10-02 -2013- Durant Police Department

CRIME SCENE INVESTIGATION

09-23- 2013 - Lawton - Great Plains Technology Center

DEALING WITH L.E. DEPRESSION & SUICIDE (2MH) 09-30-2013 - Lindsay Training Center

DEALING WITH L.E. DEPRESSION & SUICIDE (2MH) 09-30-2013 - Lindsay Training Center

DNA EYE WITNESSES

09-23-2013 - Enid Police Department

DOMESTIC VIOLENCE BOOT CAMP

09-25-2013- Shawnee - Gordon Cooper Tech Center

ETHICAL ISSUES OF LAW ENFORCEMENT

10-10-2013 - Tulsa Police Academy

EVIDENCE BASED SEXUAL ASSAULT

09-23- 2013 Ada K.O. Rayburn Training Center

GRADE CROSSING COLLISION

09-17-2013 - El Reno P.D. Public Safety Building

INTERVIEWS & INTERROGATIONS

11-25-2013 - Lawton - Great Plains Technology Center (16 hours)

KINESIC INTERVIEWING

11-18-2013 - ALTUS - WOSC Training Center

MENTAL HEALTH OFFICER

11-19-2013 - Yukon Police Department

PUBLIC SPEAKING

09/24/2013 - Osage County Sheriff Office

RETIREMENT READINESS

10-10-2013 - Yukon Police Department

SOVEREIGN CITIZENS

10-17-2013 - Altus WOCS Training Room

STRESS BEHIND THE BADGE

09-30-2013 - Lindsay Training Center

Here is a link to the Norman Police Departments website where there may be more training opportunities posted that you would like to attend.

Below are some courses that are being offered.

ICS 300 - September 11-12 - OU P.D.

ICS 300 - October 2-3 - Norman Police Training Facility

ICS 400 - October 10 - 11 - Norman Regional Hospital Education Center

Resource Leader - September 23-26 - OU P.D.

Division Group Supervisor October 8-10 OU P.D.

Situation Leader - October 28 - November 1 OU P.D.

Planning Chief - December 9-12 - O.U. P.D.

Patrol Response to Outlaw Motorcycle Gangs

September 25th & 26th, 2013

Perkins, Oklahoma

Hosted by
Perkins Police Department
District Attorney Tom Lee
Stillwater Police Department
Payne County Sheriff's Office

Cushing Police Department

Pending approval for 16 CLEET approved hours

A two-day (16 hour) training program designed for patrol officers and supervisors who may encounter members and associates of outlaw motorcycle gangs during their day to day duties. The course curriculum includes the origin and history of outlaw motorcycle gangs, identification of patches and tattoos, organizational structure and recruiting process, philosophy of members, biker violence, a breakdown of the Big 6 outlaw motorcycle gangs and much more.

Officers will receive critical training in all aspects of dealing with outlaw motorcycle gang members and their associates including legal and ethical considerations that should be taken into account during contacts. Over the past three years law enforcement agencies in the United States have paid out thousands of dollars to members of outlaw motorcycle gangs from incidents involving uniformed patrol officers and investigators who were trying to deal with gang problems in their communities. Officers will receive special training on how to protect themselves and their agencies from frivolous lawsuits from these criminal organizations and still be able to do deal with these individuals effectively.

Instructors will concentrate on the proper ways to identify suspected members and associates of outlaw motorcycle gangs and will teach effective methods of conducting traffic stops on gang members both on motorcycles and in other vehicles. Outlaw motorcycle gangs involvement in the drug trade will be detailed and Officers will be trained in Unique Investigative Techniques that can be utilized to disrupt and disband the gangs and their membership. Additionally Officers will be trained in the recognition of unique weapons possessed by outlaw motorcycle gang members. The instructors for this seminar have many years of investigative experience and a wealth of information to share with fellow officers.

Registration form is below.

Patrol Response to Outlaw Motorcycle Gangs

Registration Form

September 25th & 26th, 2013
Training to be held at

Vassar Community Center
730 North Main
Perkins, OK 74059

Please print or type information and make photocopies for multiple registrations.
Payments by can be made to the Heartland Law Enforcement Training Institute.

Name: _____

Address: _____

City: _____ State: ____ Zip Code_____

Agency/Department: _____

Contact Number: _____

E-mail Address: _____

Rank/Classification: _____

Signature: _____

Heartland Law Enforcement Training Institute does accept VISA & MasterCard. Please submit payment by check or money order with this registration form. Seating is limited and will be accepted on first come, first served basis.

Please remit to: Heartland Law Enforcement Training Institute
P.O Box 902
Lee's Summit, Mo 64063
(816) 554-8888 Fax: (816) 554-8879
www.HLETI.com

Check for $110.00 Enclosed Will pay $110.00 at registration

Registration fee for the two day training program includes the cost of instruction, lunch on both days, handout materials and certificate of completion. Please call for information on group discounts.

From the Peace Officer Records Division:

Please be advised that due to recent rules and legislative changes, the records division staff may be required to ask for additional information before releasing or changing officer records. Agencies doing pre-employment backgrounds requesting individual profiles must submit a written request for an individual's profile along with a signed release of information form from the individual they want to hire.

One of the most critical changes is firearms requalification rosters are now due **by December 31**. Please be reminded that training rosters for mandated training should be submitted as soon as training is conducted.

CLEET is developing a spreadsheet reporting platform for the new agency requirement that every law enforcement agency employing police or peace officers in this state **shall submit to CLEET on or before October 1** of each calendar year a complete list of all commissioned employees with a current mailing address and phone number for each such employee. Because the statute does not become effective until November 1, 2013, the first deadline for this information is October 1, 2014. Once the spreadsheet approved, CLEET will advise the law enforcement agencies on how to complete the process.

Listed below are some of the significant rule changes which were promulgated and became effective July 13, 2013 that will have an impact on the peace officer records division staff.

> **CLEET Rule 390:1-1-6.** Has been changed to require that individual records request must be received by mail or by facsimile. CLEET will no longer accept **email** requests for training records.
>
> Agency requests for records will be accepted in on agency letterhead and received by U.S. Mail with original signature.
>
> Records requests that are not submitted by the individual or a law enforcement agency for investigative purposes will require an Order to Compel and Protective Order for Materials Produced by CLEET. The Order must be certified by the issuing Court.
>
> **CLEET Rule 390:1-1-10.** Requires an individual to submit certified documents in order to change a name in the CLEET database.
>
> **CLEET Rule 390:27-1-5.** Removes the requirement for the full SSN to be submitted to CLEET on a firearms roster. Allows individual to provide last four of the SSN or their CLEET Number. **This rule also includes a deadline of December 31, of each year to submit training that was conducted during that calendar year.**

Listed below is a summary of significant statutory changes related to CLEET's peace officer records division. Unless otherwise specified, the new laws take effect **November 1, 2013**.

> 70 O.S., § 3311 (I) Requires that every law enforcement agency employing police or peace officers in this state **shall submit to CLEET on or before October 1** of each calendar year a complete list of all commissioned employees with a current mailing address and phone number for each such employee.
>
> 70 O.S., § 3311 (Q) Is new language that requires all peace officers, reserve peace officers and tribal peace officers to maintain with the Council current residential addresses and shall notify the Council, in writing, of any change of name. Notification of change of name shall require certified copies of any marriage license or other court document which reflects the change of name. **Notice of change of address or telephone number must be made within ten (10) days of the effective change.** Notices will not be accepted over the phone.

LEGAL UPDATE

LEGAL UPDATE 2013 – the Road Show Continues

Difficult as it is to imagine, we are already scheduling Legal Update continuing education classes for 2013. Maybe you liked the Legal Update 2012 classes, maybe you hated them, maybe you did not have strong opinions either way. However you felt about the 2012 version, we are planning to do another round of them this year.

So, Save the Date!

September 11, 2013 - McAlester

September 16, 2013 - Stillwater

September 20, 2013 - Altus

September 30, 2013 Idabel

October 30, 2013 - Durant

October 31, 2013 - Pawhuska

November 13, 2013 - Tecumseh

November 19, 2013 - Ponca City

December 2, 2013 - Tulsa

December 13, 2013- Ardmore

CLEET Legal Update 2013

1. Ada - July 24, 2013
2. Altus - September 20, 2013
3. Alva - August 26, 2013
4. Ardmore - December 13, 2013
5. Cordell - June 26, 2013
6. Durant - October 30, 2013
7. Enid - August 1, 2013
8. Guymon - August 27, 2013
9. Hugo - July 11, 2013
10. Idabel - September 30, 2013
11. McAlester - September 11, 2013
12. Muskogee - August 5, 2013
13. Pawhuska - October 31, 2013
14. Ponca City - November 19, 2013
15. Poteau - August 20, 2013
16. Stillwater - September 16, 2013
17. Tecumseh - November 13, 2013
18. Tulsa - July 22 & December 2, 2013

ONLINE TRAINING

CLEET is adding four new on-line courses supplied to us through the International Association of Directors of Law Enforcement Standards and Training (IADLEST) through their NLEARN program. The courses range anywhere from 1 hour to 40 hours:

- Law Enforcement Disaster Preparedness; 1 hour by TargetSolutions
- Traffic Occupant Protection Strategies (TOPS); 8 hours by Texas A&M
- Basic Property Technician; 2 days by Texas Engineering Extension Service
- Basic Criminal Investigation; 40 hours by Texas A&M

The link to the NLEARN site is: http://www.iadlest.org/Projects/NLEARN.aspx

MEMO
DATE: April 18, 2013
FROM: J.H.B. Wilson, General Counsel
RE: McNeely v. Missouri (SCOTUS, 2013)

This decision was released April 17, 2013. An abridged version of the Court's Syllabus can be found at the end of this memo. I read the case and did not plan to prepare a memo since I did not find anything novel or surprising about the case. The news coverage I read was pretty accurate. Then, today, I started to hear that some law enforcement officers were misreading the case (or the news coverage). ***These officers believed the Supreme Court ruled that Officers can NEVER draw blood for use in a DUI case. That is NOT what the opinion said.***

Mr. McNeely was arrested for DWI (Missouri law). He refused a breath test and refused to consent to drawing blood. The officer did not get a search warrant. The officer took McNeely to the hospital and had the blood drawn.

The District Court suppressed the evidence. The Missouri appellate court agreed. The U.S. Supreme Court agreed the evidence should be suppressed.

But, significantly, ***NONE of these courts said police can NEVER draw blood (or have a med tech draw blood) to use as evidence***. All of the courts said the same thing—

- Putting a needle under someone's skin and into their vein to withdraw blood is clearly a search.
- A search of the body is covered by the Fourth Amendment's 'reasonableness' standard ('… unreasonable searches and seizures…')
- A search pursuant to a valid search warrant is always reasonable.
- If there is no search warrant (as in this case) the State is required to show that one of the recognized exceptions applies.
- Whether the search is 'reasonable' is judged by a careful scrutiny of facts that make up the 'totality of the circumstances'.

In this case, for whatever reason, the State of Missouri decided to not argue that exigent circumstances made the search reasonable. Instead, Missouri argued that the Supreme Court should adopt a *per se* rule that police can ALWAYS take a blood sample in a DUI case without a warrant. In other words, Missouri asked the Supreme Court to do away with the 'totality of the circumstances' test for DUI cases. The reasoning was that, since the blood alcohol evidence gradually dissipates there should be a 'bright-line' and that this is sufficient reason to forego obtaining a search warrant. The Supreme Court declined to abandon the 'totality of the circumstances' test. Here is how they disposed of the various arguments –

- Argument: The *Schmerber* case says police don't need a warrant to draw blood. SCOTUS response: No, *Schmerber* says the decision is based on the totality of the circumstances. In *Schmerber* the Court ruled that the 'totality of the circumstances' showed that the search was reasonable under the *circumstances of that case*.
- Argument: There should be a *per se* rule allowing drawing blood without a warrant because blood alcohol evidence dissipates over time. SCOTUS response: "Circumstances may make obtaining a warrant impractical such that the alcohol's dissipation will support an exigency, but is a reason to decide each case on its facts, not to accept the 'considerable overgeneralization' that a *per se* rule would reflect."
- Argument: there is not enough time to get a warrant in a DUI case. SCOTUS response: there *may* be a case where there is not enough time to get a warrant, and that *may* be a good enough basis to hold that the search is reasonable. Again, this is a case-by-case, fact-driven decision, not something for a hard-and-fast rule. They also pointed out that the process for getting search warrants is not as cumbersome as it once was.

  -many states allow for search warrants to be obtained even if the peace officer is not in the actual physical presence of the judge (In Oklahoma, see 22 O.S. § 1225) and these do not take a long time

  -the fact pattern in a DUI case is not complicated, and is often repetitive, so a search warrant affidavit does not require a long time to prepare.
- Argument: this leaves the officer on the street with no guidance. SCOTUS response: The Fourth Amendment is based on reasonableness in subjecting a person to an invasion of the body to recover blood. We are not going to change the limitations on such an invasion because it makes it easier for the police. Since Missouri did not argue that the search was 'reasonable', the Supreme Court has no reason to consider whether the facts in THIS CASE would have added up to a 'reasonable' search.

Really, the only mystery in this case is why the State of Missouri did not argue that exigent circumstances made the search reasonable. I guess they saw this as an opportunity to get the Supreme Court to change its mind on the 'totality of the circumstances' test. That effort did not succeed.

Bottom line for law enforcement officers: No change. Unless you have a reason you can defend on the witness stand, get a search warrant. If the 'totality of the circumstances' keeps you from getting a warrant, be ready to get on the stand and explain the circumstances.

Please note: this is an abridged version of this opinion. It has been edited in the interest of brevity and clarity. All emphasis has been supplied. The serious student is encouraged to read the entire opinion.

SUPREME COURT OF THE UNITED STATES

Syllabus

MISSOURI *v*. MCNEELY

CERTIORARI TO THE SUPREME COURT OF MISSOURI

Decided April 17, 2013

Respondent McNeely was stopped for speeding and crossing the centerline. After declining to take a breath test to measure his blood alcohol concentration (BAC), ***he was arrested and taken to a nearby hospital for blood testing. The officer never attempted to secure a search warrant. McNeely refused to consent, but the officer directed a lab technician to take a sample***. McNeely's was charged with driving while intoxicated (DWI). He moved to suppress the blood test result, arguing that taking his blood without a warrant violated his Fourth Amendment rights. ***The trial court concluded that the exigency exception to the warrant requirement did not apply because, apart from the fact that McNeely's blood alcohol was dissipating, no circumstances suggested that the officer faced an emergency.*** The State Supreme Court affirmed, relying on *Schmerber* v. *California*, in which this Court upheld a DWI suspect's warrantless blood test where the officer "might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, threatened 'the destruction of evidence,' " ***This case, the state court found, involved a routine DWI investigation where no factors other than the natural dissipation of blood alcohol suggested that there was an emergency, and, thus, the nonconsensual warrantless test violated Respondent's right to be free from unreasonable searches of his person.***

Held: ***The judgment is affirmed.***

JUSTICE SOTOMAYOR delivered the opinion of the Court

The principle that a warrantless search of the person is reasonable only if it falls within a recognized exception, applies here, where the search involved a compelled physical intrusion beneath McNeely's skin and into his veins to obtain a blood sample to use as evidence. One exception 'applies when the exigencies of the situation make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable.' " ***This Court looks to the totality of circumstances in determining whether an exigency exits***. Applying this approach ***in Schmerber, the Court found a warrantless blood test reasonable*** after considering all of the facts and circumstances of that case and ***carefully basing its holding on those specific facts, including that alcohol levels decline after drinking stops and that testing was delayed while officers transported the injured suspect to the hospital and investigated the accident scene***.

The State nonetheless seeks a per se rule, contending that exigent circumstances necessarily exist when an officer has probable cause to believe a person has been driving under the influence of alcohol because BAC evidence is inherently evanescent.

Although a person's blood alcohol level declines until the alcohol is eliminated, it does not follow that the Court should depart from careful case-by-case assessment of exigency. ***When officers in drunk-driving investigations can reasonably obtain a warrant before having a blood sample drawn without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so. Circumstances may make obtaining a warrant impractical*** such that the alcohol's dissipation will support an exigency, ***but that is a reason to decide each case on its facts, not to accept the "considerable overgeneralization" that a per se rule would reflect***.

Blood testing is different in critical respects from other destruction-of-evidence cases. Unlike a situation where a suspect has control over easily disposable evidence, BAC evidence naturally dissipates in a gradual and relatively predictable manner. Moreover, because an officer must typically take a DWI suspect to a medical facility and obtain a trained medical professional's assistance before having a blood test conducted, some delay between the time of the arrest or accident and time of the test is inevitable regardless of whether a warrant is obtained. The State's rule also fails to account for advances in the 47 years since *Schmerber* was decided that allow for the more expeditious processing of warrant applications, particularly in contexts like drunk-driving investigations where the evidence supporting probable cause is simple. ***The natural dissipation of alcohol in the blood may support an exigency finding in a specific case, but it does not do so categorically***. Because ***the State*** sought a *per se* rule here, it ***did not argue that there were exigent circumstances in this particular case.*** The arguments and the record thus do not provide the Court with an adequate framework for a detailed discussion of all the relevant factors that can be taken into account in determining the reasonableness of acting without a warrant. ***It suffices to say that the metabolization of alcohol in the bloodstream and the ensuing loss of evidence are among the factors that must be considered in deciding whether a warrant is required.***

JUSTICE SOTOMAYOR, joined by JUSTICE SCALIA, JUSTICE GINSBURG, and JUSTICE KAGAN concluded that the other arguments advanced by the State of a *per se* rule are unpersuasive. ***Their concern that a case-by-case approach to exigency will not provide adequate guidance to law enforcement officers may make the desire for a bright-line rule understandable, but the Fourth Amendment will not tolerate adoption of an overly broad categorical approach in this context.*** A fact-intensive, totality of the circumstances, approach is hardly unique within this Court's Fourth Amendment jurisprudence. ***The State also contends that the privacy interest implicated here is minimal. But motorists' diminished expectation of privacy does not diminish their privacy interest in preventing a government agent from piercing their skin.*** And though a blood test conducted in a medical setting by trained personnel is less intrusive than other bodily invasions, ***this Court has never retreated from its recognition that any compelled intrusion into the human body implicates significant, constitutionally protected privacy interests.***

Finally, ***the government's general interest in combating drunk driving does not justify departing from the warrant requirement without showing exigent circumstances*** that make securing a warrant impractical in a particular case.

MEMO
DATE: March 29, 2013
TO: instructor staff
FROM: J.H.B. Wilson, General Counsel
RE: Florida v. Jardines (SCOTUS, 2013)

A new Supreme Court case issued March 26, 2013.

Really short version:

- Taking a drug detection dog to the doorway to sniff for contraband is a 'search' for purposes of the Fourth Amendment.
- This means that the usual standard for searches applies: If there is no search warrant, the court will presume that the search was unreasonable. The burden will then be on the State to show that one of the recognized exceptions applies, and that the search was reasonable.
- In general, a homeowner grants an 'implied license' to approach the door for things like delivering mail and packages, and for distributing pamphlets, and for trying to sell stuff like, for example, girl scout cookies.
- This case raises many questions, most of them left unresolved, at least for now.
- There is actually some humor in the opinions. Humor in Supreme Court opinions is rare.
- An abridged version of the Opinions can be found at the end of this memo.

Longer discussion.
There has not been a lot of newspaper coverage of this opinion. The coverage I have seen, as usual, is not very accurate. The purpose of this memo is to give you a little better idea of what the Supreme Court decided.

- This case was decided on very narrow grounds. As presented by Justice Scalia, the issue is "whether using a drug-sniffing dog on a homeowner's porch to investigate the contents of the home is a 'search' within the meaning of the Fourth Amendment". Look at all the qualifiers in that sentence: It specifically talks of the 'homeowner' leaving the possibility for a different result if the person is not the homeowner. It references the 'porch' leaving room to consider whether taking a drug-sniffing dog to another part of the property will be treated differently. This very narrow approach leaves a lot of room for deciding future cases.
- The traditional analysis is that a 'search' must be 'reasonable' to satisfy the Fourth Amendment ('unreasonable searches and seizures'). The best way for a peace officer to conduct a 'reasonable' search is to have a search warrant. Another way to have a 'reasonable' search is to fit within one of the recognized exceptions to the search warrant requirement. 'Consent' is an exception. 'Exigent circumstances' is an exception. There are several other exceptions and I don't want to take the time to type them all here. By deciding the case on the narrow ground of 'whether it is a search' the Court leave open the possibility of applying one of the exceptions to a drug-dog 'inspection' of the door of a house.

- The traditional analysis is that a 'search' must be 'reasonable' to satisfy the Fourth Amendment ('unreasonable searches and seizures'). The best way for a peace officer to conduct a 'reasonable' search is to have a search warrant. Another way to have a 'reasonable' search is to fit within one of the recognized exceptions to the search warrant requirement. 'Consent' is an exception. 'Exigent circumstances' is an exception. There are several other exceptions and I don't want to take the time to type them all here. By deciding the case on the narrow ground of 'whether it is a search' the Court leave open the possibility of applying one of the exceptions to a drug-dog 'inspection' of the door of a house.
- When you have a front door, there is an 'implied license' or 'implied invitation for folks like mail carriers, and UPS delivery folks. This implied license 'typically permits the visitor to approach the home by the front path, knock promptly, wait briefly to be received, and then (absent an invitation to linger longer) leave'. This means a 'police officer not armed with a warrant may approach the home and knock, precisely because that is no more than any private citizen might do'. However, 'introducing a trained police dog to explore the area the area around the home in hopes of discovering incriminating evidence is something else. There is no customary invitation to do that.'
- There are a lot of unresolved questions. Remember that the Supreme Court usually tries to decide only questions that have to be decided. This leaves them room to consider new cases without being bound to a particular decision. Some of the unanswered questions:
- What about using a drug dog in apartment complexes that have common areas instead of 'porches'? Not answered.
- What about the homeowner who clearly marks the property with no trespass and no soliciting signs? Since the 'implied license' to enter the property is similar to that of the delivery person, would an express revocation of that 'implied license' mean an officer is not even allowed to knock on the door? Not answered.
- What about using the drug dog as part of investigation, and then using the information to gain other information to use for a warrant? Not answered.

Justice Kagan (who was joined in a concurring opinion by Justices Sotomayor and Ginsburg) says this is an easy case to decide. '*For me, a simple analogy clinches this case—and does so on privacy as well as property grounds. A stranger comes to the front door of your home carrying super-high powered binoculars. He doesn't knock or say hello. Instead, he stands on the porch and uses the binoculars to peer through your windows, into your home's furthest corners. It doesn't take long (the binoculars are really very fine): In just a couple of minutes, his uncommon behavior allows him to learn details of your life you disclose to no one. Has your "visitor" trespassed on your property, exceeding the license you have granted to members of the public to, say, drop off the mail or distribute campaign flyers? Yes, he has. And has he also invaded your "reasonable expectation of privacy," by nosing into intimacies you sensibly thought protected from disclosure? Yes, of course, he has done that too.*

'Also of importance is that courts traditionally zealously protect homes. Courts don't protect cars much. As far back as 1765 the English courts held that 'the property of every man (is) so sacred, that no man can set his foot upon his neighbors close without his leave'.

- Humor in a Supreme Court Opinion
- 'The detectives had all four of their feet and all four of their companion's firmly planted on the constitutionally protected extension of Jardine's home.'
- '*To find a visitor knocking on the door is routine* (even if sometimes unwelcome); *to spot that same visitor exploring the front path with a metal detector, or marching his bloodhound into the garden before saying hello and asking permission, would inspire most of us to—well, call the police*.
- '*drug-detection dogs are highly trained tools of law enforcement, geared to respond in distinctive ways to specific scents so as to convey clear and reliable information to their human partners. They are to the poodle down the street as high-powered binoculars are to a piece of plain glass.*'
- 'Complying with the terms of that traditional invitation does not require fine-grained legal knowledge; it is generally managed without incident by the Nation's Girl Scouts and trick-or-treaters.'
- (from the dissent) '*If bringing a tracking dog to the front door of a home constituted a trespass, one would expect at least one case to have arisen during the past 800 years. But the Court has found none*.

Please note: this is an abridged version for use in a class on search and seizure. All *emphasis* has been supplied. The serious student is encouraged to read the entire opinion.

SUPREME COURT OF THE UNITED STATES

FLORIDA *v*. JARDINES

CERTIORARI TO THE SUPREME COURT OF FLORIDA

Decided March 26, 2013

SCALIA, J., delivered the opinion of the Court, in which THOMAS, GINSBURG, SOTOMAYOR, and KAGAN, JJ., joined. KAGAN, J., filed a concurring opinion, in which GINSBURG and SOTOMAYOR, JJ., joined. ALITO, J., filed a dissenting opinion, in which ROBERTS, C. J., and KENNEDY and BREYER, JJ., joined.

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports.

JUSTICE SCALIA delivered the opinion of the Court.

We consider whether using a drug-sniffing dog on a homeowner's porch to investigate the contents of the home is a "search" within the meaning of the Fourth Amendment.

In 2006, Detective William Pedraja of the Miami-Dade Police Department received *an unverified tip that marijuana was being grown in the home* of respondent Joelis Jardines. One month later, the Department and the Drug Enforcement Administration sent a joint surveillance team to Jardines' home. Detective Pedraja was part of that team. *He watched the home for fifteen minutes and saw no vehicles in the driveway or activity around the home, and could not see inside because the blinds were drawn*. Detective Pedraja then approached Jardines' home *accompanied by Detective Douglas Bartelt, a trained canine handler who had just arrived at the scene with his drug-sniffing dog*. The dog was trained to detect the scent of marijuana, cocaine, heroin, and several other drugs, indicating the presence of any of these substances through particular behavioral changes recognizable by his handler.

Detective Bartelt *had the dog on a six-foot leash, owing in part to the dog's "wild" nature, and tendency to dart around erratically while searching*. As *the dog* approached Jardines' front porch, *he apparently sensed one of the odors he had been trained to detect, and began energetically exploring the area for the strongest point source of that odor*. As Detective Bartelt explained, the dog "began tracking that airborne odor by. . . tracking back and forth," engaging in what is called "bracketing," "back and forth, back and forth." Detective Bartelt gave the dog "the full six feet of the leash plus whatever safe distance [he could] give him" to do this—he testified that he needed to give the dog "as much distance as I can." And Detective Pedraja stood back while this was occurring, so that he would not "get knocked over" when the dog was "spinning around trying to find" the source.

After sniffing the base of the front door, the dog sat, which is the trained behavior upon discovering the odor's strongest point. Detective Bartelt then pulled the dog away from the door and returned to his vehicle. He left the scene after informing Detective Pedraja that there had been a positive alert for narcotics.

On the basis of what he had learned at the home, Detective Pedraja applied for and received a warrant to search the residence. When the warrant was executed later that day, Jardines attempted to flee and was arrested; *the search revealed marijuana plants, and he was charged with trafficking in cannabis*.

At trial, *Jardines moved to suppress the marijuana plants on the ground that the canine investigation was an unreasonable search. The trial court granted the motion, and the Florida Third District Court of Appeal reversed. On a petition for discretionary review, the Florida Supreme Court quashed the decision of the Third District Court of Appeal and approved the trial court's decision* to suppress, *holding (as relevant here) that the use of the trained narcotics dog to investigate Jardines' home was a Fourth Amendment search unsupported by probable cause, rendering invalid the warrant based upon information gathered in that search*.

We granted certiorari, *limited to the question of whether the officers' behavior was a search within the meaning of the Fourth Amendment*. The Fourth Amendment provides in relevant part that the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

The Amendment establishes a simple baseline, one that for much of our history formed the exclusive basis for its protections: When "the Government obtains information by physically intruding" on persons, houses, papers, or effects, "a 'search' within the original meaning of the Fourth Amendment" has "undoubtedly occurred." By reason of our decision in *Katz* v. *United States*, 389 U. S. 347 (1967), property rights "are not the sole measure of Fourth Amendment violations," but *though Katz may add to the baseline, it does not subtract anything from the Amendment's protections "when the Government does engage in [a] physical intrusion* of a constitutionally protected area." *That principle renders this case a straightforward one*. The *officers were gathering information in an area belonging to Jardines and immediately surrounding his house—in the curtilage* of the house, which we have held enjoys protection as part of the home itself. And *they gathered that information by physically entering and occupying the area to engage in conduct not explicitly or implicitly permitted by the homeowner*.

The Fourth Amendment "indicates with some precision the places and things encompassed by its protections": persons, houses, papers, and effects. *Oliver* v. *United States*. The Fourth Amendment does not, therefore, prevent all investigations conducted on private property; for example, an officer may gather information in what we have called "open fields"—even if those fields are privately owned—because such fields are not enumerated in the Amendment's text. But *when it comes to the Fourth Amendment, the home is first among equals. At the Amendment's "very core" stands "the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion*." This right would be of little practical value if the State's agents could stand in a home's porch or side garden and trawl for evidence with impunity; *the right to retreat would be significantly diminished if the police could enter a man's property to observe his repose from just outside the front window*. We therefore regard the area "immediately surrounding and associated with the home"—what our cases call the curtilage—as "part of the home itself for Fourth Amendment purposes." *That principle has ancient and durable roots*. Just as the distinction between the home and the open fields is "as old as the common-law," so too is the identity of home and what Blackstone called the "curtilage or homestall," for the "house protects and privileges all its branches and appurtenants." (The Home) is where "privacy expectations are most heightened."

While the boundaries of the curtilage are generally "clearly marked," the "conception defining the curtilage" is at any rate familiar enough that it is "easily understood from our daily experience." *Here there is no doubt that the officers entered it: The front porch is the classic exemplar of an area adjacent to the home and "to which the activity of home life extends*."

Since the officers' investigation took place in a constitutionally protected area, we turn to the question of whether it was accomplished through an unlicensed physical intrusion. While law enforcement officers need not "shield their eyes" when passing by the home "on public thoroughfares," *an officer's leave to gather information is sharply circumscribed when he steps off those thoroughfares and enters the Fourth Amendment's protected areas*. In permitting, for example, visual observation of the home from "public navigable airspace," we were careful to note that it was done "in a physically nonintrusive manner." *Entick* v. *Carrington*, 2 Wils. K. B. 275, 95 Eng. Rep. 807 (K. B. 1765), a case "undoubtedly familiar" to "every American statesman" at the time of the Founding, states *the general rule* clearly: *"[O]ur law holds the property of every man so sacred, that no man can set his foot upon his neighbour's close without his leave."*

As it is undisputed that *the detectives had all four of their feet and all four of their companion's firmly planted on the constitutionally protected extension of Jardines' home, the only question is whether he had given his leave (even implicitly) for them to do so. He had not.*

"A license may be implied from the habits of the country," notwithstanding the "strict rule of the English common law as to entry upon a close." *We have accordingly recognized that "the knocker on the front door is treated as an invitation or license to attempt an entry,* justifying ingress to the home by solicitors, hawkers and peddlers of all kinds." *This implicit license typically permits the visitor to approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave.* Complying with the terms of that traditional invitation does not require fine-grained legal knowledge; it is generally managed without incident by the Nation's Girl Scouts and trick-or-treaters. *Thus, a police officer not armed with a warrant may approach home and knock, precisely because that is "no more than any private citizen might do*." With this much, the dissent seems to agree—it would inquire into" ' But their answers are incompatible with the dissent's outcome, which is presumably why *the dissent does not even try to argue that it would be customary, usual, reasonable, respectful, ordinary, typical, no alarming, etc., for a stranger to explore the curtilage of the home with trained drug dogs.*
But *introducing a trained police dog to explore the area around the home in hopes of discovering incriminating evidence is something else. There is no customary invitation to do that.* An invitation to engage in canine forensic investigation assuredly does not inher in the very act of hanging a knocker. *To find a visitor knocking on the door is routine* (even if sometimes unwelcome); *to spot that same visitor exploring the front path with a metal detector, or marching his bloodhound into the garden before saying hello and asking permission, would inspire most of us to—well, call the police.*

The dissent insists that our argument must rest upon "the particular instrument that Detective Bartelt used to detect the odor of marijuana"—the dog. *It is not the dog that is the problem, but the behavior that here involved use of the dog.* We think a typical person would find it " 'a cause for great alarm' " to find a stranger snooping about his front porch with or without a dog. Here, however, *the question before the court is precisely whether the officer's conduct was an objectively reasonable search.* As we have described, that depends upon whether the officers had an implied license to enter the porch, which in turn depends upon the purpose for which they entered.

Here, their behavior objectively reveals a purpose to conduct a search, which is not what anyone would think he had license to do.

The State argues that investigation by a forensic narcotics dog by definition cannot implicate any legitimate privacy interest. The State cites for authority our decisions in *United States* v. *Place*, (1983), *United States* v. *Jacobsen*, (1984), and *Illinois* v. *Caballes*, (2005), which held, respectively, that canine inspection of luggage in an airport, chemical testing of a substance that had fallen from a parcel in transit, and canine inspection of an automobile during a lawful traffic stop, do not violate the "reasonable expectation of privacy".

Just last Term, we considered an argument much like this. *Jones* held that tracking an automobile's whereabouts using a physically-mounted GPS receiver is a Fourth Amendment search. The Government argued that the *Katz* standard "show[ed] that no search occurred," as the defendant had "no 'reasonable expectation of privacy'"

Just last Term, we considered an argument much like this. *Jones* held that tracking an automobile's whereabouts using a physically-mounted GPS receiver is a Fourth Amendment search. The Government argued that the *Katz* standard "show[ed] that no search occurred," as the defendant had "no 'reasonable expectation of privacy'" in his whereabouts on the public roads, But because the GPS receiver had been physically mounted on the defendant's automobile (thus intruding on his "effects"), we held that tracking the vehicle's movements was a search. The *Katz* reasonable expectations test "has been *added to*, not *substituted for*," the traditional property-based understanding of the Fourth Amendment, and so is unnecessary to consider when the government gains evidence by physically intruding on constitutionally protected areas.

Thus, we need not decide whether the officers' investigation of Jardines' home violated his expectation of privacy under *Katz*. One virtue of the Fourth Amendment's property-rights baseline is that it keeps easy cases easy. That the officers learned what they learned only by physically intruding on Jardines' property to gather evidence is enough to establish that a search occurred. *The government's use of trained police dogs to investigate the home and its immediate surroundings is a" search" within the meaning of the Fourth Amendment*. The judgment of the Supreme Court of Florida is therefore affirmed.

It is so ordered. _____

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE SOTOMAYOR join, concurring.

For me, a simple analogy clinches this case—and does so on privacy as well as property grounds. A stranger comes to the front door of your home carrying super-high powered binoculars. He doesn't knock or say hello. Instead, he stands on the porch and uses the binoculars to peer through your windows, into your home's furthest corners. It doesn't take long (the binoculars are really very fine): In just a couple of minutes, his uncommon behavior allows him to learn details of your life you disclose to no one. Has your "visitor" trespassed on your property, exceeding the license you have granted to members of the public to, say, drop off the mail or distribute campaign flyers? Yes, he has. And has he also invaded your "reasonable expectation of privacy," by nosing into intimacies you sensibly thought protected from disclosure? Yes, of course, he has done that too.

Detective Bartelt's dog was not your neighbor's pet, come to your porch on a leisurely stroll. As this Court discussed earlier this Term, *drug-detection dogs are highly trained tools of law enforcement, geared to respond in distinctive ways to specific scents so as to convey clear and reliable information to their human partners. They are to the poodle down the street as high-powered binoculars are to a piece of plain glass*. Was this activity a trespass? Yes, as the Court holds today. Was it also an invasion of privacy? Yes, that as well.

That "firm" and "bright" rule governs this case: The police officers here conducted a search because they used a"device . . . not in general public use" (a trained drug detection dog) to "explore details of the home" (the presence of certain substances) that they would not otherwise have discovered without entering the premises.

JUSTICE ALITO, with whom THE CHIEF JUSTICE, JUSTICE KENNEDY, and JUSTICE BREYER join, dissenting.

The Court's decision in this important Fourth Amendment case is based on a putative rule of trespass law that is nowhere to be found in the annals of Anglo-American jurisprudence.
The law of trespass generally gives members of the public a license to use a walkway to approach the front door of a house and to remain there for a brief time. This license is not limited to persons who intend to speak to an occupant or who actually do so. (Mail carriers and persons delivering packages and flyers are examples of individuals who may lawfully approach a front door without intending to converse.) Nor is the license restricted to categories of visitors whom an occupant of the dwelling is likely to welcome; as the Court acknowledges, this license applies even to "solicitors, hawkers and peddlers of all kinds." And the license even extends to police officers who wish to gather evidence against an occupant (by asking potentially incriminating questions).
The Court's decision is also inconsistent with the reasonable-expectations-of-privacy test. *A reasonable person understands that odors emanating from a house may be detected from locations that are open to the public, and a reasonable person will not count on the strength of those odors remaining within the range that, while detectible by a dog, cannot be smelled by a human.*
For these reasons, I would hold that no search within the meaning of the Fourth Amendment took place in this case, and I would reverse the decision below.

Of course, this license has certain spatial and temporal limits. A visitor must stick to the path that is typically used to approach a front door, such as a paved walkway. A visitor cannot traipse through the garden, meander into the backyard, or take other circuitous detours that veer from the pathway that a visitor would customarily use.
Nor, as a general matter, may a visitor come to the front door in the middle of the night without an express invitation. ("Furtive intrusion late at night or in the predawn hours is not conduct that is expected from ordinary visitors. Indeed, if observed by a resident of the premises, it could be a cause for great alarm").
Similarly, a visitor may not linger at the front door for an extended period. ("[T]here is no such thing as squatter's rights on a front porch. A stranger may not plop down uninvited to spend the afternoon in the front porch rocking chair, or throw down a sleeping bag to spend the night, or lurk on the front porch, looking in the windows"). The license is limited to the amount of time it would customarily take to approach the door, pause long enough to see if someone is home, and (if not expressly invited to stay longer), leave.

As I understand the law of trespass and the scope of the implied license, a visitor who adheres to these limitations is not necessarily required to ring the doorbell, knock on the door, or attempt to speak with an occupant. For example, mail carriers, persons making deliveries, and individuals distributing flyers may leave the items they are carrying and depart without making any attempt to converse. A pedestrian or motorist looking for a particular address may walk up to a front door in order to check a house number that is hard to see from the sidewalk or road. A neighbor who knows that the residents are away may approach the door to retrieve an accumulation of newspapers that might signal to a potential burglar that the house is unoccupied.

As the majority acknowledges, this implied license to approach the front door extends to the police. ("It is not objectionable for an officer to come upon that part of the property which has been opened to public common use" (internal quotation marks omitted)). Even when the objective of a "knock and talk" is to obtain evidence that will lead to the homeowner's arrest and prosecution, the license to approach still applies. In other words, gathering evidence—even damning evidence—is a lawful activity that falls within the scope of the license to approach. And when officers walk up to the front door of a house, they are permitted to see, hear, and smell whatever can be detected from a lawful vantage point.

Detective Bartelt did not exceed the scope of the license to approach respondent's front door.

What the Court must fall back on, then, is the particular instrument that Detective Bartelt used to detect the odor of marijuana, namely, his dog. But in the entire body of common-law decisions, the Court has not found a single case holding that a visitor to the front door of a home commits a trespass if the visitor is accompanied by a dog on a leash.

The Court responds that "[i]t is not the dog that is the problem, but the behavior that here involved use of the dog." But where is the support in the law of trespass for *this* proposition? Dogs' keen sense of smell has been used in law enforcement for centuries. *If bringing a tracking dog to the front door of a home constituted a trespass, one would expect at least one case to have arisen during the past 800 years. But the Court has found none.*

Consider the situation from the point of view of the occupant of a building in which marijuana is grown or methamphetamine is manufactured. *Would such an occupant reason as follows? "I know that odors may emanate from my building and that atmospheric conditions, such as the force and direction of the wind, may affect the strength of those odors when they reach a spot where members of the public may lawfully stand. I also know that some people have a much more acute sense of smell than others, and I have no idea who might be standing in one of the spots in question when the odors from my house reach that location. In addition, I know that odors coming from my building, when they reach these locations, may be strong enough to be detected by a dog. But I am confident that they will be so faint that they cannot be smelled by any human being." Such a finely tuned expectation would be entirely unrealistic, and I see no evidence that society is prepared to recognize it as reasonable.*

The conduct of the police officer in this case did not constitute a trespass and did not violate respondent's reasonable expectations of privacy. *I would hold that this conduct was not a search, and I therefore respectfully dissent.*