



NLLEA GRAM

National Liquor Law Enforcement Association

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Winter 2006

Message from the President

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President

Shawn Walker
Vice President

Stacy Drakeford
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Charles Sumner
Sergeant - at -
Arms

Dear National Liquor Law Enforcement Association Members,

Happy New Year! I hope all of you had a wonderful and memorable holiday season and are ready to start a new year.

The NLLEA Board met in November to begin our planning for the year's activities. The first topic we discussed was the location of our annual conference. This year's 20th NLLEA Annual Conference will be held in conjunction with the National Leadership Conference which is sponsored by OJJDP. The joint conference allows NLLEA members to interact with approximately 1,200 professionals and advocates working on underage drinking and enforcement issues. At the same time, however, it allows us to maintain our Association's distinct identity through a separate conference agenda that permits periodic convergence with NLC attendees. The conference will held in Baltimore, Maryland from August 23rd to 26th. We are hoping to attract a record number of members to our conference. You will be receiving a Call for Presentations soon, so start thinking of those innovative programs or activities that you would like to present at the conference.

The Board also approved the final version of NLLEA's Strategic Plan. We include this in the current issue of the NLLEAgram for your information. We hope this plan will help guide the Association in a positive direction.

The Board is also planning on another Training Academy this year. Sergeant-At-Arms Charles Sumner will be working with Training Academy Coordinator Chuck Conkling to bring this year's Academy to fruition.

The Board has assigned each of its members to chair the following committees: Shawn Walker - By-Laws; Stacy Drakeford - Membership; Charles Sumner - Training. If you would like to volunteer to help on any of these committees, please contact the individual chairperson.

Stacy Drakeford will soon send to all voting members a motion to accept the By-Laws changes to Article IV - Membership which was discussed at the business meeting at our conference. Please take the time to send your vote to Stacy when you receive it.

We are pleased to let you know that Shawn Walker is attending the FBI National Academy from January 8 through March 17. It is a great experience for Shawn, and we wish him well. His accessibility will be limited, but he will try to check e-mails when he has an opportunity. We hope to hear from Shawn once in a while to let us know how he is doing. Good luck, Shawn!

I wish all of you a happy New Year and hope to see you in August 2006 at our 20th Annual Conference!

Sincerely,

Linda Ignowski
2005-2006 President



News From the Hill

by Jim Copple



The first session of the 109th Congress certainly ended with a lot of drama and lots of sizzle. Unfortunately, it was more sizzle than substance. Major programs were eliminated or cut, and the law enforcement community is hanging on by a

thread. At a time when more and more is being required of law enforcement, policymakers in Washington are cutting programs and budgets that threaten the very security of our communities, states, and nation. Cleaning up after Katrina and Rita, waging war in Iraq, and the desire to cut taxes amidst the tremendous fiscal challenges facing our Nation, have created the largest deficit in our country's history. There appears to be no desire to take on or to take seriously the issues important to law enforcement and those working to address problem drinking or underage drinking.

The Bad News First:

1. The COPS program is soon to be eliminated or rolled into the Bureau of Justice Assistance, and most of its programs will be scuttled.
2. The Justice Assistance Grants (JAG) programs (Old Byrne Memorial Grant Program) were cut by more than half. This is a major resource for community-based crime, violence, and substance abuse prevention.

3. Transportation dollars and programs will come under further scrutiny this next year because of the "pork" loaded into last year's appropriation and authorization of the transportation bill.
4. Because of other priorities, the Preventing Underage Drinking and Retail Assistance Act was not introduced. It encountered more delays as on-site alcohol establishments continued to put up obstacles. We anticipate an introduction of the bill at the beginning of this next session.
5. All earmarks in Health, Education, and Labor (HHS) were eliminated.

Now the Good News:

1. The Enforcing Underage Drinking Laws Program (EUDL) was funded.
2. The National Center for Alcohol Law Enforcement was funded, but at one-third of the current year's budget.
3. Specific earmarks that are relevant to individual communities will support a number of state and local projects. These earmarks will not have national impact.

As we go into the next session of Congress and in an election year, we can only hope that reason and balance will be restored as members of Congress are called to explain their actions before a voting public. This is a time when alcohol law enforcement agencies and personnel need to communicate to elected officials the importance of your work to public safety. Right now, this is a low priority among elected officials. We must change that!

Congratulations!

Last September **Frank Monahan** was sworn in as Chief of the Virginia Department of Alcoholic Beverage Control's Bureau of Enforcement. He came to the agency after a distinguished career with the Richmond Police Department where he retired as a police major.

Peter Lobdell was appointed to serve as State Supervisor for Alcohol and Tobacco Control in Missouri in December. He comes to the position with over 28 years of law enforcement experience, most of which was with the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

In November Director **Ronald Johnson** of the Alcohol & Tobacco Division of the Georgia Department of Revenue retired from state government. Just prior to retiring, he served as Host Administrator for the 2005 Southern/Northern Region Meeting of the National Conference of State Liquor Administrators.

Earlier this month **Tom Carson** retired from the Sparks Police Department in Nevada. Lt. Carson served as Watch Commander for the department.

The NLLEA extends its congratulations to Frank Monahan and Peter Lobdell on their recent appointments and to Ronald Johnson and Tom Carson on their recent retirements. We hope to see you at the next NLLEA Annual Conference in August.

National Liquor Law Enforcement Association Strategic Plan 2006

Purpose:

The purpose of this Association is to secure a close official and personal relationship among liquor law enforcement officials; to secure a unity of action in law enforcement matters; to enhance the standards of liquor law enforcement personnel and training of the law enforcement profession generally.

Background:

The National Liquor Law Enforcement Association (NLLEA) is a non-profit association of law enforcement personnel dedicated to the enforcement of alcohol beverage laws and regulations. The NLLEA has a membership structure that is open to all persons involved in enforcing alcohol beverage laws in the United States and Canada.

The NLLEA is committed to improving the standards and practices of alcohol beverage law enforcement, to the professional development of its members, and to public recognition of the role and achievements of alcohol beverage law enforcement in protecting and promoting public safety.

The NLLEA actively collaborates with other national law enforcement organizations to enhance understanding of the overall importance of alcohol law enforcement in preventing crime and community problems. In addition, the NLLEA fosters a cooperative and mutually beneficial working relationship with alcohol research and public health organizations and with responsible members of the alcohol beverage industry. We consider these groups to be amongst our closest allies in ensuring that alcoholic beverages are promoted, distributed, and consumed in a legal and responsible fashion.

In order to help ensure the integrity, independence, and objectivity of our association and its members, the NLLEA does not permit acceptance of funds or donations from the alcohol beverage industry.

Current Funding Sources:

1. Membership dues
2. Registration fees for the Training Academy
3. NLLEA Merchandise sales

Operational Issues:

NLLEA is currently housed at the Calverton, Maryland office of the Pacific Institute for Research and Evaluation (PIRE), and PIRE has provided administrative support for NLLEA operations for the past five years. The NLLEA needs to implement an alternative approach to meeting the Association's administrative needs.

Constraints:

1. Limited funding resources
2. Limited participation of full membership
3. Limited visibility and knowledge of the association
4. Low membership
5. Hard economic times for most states
6. Membership located over a large geographic area
7. Fulltime employees with time constraints

Goals:

1. **Expand Membership**
Expand our membership to allow for growth and support. By diversifying our membership, we should experience a wider range of exposure, knowledge and an opportunity to become self-sufficient.
2. **Become Recognized as "National Experts" in Alcohol Beverage Law Enforcement**
We are the experts in alcohol beverage law enforcement across the nation. We must market our knowledge to increase our visibility with other organizations and agencies.
3. **Improve the Content and Participation in the NLLEA Training Academy and Other Training Opportunities.**
Continue to improve the training academy to meet membership needs. Provide training to states or local law enforcement as requested.

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Strategies for Attaining Our Goals

1. Continue to increase the Association's membership to include a wider range of personnel who are involved in Alcohol Beverage Law Enforcement .
 - Develop a recruitment campaign
 - Evaluate membership dues
 - Seek funding to support a paid staff position for NLLEA
2. Increase the Associations' national visibility to enhance NLLEA's credibility as the "experts" in the field of alcohol beverage law enforcement
 - Maintain an up-to-date Web site
 - Identify opportunities for NLLEA to provide technical assistance to various organizations
 - Write articles for various publications
 - Provide relevant, current training for members at the NLLEA Annual Conference
 - Evaluate need and ability to apply for grants to enhance programs
3. Advance the NLLEA Training Academy to meet member agencies' needs
 - Conduct a training needs survey/analysis

What's New

2006 Training Academy

by *Chuck Conkling*

We have dates and a hotel! This year the NLLEA Training Academy will be held from Sunday, May 21 through Friday, May 26 at the Salt Lake City Marriott Downtown in Salt Lake City, Utah. Mark the dates and plan to attend. I hope to send out an email with more specific information about hotel accommodations within the next few weeks.

We will have four phases again this year. All four phases were very well received this past year and will remain essentially the same. Phase III will be the Technology Phase and will be comprised of a shortened Video Gambling class and an expanded Surveillance class that will include outside surveillance as well as electronic surveillance. This will allow "hands on" instruction with much of the electronics that are tailored to our enforcement needs. The debut of the full Leadership phase was very well received last year. By request from many of you, we will add to this phase an eight-hour class on Integrity Leadership. As always, this phase is open to everyone as seats are available, but those currently in supervisory positions will be given priority.

Monday's joint class will probably deal with the use and sale of drugs in licensed outlets and the infiltration of violent street gangs into our cities and outlets. The exact format has not been finalized yet. If you have any thoughts and suggestions, please get them to me ASAP.

We will have a full and varied curriculum again this year. As you know, the instructors presenting these classes are recognized as leaders by their respective agencies and have many years of experience. The Academy is an opportunity for your officers to receive excellent training from instructors who understand our unique enforcement challenges.

Please contact me if you have any questions or suggestions for future training.

Chuck Conkling

Training Coordinator

919-481-4998

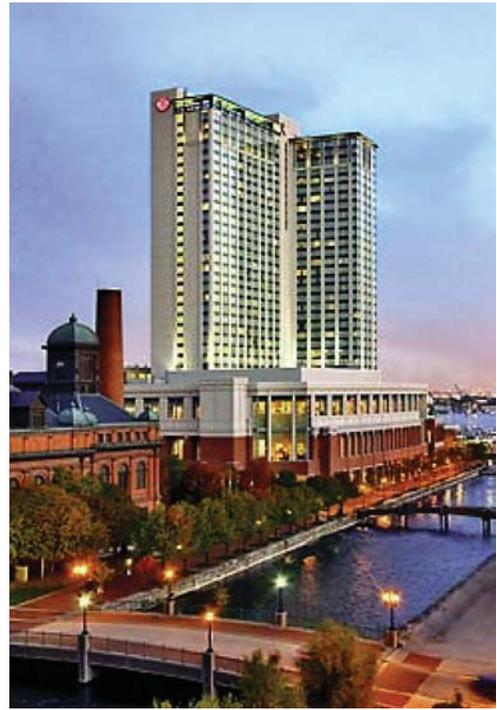
Send mail to: cconkling@cwcinva.com

Save the Date for the 2006 Annual Conference

The NLLEA and the Underage Drinking Enforcement Training Center at the Pacific Institute for Research and Evaluation have once again coordinated plans to hold their respective conferences concurrently in Baltimore's Inner Harbor. NLLEA's 20th Annual Conference is scheduled for August 23 - 26, 2006 at the Baltimore Marriott Waterfront Hotel. Look forward to a great week filled with excellent training and networking opportunities, and a chance to meet and greet colleagues and friend.

Set on the edge of the Inner Harbor, the Baltimore Marriott Waterfront Hotel is just steps from the city's best dining, entertainment, and cultural venues. Attendees and their families will be able to take advantage of the nearby Baltimore National Aquarium, Oriole Park at Camden Yards, the Discovery Museum, and much, much, more! For the latest information about the conference, to submit workshop proposals, and to make hotel reservations, please visit the NLLEA website at:

<http://www.nllea.org/conference.htm>.



The Baltimore Marriott Waterfront Hotel

Current Enforcement Research

Community Action on Overservice of Alcohol Yields Results

A recent study published in the *Journal of Studies on Alcohol* found that a community action program to prevent overservice of alcohol in Sweden led to statistically significant improvements in server refusal rates. The intervention in central Stockholm partnered the hospitality industry with law enforcement and a community action group, and it consisted of responsible beverage service training for employees of approximately 100 licensed establishments and regular enforcement of overservice laws using a protocol involving pseudo-intoxicated patrons (actors). The intervention also included a media component in which the community action group generated press coverage of three studies related to overservice of alcohol. The first concerned violence at licensed establishments, the second concerned alcohol



servers refusal rates in Stockholm, and the third examined public opinion of problems related to alcohol service. The central Stockholm study findings showed an increase in server refusal rates from 5 percent in 1996 to 70 percent in 2001.

Full study citation: Wallin, E., Gripenberg, J., and Andreasson, S. (2005). "Overserving at Licensed Premises in Stockholm: Effects of a Community Action Program" *Journal of Studies on Alcohol*. Vol. 66(6): 806-814.

News from Around the Nation

Alcohol Inhalers Banned In Michigan

Machines that allow people to inhale alcohol are now illegal in Michigan. Governor Jennifer Granholm last month signed into law a bill prohibiting devices known as "alcohol without liquid" that vaporize hard liquor. The law makes it illegal to possess, sell, or use an AWOL machine. Violators face up to 90 days in jail and a \$500 fine. Supporters of the law say the machines cause a more rapid, intense "buzz" because the alcohol moves through the lungs instead of the digestive system.

Source: <http://wlns.com> December 28, 2005.

Rhode Island Requires Bar Training

A new state law in Rhode Island requires alcohol servers to complete a state-sanctioned alcohol-awareness class by April 1. The law also requires servers to renew their certification every three years.

About two-thirds of Rhode Island cities and towns already required alcohol-awareness training for the staff of any establishment seeking a liquor license. The new law sets minimum standards for alcohol servers across the state. The training is expected to lead to reductions in underage drinking and drunk driving.

Source: <http://www.boston.com/news> January 2, 2006.

Law Enforcement, University Officials Analyze Policies for Alcohol

Last November law enforcement professionals and university representatives from around the country gathered at a national summit to discuss the potential risks and benefits of alcohol policies both on campus and in campus communities.

The Iowa Alcoholic Beverages Division co-hosted a session during the last day of the National Summit on Preventing Civil Disturbances, which was held at University of Iowa. During the session, Division Director Lynn Walding, advised officers and university officials to create clear channels of communication to ensure

effective education programs are matched by effective law enforcement programs. He also advised city officials of the environmental changes within university communities, citing Iowa City's role of host to alcohol marketers targeting students and bar promotions that contribute to excessive drinking.

Officers attending the summit also addressed specific municipal policies. A session on a Champaign, Illinois ordinance prompted much discussion on the benefits and limitations of allowing underage college youth to be present in bars. The policy was instituted after the state raised its minimum drinking age to 21. It was considered an important mechanism to reduce health and safety risks for underage college students. The policy also facilitates law enforcement access to locations where students consume alcohol; thus providing better monitoring to detect sales to minors and overconsumption. On the other hand, both behaviors continue to be a problem.

Ames Police Sgt. Rory Echer was skeptical that a lower entry age into bars would solve the city's problem of house parties because most of the large house parties police respond to grow after the bars close. The city of Champaign recognized this problem two years ago when it permitted bar closing times to extend one hour to 2:00 a.m. The later closing time has significantly reduced the number of calls for service involving after parties. Sgt. Rory also speculated that enforcing the policy could be a problem given staff availability and lack of dedicated funding.

Source: *The Daily Iowan*, November 14, 2005.

Liquor Stores Busted for Violating Arizona's New "Bootlegging" Law

An investigation spearheaded by the Arizona Department of Liquor Licenses and Control revealed that three liquor licensees knowingly allowed alcohol to be purchased from their store for the purpose of resale for a profit ("bootlegging") on a dry Native American reservation.

The joint investigation with the Navajo Department of Public Safety, Apache County Sheriff's Office, and the Page Police Department indicated that three licensed establishments near the Navajo Reservation in northern Arizona were knowingly selling alcohol to bootleggers. During the investigation undercover law enforcement officers purchased large amounts of alcohol from each liquor store and stated during the purchase that the alcohol was going to be resold or bootlegged on reservation land.

The state's new "Bootlegging Law" became effective August 12th and prohibits a retail licensee or employee to sell spirituous liquor to a person if the licensee or employee knows that person intends to resell. Each of the store owners faces potential administrative sanctions ranging from monetary fines to liquor license revocation. The employees who sold the alcohol were criminally cited with a class 1 misdemeanor, punishable by a maximum fine of \$2,500 and up to 6 months in jail.

The Director of the Department of Liquor Leesa Berens Morrison stated, "The resale of retail alcohol is illegal and unregulated. In the long run, this will hopefully prevent DUI's and underage drinking."

For more information contact: Leesa Berens Morrison, Director, AZ Department of Liquor Licenses and Control, at (602) 542-9020.

Bars Charged with Overserving Patrons in New Mexico

Agents from the Special Investigations Division (SID) of the New Mexico Department of Public Safety partnered with local law enforcement in Sandoval County in November for the Annual Feast Celebration held at the Jemez Pueblo. Uniformed police officers from Jemez Pueblo, the Sandoval County Sheriff's Department, the Corrales and Rio Rancho Police Departments, and the State Police conducted saturation patrols in the area to help ensure a safe and enjoyable event. At the same

time, plainclothes agents from SID conducted undercover investigations at two off-reservation liquor establishments near the Pueblo.

After a period of undercover surveillance at one bar, SID agents cited a server for serving intoxicated patrons, and two others for failure to produce proof of alcohol server training. One intoxicated patron reportedly had a blood alcohol concentration in excess of .30 and while another's was more than .20. The legal driving limit in New Mexico is .08. Selling or serving alcoholic beverages to an intoxicated person is a misdemeanor criminal offense which carries a maximum penalty of \$1000, up to 364 days in jail, and suspension or revocation of alcohol server training permits.

Agents also issued administrative citations to the owner of one bar, for two counts of sales to intoxicated patrons and two counts of failure to produce proof of alcohol server training. The owner and a server at the other bar were charged with serving more than two drinks at a time to a single customer, a violation which often contributes to intoxication.

The administrative citations will be forwarded to the New Mexico Regulation & Licensing Department's Alcohol & Gaming Division.

For more information contact: Lt. Pat Mooney, NM Department of Public Safety, Special Investigations Division, at 505-259-5970

The NLLEA would like to thank the following contributors to this newsletter:

Maria Carmona
Chuck Conkling
Jim Copple
Joey Dacanay
Todd Griffin
Linda Ignowski
Ronald Johnson
Wesley Kuhl
Aidan Moore
Charles Sumner
Shawn Walker

We're looking for articles for the Spring 2006 issue of the *NLLEAgram* If you would like to contribute an article, news about your agency and its programs, or career updates to the next issue, please submit to the following address by **April 5, 2006**:

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The Law Corner



"Take My Beer... Take My License"

by Aidan J. Moore, JD.

On November 23, 2005 the Idaho Supreme Court handed down its opinion of an interlocutory opinion of the District Court of the Second Judicial District for Latah County.

In the case of *State v. Bennett*, Opinion No. 122 (2005), the appellants were convicted by the magistrate court of a violation of I.C. 23-604, a statute prohibiting persons under the age of 21 from possessing alcohol, and under the provisions of I.C. 23-604 and I.C. 18-1502 which suspends the driver's license of a person convicted of I.C. 23-604.

The appellants argued the decision by the police to pour out alcohol created a spoliation of evidence issue and further there was no rational relationship between the state's interest in prohibiting alcohol use by minors and the corresponding punishment of suspending a minor's drivers license.

The Facts of the Case

On August 22, 2003, Sergeant Bruce Fager and Officer Dustin Blaker were on alcohol emphasis control in an area known by the officers for its noise complaints and parties. They encountered three college students carrying containers of what looked and smelled like alcoholic beverages. According to the record, Ouellette was carrying a white grocery sack and walking across a parking lot with a young man who was 21 years old. Ouellette told the officers she was nineteen, and that there was beer in the bag. There were two unopened bottles in the bag with the labels "Tequiza" printed on them. Officer Fager testified that when he opened the bottles and poured out the contents, the liquid inside was "like beer" in its smell, look, and amber color, and also in the way it foamed. After pouring out the contents, Fager threw the beer bottles into a nearby garbage can as a matter of practice, following the posting of a 1993 memo on Moscow Police Department letterhead from the Deputy Prosecutor. The memo stated:

"You do not need to enter empty beer cans or beer in general into property if you cite someone for possession of beer by a minor. Cite the suspect or suspects and dump the beer into the garbage dumpster later. You should be able to make your case on the fact that you know what beer smells like and what you saw, etc...."

While the officers were talking to Ouellette, Officer Blaker noticed Bennett coming from an apartment complex, walking in the direction of the officers, and carrying two blue bottles, one in each hand. As Blaker approached Bennett, Bennett stopped, looked at Blaker, and "just kind of lowered his hands down." At that point Blaker also saw Marsters moving toward the driver's side of a vehicle and holding a silver can. Blaker instructed Bennett to put the blue bottles down on the ground. While Blaker was doing this, Marsters disappeared behind a trailer that was parked next to the car, and returned without the silver can in his hand.

After determining that both Bennett and Marsters were 20 years of age, Blaker walked around the trailer to where Marsters had disappeared earlier. Blaker discovered a half-empty 12-ounce can of Bud Light and an unopened bottle of Mike's Cranberry Hard Lemonade. He then examined the two blue bottles Bennett had been carrying. One bottle was opened, and the other was not. The labels on each read "Labatt Blue." Blaker poured out the contents of the can and bottles possessed by Bennett and Marsters. He testified that the liquid contents smelled, looked, and behaved like alcoholic beverages. He threw away the Bud Light can and the bottles of Mike's Cranberry Hard Lemonade and Labatt Blue; an action consistent with what he had been instructed to do by his superiors at the Moscow Police Department. The officers cited Ouellette, Marsters, and Bennett for possession of alcoholic beverages.

Standard of Review

In its opinion the Court set out the standard of review on the issues of this case.

"When reviewing the decision of a district court acting in its appellate capacity over the magistrate division, *this Court reviews the magistrate court's decision independently of, but with due regard for, the district court's intermediate appellate decision.* The Court will uphold the magistrate court's findings of fact if they are supported by substantial, competent evidence in the record. With respect to conclusions of law, this Court exercises free review."

In their Constitutional review the Court noted the rational relationship test is applied under both the substantive due process clause and the equal protection clause in determining the constitutionality of a law that does not deal with a fundamental right. *Cecelia Packing Corp. v. U.S. Dept. of Agriculture/Agricultural Mktg. Serv.*, 10 F.3d 616 (9th Cir. 1993).

In a substantive due process challenge, the Court does not require that the [government's] legislative acts actually advance its stated purposes, but instead look to whether "the governmental body *could* have had no legitimate reason for its decision." *Id.* Additionally, "[i]f it is at least

fairly debatable that the [government's] conduct is rationally related to a legitimate governmental interest, there has been no violation of substantive due process.” *Halverson v. Skagit County*, 42 F.3d 1257, 1262 (9th Cir. 1994) (quoting *Kawaoka*, 17 F.3d at 1234).

Analysis of the Case

Destruction of Evidence by the Police

The appellants argued that the destruction of this “potentially exculpatory evidence” unconstitutionally deprived them of their ability to mount a meaningful defense. Quoting *Paradis v. State*, 110 Idaho 534, 539, 716 P.2d 1306, 1311 (1986), the Court set out the standard for their analysis of this issue. “[U]nless a criminal defendant can show bad faith on the part of the police; failure to preserve potentially useful evidence does not constitute a denial of due process of law.”

The Court pointed out that the appellants were not able to show how the destruction of the contents of the alcohol containers was “material” and thus possessing exculpatory value. Noting that appellants made no request of the police to preserve the cans and bottles, the Court indicated for evidence to be exculpatory there must be some indication that either: (1) there was no container; (2) or the container was not an alcohol container; (3) or the contents of the containers were not alcohol. “There is nothing to suggest the appellants were not holding containers, or that the containers were anything other than alcohol containers, or that the liquid inside the containers was anything other than alcohol. [In fact] Ouellette told the officer “there was beer in the bag.”

Idaho Code § 23-604 AND § 18-1502 do not Fail Fundamental Constitutional Requirements.

The appellants argued the Court must evaluate whether I.C. § 18-1502 shared “a real and substantial relationship to the object sought to be obtained.” *Nebbia v. People of New York*, 291 U.S. 502 (1934). Additionally, the appellants argued the suspension or revocation of a driver’s license violates the fundamental right to interstate travel, because “in today’s realities, the automobile is the primary means of transportation for the vast majority of those old enough to drive.” Citing to *Shapiro v. Thompson*, 394 U.S. 618, 89 S.Ct. 1322 (1969), and *Saenz v. Roe*, 526 U.S. 489, 119 S.Ct. 1518 (1999),

Looking at the issue involving a claim of a deprivation of a fundamental right, the Court used the analysis in *Cecelia Packing Corp. v. U.S. Dept. of Agriculture/Agricultural Mktg. Serv.*, 10 F.3d 616 (9th Cir. 1993).

“Legislative acts that do not impinge on fundamental rights or employ suspect classifications are presumed valid, and this presumption is overcome only by a clear showing of arbitrariness and irrationality. Moreover, in a substantive due process challenge, we do not

require that the [government's] legislative acts actually advance its stated purposes, but instead look to whether the governmental body could have had no legitimate reason for its decision.” Id.

Continuing in its analysis the Court held that

“...[I]n legislative acts that do not impinge on fundamental rights or employ suspect classifications are presumed valid, and this presumption is overcome only by a clear showing of arbitrariness and irrationality.”

In its analysis of the Idaho statute, the Court found it evident that the State has a legitimate interest in the prevention of underage drinking. “The test of a rational relationship is not whether the punishment reflects the crime. Fines are a punishment, constitutionally accepted so long as they do not contravene cruel and unusual punishment standards.”

The Court illustrated that punishments do not commonly reflect the nature of the offense, but are believed to have a deterrent effect. “Consequently, they are rationally related to the legitimate State interest - deterrence. Similarly, suspension of a driver’s license does not necessarily reflect the crime committed. Rather, it is a form of deterrence. The legislature could elect this form of punishment in the belief that it would deter underage drinking and potentially act as a deterrent to unlawful drinking and driving.”

Looking further at the legislative history of the statute, the Court demonstrated that the goals of deterrence of drug and alcohol possession and the promotion of highway safety were achieved in the statute. The Court reflected on the fact that the suspension was applicable to persons between 18 and 21, who are in most respects deemed adults, did not render it unconstitutional. “The suspension or revocation of driving privileges does not limit the right to travel, merely the means. Typically punishments interfere with travel. Jail prevents it. Fines limit the opportunity in some instances. Suspension of driving privileges may make travel less convenient. There is no constitutional infringement, however.”

Summary

Departments and agencies should check with their prosecutors to ensure that destruction of evidence, as described in this case, will not impede future prosecutions. This case offers a solid analysis of the Constitutional arguments officers might expect at the district court level where the loss of a driver license is tied to the conviction for an offense such as minor in possession.