

# THE SHIELD



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## U.S. NATIONAL S.W.A.T. CHAMPIONSHIPS (USNSC)



Our TCSO SWAT Team was host to the 2009 USNSC competition during mid-June at the U.S. Shooting Academy in Tulsa. Captain Larry Merchant headed up this event, which consisted of 18 teams from across the U.S. and international teams from Germany and Canada. This organization is considered by many to be the highest quality SWAT competition in North America. The objective of the USNSC is to use live-fire SWAT scenarios and relays to test individual and team

skills. The competition events are designed to provide a fair and equal opportunity for teams to demonstrate their abilities in three areas; team organization, weapons skills and fitness while negotiating courses of fire in a safe manner. Officers compete in full tactical gear and are only given one round for each assigned target. 2009 was the first year of the US SWAT Sniper Championships, which included 20 Sniper Teams. It requires a two-man sniper-observer team

to demonstrate its fitness, organization and communication abilities as well as its ability to hit assigned targets with the first round fired. Our TCSO sniper team consisted of Deputy Eric Spyles and Reserve Deputy John (Duffy) McAnallen. Captain Merchant is quoted as saying, "I'm grateful for the opportunity for our office to have hosted such a talented and highly-skilled group of individuals. This experience was truly educational and inspirational and I looked forward to next year!"

### IN THIS ISSUE



- Sheriff's Corner Pg. 2
- Public Acclaim Pg. 2
- Miranda Pg. 3-4
- Vincent's View Pg. 4
- Our History Pg. 5

## Happy Fourth of July!



### Be Safe Out There!



# Sheriff's Corner

by Sheriff Stanley Glanz

The Tulsa County Sheriff's Office was honored to host the 2009 U.S. National SWAT Championships on June 14th through the 20th. The events were held at the U.S. Shooting Academy, which is located on 66th Street North. Teams from around the world, including the world renowned G2G9 Team from Germany, came to Tulsa to participate in the exhilarating competitions. There were a total of 18 SWAT Teams and 20 Sniper Teams, including our Sniper Team, that competed in the reality-based scenarios, which gauged the performance and efficiency of the individual teams. The event also included training courses, vendor exhibits and a banquet. Capt. Larry Merchant did an outstanding job in organizing this event. The TCSO SWAT Team also provided support during the various competitions. I want to thank the Reserve Deputies, the Explorers and Boy Scouts for providing valuable services during the competition. I look forward to our agency having the opportunity to, once again, host this exciting event over the next two years.

On June 23rd, nineteen participants graduated from the TCSO Citizens' Academy. The Citizens' Academy is instrumental in helping to build a stronger relationship with our community, and allows our citizens the opportunity to better understand the functions of our organization. I am sorry that I did not have the opportunity to speak to the class; sadly, I had a death in the family and could not attend. I want to thank everyone who provided informative training sessions and constructive activities for the citizens that took part in the academy. I also want to send a special thank you to Bonnie Fiddler for her continued dedication and her hard work while recruiting,

organizing and facilitating this very important event. I understand that she is already working to organize the next academy, which will be held in September. If you have any family members, friends or neighbors who would like to enroll in the next academy, have them contact Bonnie to fill out an application.

I am very proud of everyone who recently participated in the promotional process. Congratulations to those who were successful and made the promotional lists. You should be proud of your achievements. For those who have not yet had the opportunity to participate, I encourage you to stay committed to this process of life long learning. Currently, we do not have any supervisor positions open as our turnover has slowed down. However, it is always a good idea to be prepared in the event our staffing levels change.

May you and your family have a safe and enjoyable 4th of July Holiday!

## SOMS TRAINING

We are scheduled to go live with SOMS (Sheriff's Office Management System software) on July 1, 2009. A representative will be here from Monday June 29 through Thursday July 2 and again from Monday July 6 through Friday July 10 to help with training and transition issues. The first week will consist mostly of specific training for various TCSO divisions, but we will include at least two classes for supervisors and/or representatives from CTOPS and the three UOD patrol shifts so they can train their individual squad members. There will be several classes scheduled during the second week for employees who would like to attend basic SOMS classes. When the schedules have been finalized, they will be posted and sent to the division supervisors.

## Public Acclaim

Cyndi Johnston has been thanked by the American Red Cross for her efforts in organizing the TCSO Blood Drive. The May drive collected 16 units of blood and the next opportunity to contribute will be on July 21, 2009.



Sgt. Hinshaw has submitted a commendation for D.O. Shawn Griffin for his attention to detail, which resulted in preventing a potential security issue in one of the pods.



Erin Wyatt, with Union Public Schools, wishes to acknowledge Sgt. Shannon Clark and Deputy Laura Hanley for their assistance with information and statistics needed for a presentation.



Sally Cordova, Records Division, received a compliment from Chip McElroy on her professional attitude when he came in to fill out his concealed carry application.



Mike Moriarity, with the Lloyd E. Rader Center, would like our office to know how much he appreciates our deputies aiding in the search and apprehension of a juvenile escapee from their facility. He said, "Without law enforcement assistance, we may not have been able to apprehend the juvenile in such a timely manner. We truly appreciate your quick response to meet our needs when called upon."



Reserve Deputy Jim Wolfe was recognized by the American Rental Association (ARA) for his assistance and support in a recent equipment scam. Wolfe's efforts resulted in the arrest of a suspect and Alysia Ryan, with ARA, stated, "Rental equipment and heavy equipment theft are huge issues not only for our members in Oklahoma, but for members throughout the country."

# “MIRANDA” AND ITS RAMIFICATIONS

Whether you are a detective or a patrol officer, an understanding of Miranda is necessary to successfully interrogate suspects and persons of interest.

In this article, we will explore Miranda and its ramifications. This will give you a better understanding as to how to use this doctrine and how it affects you.

## 1. INVOCATION, THE SUSPECT REINITIATES DISCUSSIONS.

First of all, we need to remember that a suspect can respond to a Miranda warning by invoking one of two rights: either his right to silence; or his right to counsel. He may invoke both. Which one he invokes is important.

During an in-custody interrogation, the subject can always change his mind and reopen discussions. If he does so, this must be without pressure from police. *Oregon v. Bradshaw*, 462 U. S. 1039 (1983). If discussions are re-opened, then the investigating officer should first listen to any volunteer statements the suspect wants to make, then give new warnings and take a waiver of the right previously asserted, and then conduct any follow-up questioning you may desire. In an evolving investigation the situation may change and police may want to reopen a discussion with the suspect.

## 2. AFTER ANTICIPATORY INVOCATION OF RIGHTS.

The Supreme Court has said that a suspect may not invoke his rights in advance. That is to say a suspect may not beat you to the punch and invoke a Miranda right before he is given the warnings, before police place him in custody, or before an apparent custodial police interrogation is eminent or ongoing. *McNeil v. Wisconsin*, 501 U. S. 171 (1991). For example, if a suspect says before being taken into custody that

he wants a lawyer or he is not going to talk, this attempted anticipatory invocation is not effective to invoke Miranda. Officers are free to Mirandize him and seek a waiver before custodial interrogation.

## 3. AFTER A MIRANDA WAIVER.

If the suspect previously waived Miranda, he can be reapproached within a short period of time and questioned further without new warnings. *Wyrick v. Fields*, 459 U. S. 42 (1982). Although the Supreme Court's *Wyrick* decision involved only a two-hour interval between waiver and renewed questioning, the lower courts have often ruled that no new warnings and waiver are necessary for additional questioning at any time later the same day. Even if questioning relates to a different crime, no new warnings are needed after a contemporaneous waiver. *Colorado v. Spring*, 479 U. S. 564 (1987).

## 4. AFTER A WAIVER AND AMBIGUOUS MENTION OF RIGHTS.

If the suspect has given a valid waiver in response to questions, but then makes an ambiguous reference to his rights, police need not stop questioning or clarify the suspect's wishes. In the case of *Davis v. United States*, 384 U.S. 953 (1966), the Court held that "Maybe I should get a lawyer" is too ambiguous to be an invitation after a previous waiver. A good tactic may be to follow an ambiguous statement with a neutral or non-threatening question.

## 5. AFTER UNMIRANDIZED CUSTODIAL INTERROGATION.

If the suspect was subjected to brief unwarned interrogation after being taken into custody, a subsequent warning and waiver can still be effective. If possible, a break, change in location, and change in interrogator should be arranged, then the warning should be given

and waiver obtained. If extensive, detailed custodial interrogation has occurred, a subsequent warning is generally ineffective and the statement, as a result, remains inadmissible. *Missouri v. Seibert*, 542 U.S. 600 (2004).

## 6. AFTER SILENCE INVOKED, SAME CASE.

Police cannot "badger" the suspect into changing his mind after he says he does not want to talk about the case. *Michigan v. Harvey*, 494 U.S. 344 (1990). Police must "scrupulously honor" the suspect's right not to answer questions about that case. *Miranda v. Arizona*, 384 U.S. 436 (1966).

## 7. AFTER SILENCE INVOKED, DIFFERENT CASE.

As long as officers scrupulously honor the suspect's invocation of silence as to Case A, they may approach the suspect later and seek a waiver as to Case B. The case of *Michigan v. Mosley*, 423 U. S. 96 (1975), held that two hours after a suspect said he would not discuss a robbery, homicide investigators obtained a valid waiver for questioning about a murder.

## 8. AFTER COUNSEL INVOKED, SAME OR DIFFERENT CASE.

Unlike an invocation of the right to silence, an invocation of the right to counsel cuts off police-initiated questioning about any case as long as a suspect remains in custody. *Edwards v. Arizona*, 451 U.S. 477 (1981)—same case, *Arizona v. Roberson*, 486 U.S. 675 (1988)—different case; *Minnick v. Mississippi*, 498 U.S. 146 (1990)—different case after counsel provided.

## 9. AFTER RELEASE FROM CUSTODY.

The Supreme Court has often said the rules applicable to police reinitiation of questioning continue

*Continued on Page 4*

## “MIRANDA” AND ITS RAMIFICATIONS, Continued

*Continued from Page 3*

to apply “assuming there has been no break in custody”. *McNeil v. Wisconsin*, 501 U. S. 171 (1991). Lower courts have generally taken this to mean that if a suspect who has invoked Miranda is subsequently released from custody, the invocation ceases to be operative. Police would then be free under Miranda to question the suspect in a non-custodial setting without warnings or to re-Mirandize him after a re-arrest to seek a waiver. If the suspect has been indicted or made his first court appearance on a prosecution and asserted his right to counsel, the Sixth Amendment *Massiah* rule, *Massiah v. United States*, 377 U.S. 201 (1964), would make the statements inadmissible on the charged case. *Michigan v. Jackson*, 475 U. S. 625 (1986).

### 10. WRITTEN RECORD OF MIRANDA “HISTORY”.

Obviously, a second or follow-up officer must know (i) whether a custodial suspect he or she intends to interrogate has already been Mirandized; (ii) if he has been Mirandized, whether he waived or invoked; and (iii) if he invoked, whether he asserted only his right to silence or right to counsel. This means that every officer who gives warnings, takes waivers, or faces an invocation of Miranda must make a clear and accurate record of what happened and every subsequent interrogator must read the report which shows the suspect’s Miranda “history”.

This will often occur when after an arrest is made, a patrol officer turns an arrestee over to the detectives for processing. In the case of *Arizona v. Roberson*, 486 U. S. 675 (1988), officers argued that they should not be held accountable for earlier invocations of Miranda of which they were unaware. The Supreme Court said that it is

incumbent on police departments to create and then read reports of what has previously happened, so that each new interrogator or investigator will know whether questioning can be resumed and as to what crimes. The Court said “we attach no significance to the fact that the officer who conducted the second interrogation did not know that [defendant] had made a request for counsel. Custodial interrogation must be conducted pursuant to established procedures [that] must enable an officer who proposes to initiate an interrogation to determine whether the suspect has previously requested counsel. In this case ... the officer who conducted the interrogation simply failed to examine [the first officer’s] report.

Because it makes a difference whether a suspect invokes only silence or asserts his right to counsel, police reports cannot simply say “suspect invoked Miranda.” They must show which right or rights the suspect invoked: “the suspect said he did not want to talk about the Fifth Street robbery” or “the suspect said he wanted a lawyer.” Other officers

must then read the report to determine whether the suspect waived, invoked only silence, or asked for counsel.

### 11. MIRANDA REINITIATION CHECKLIST.

I will give you a simple checklist which you should carry with you in your patrol car.

- After a waiver, OK to question.
- After suspect reinitiates and waives, OK to question.
- After invocation of silence on Case A, it is OK to seek later waiver and question on Case B.
- After invocation of counsel, no police-initiated questioning on any case during continuous custody.

Hopefully this article will help make “Miranda” a little more understandable. Remember to indicate whether a suspect has been Mirandized or not in your report and follow the check list.

*Good luck and happy hunting!*  
*Reuben Davis*



## VINCENT'S VIEW

• Up •

*Starring: the Voices of: Ed Asner & Christopher Plummer*

*By D.O. Vincent Fesler*

I'm sorry folks, I wanted to review the new Transformers movie, but it will not be out until after this newsletter goes to the printer, so I'm going with "Up". This is a very good movie - not Kung Fu Panda good, but good none the less.

It stars the voices of Ed Asner and Christopher Plummer. What is so surprising is that these are two veteran actors, who you might not imagine in an animation movie, but the voices do fit the characters to a

"T". Believe it or not, this is a message movie - "Sieze the Day!" Mr. Asner's character feels that life has past him by. He had always planned to see the world but had never gotten around to it. But now he feels the time is right and thousands of balloons seem to be the way to do it!

This is more than just a children's movie and definitely worth seeing. It's not the Transformers but it is certainly entertaining, so leave your stress at the door and go see a movie.

# ••• Our History •••

## TCSO History

By Retired Sgt. Lyndall Cole  
TCSO Historian

## Short Stories

### "Mystery Caller" Part II

Chief Criminal Deputy John Evans was notified of the Jenks shooting at around 1:30 a.m. and advised to see the town marshal upon his arrival. Chief Evans called Deputy Bill Pinion, of Bixby, and instructed him to meet him in Jenks. After identifying the victim as Laura Fray, Marshal Curtis told the deputies they should interview Mrs. Anna Fray, Charles' mother. Even as she was raising eight children of her own, she managed to raise several other children at the same time. Charles was Anna's only son.

When the deputies arrived at the hotel, they saw a blue Buick, identified as belonging to Charles Fray, parked in front with the driver's door open. As the deputies entered the hotel, Marshal Curtis was in the lead with Deputy Pinion entering second, then Chief Deputy John Evans entering last. Marshal Curtis was familiar with Anna Fray and was walking towards her bedroom door, with Deputy Pinion close behind. As Chief Evans turned to close the front door, Curtis was entering the door of the bedroom. As Curtis entered the darkened bedroom, Deputy Pinion heard the familiar sound of a pump shotgun racking a shell into the chamber as Curtis passed the threshold of the doorway. Deputy Pinion stepped backwards, but tripped over a chair in the dimly lit hallway, falling to his knees.

Deputy Pinion saw the muzzle flash and heard the discharge of a shotgun. The blast hit Marshal Curtis in the shoulder. On his knees, Deputy Pinion drew his revolver and fired in the direction of the muzzle flash, hitting Charles Fray in the chest. Charles stated, "You've got me, Bill. I'm going to die. I'm glad it's over." Deputy Pinion and

Charles Fray were no strangers. When Bill Pinion took the town marshal job in Bixby in 1913, his first official arrest, just 30 minutes later, was Charles Fray for carrying a pistol in town. When the lights were turned on, the officers berated Anna Fray for allowing them to walk into the trap. Her only response was, "I've had so much trouble." As she knelt down beside her son and cradled his head in her arms, Charles told her, "Mother I just couldn't stand any more; I was driven to it." Charles Fray was transported to the hospital in critical condition.

While in the hospital, Charles Fray was interviewed by the District Attorney's County Investigator, Charles Thompson. It was then that deputies learned about the first murder of Lucille. Charles confessed to murdering the two women and the shooting of Marshal Curtis. He told Thompson that after he killed his wife, Lucille, he 'just decided to make a good job of it'.

Fray was seriously wounded and doctors felt he would die, but in just a few weeks he grew stronger and was transported from Morningside hospital to the county jail.

Her sister's killer was already in custody, being interviewed by county authorities when Mrs. Wilt arrived at Lucille's house that Friday morning. She found the front door locked, and receiving no response to her knocking, Mrs. Wilt went to the backdoor. Finding this door unlocked, she entered the residence. The home was in disarray. Chairs and tables were overturned and the telephone had been ripped from the wall. As she entered the rear bedroom, she found her sister, Lucille, lying on the floor unresponsive. Mrs. Wilt ran to the neighbor's house and called an ambulance. It was only after the

ambulance and police arrived that Mrs. Wilt had confirmation that her sister, Lucille Fray, was dead.


Due to his serious condition, Charles Fray would not go to trial until four months later in September. With his mother Anna by his side, Charles R. Fray faced his accusers in the courtroom of Judge Luther James. He was escorted from the jail by Deputy Bill Pinion. Fray entered a plea of not guilty by reason of insanity. The District Attorney asked for the death penalty. Charles had claimed Laura was selling whiskey and running a house of prostitution. He claimed that some of these events occurred in front of his children. He claimed his ex-wife's misconduct 'unbalanced' him. He said on one occasion he had found his two children locked in a bedroom with a gas stove burning at two in the morning, and their mother gone.

To bolster his claim of insanity, Fray's attorney called the county physician, J.B. Gilbert, to the stand. He was asked about Fray's condition in the hospital and the doctor stated that Fray had refused an operation, one that he badly needed to save his life. The doctor testified, "I believe a man wounded so seriously who would refuse an operation is insane." Under cross-examination, he admitted that Fray was intoxicated and under morphine, affecting his state of mind.

When asked under oath, Frank, Charles' 14-year-old son, testified that the accusations his father had made about his mother were false. He stated that the time mentioned by their father when the children were allegedly locked in a bedroom was because the children did not want to go with their father that day so they told him they were locked inside.

*Part III - The End of the Story -Next Month*

# July 2009

			<b>1</b> FOP Meeting 1800 hrs. <hr/> Mounted Patrol Meeting 1800 hrs.	<b>2</b>	<b>3</b>	<b>4</b> Independence Day 
<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
<b>12</b>	<b>13</b>	<b>14</b> Reserve Meeting 1800 hrs.	<b>15</b>	<b>16</b> TEW Meeting 1000 hrs.	<b>17</b>	<b>18</b>
<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>
<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	