



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 305

March 12, 2006

### GUNSHOTS AND YELLING JUSTIFIES WARRANTLESS ENTRY AS EMERGENCY AID EXCEPTION

**Reference:** Darrin Hotrum  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 2038  
\_\_\_\_\_P.3d\_\_\_\_\_  
March 10, 2006

#### **FACTS:**

Troopers responded to a 911 call reporting gunshots and yelling coming from a residence in Houston, Alaska. The Troopers responding contacted a man who lived about two houses down from the suspected residence. That man told the Troopers that gunshots and yelling were coming from the red house, two houses down on the right.

Troopers approached the house and could hear loud music coming from it. There were vehicles in the yard and light emanating from the Arctic entryway. The door was standing wide open and there was a key in the deadbolt with the lock turned. Troopers made repeated attempts to announce their presence, yelling "State Troopers. Is anybody there?" Because they were not sure what had happened in the home or whether someone needed assistance, the Troopers entered the house.

Behind a door that was covered with a blanket, one of the Troopers discovered forty-three live marijuana plants. In the living room, another Trooper found a bed with two feet protruding from under a sheet. The source of the music was found and the stereo was turned off. Troopers saw a semi-automatic handgun and bullets lying near the bed. At this point, the Troopers thought they were dealing with a homicide. It turned out that Hotrum was asleep on the bed. When Troopers were able to wake him, Hotrum immediately asked them why they were there. He told the Troopers they

were not allowed in his home and that it was a private residence. Hotrum was charged with misconduct involving a controlled substance (possessing more than twenty-five marijuana plants) in the fourth degree.

**ISSUE:**

Was the warrantless entry into Hotrum's residence justified?

**HELD:** Yes; the entry was lawful under the emergency aid doctrine.

**REASONING:**

1. The emergency aid doctrine allows the warrantless entry of a dwelling "when an officer has reasonable grounds to believe that there is an immediate need to take action to prevent death or to protect persons from serious injury."

2. For the emergency aid doctrine to be applicable in a given case, three conditions must be met:

(a) Police must have reasonable grounds to believe there is an emergency at hand and an immediate need for their assistance for protection of life or property.

(b) The search warrant must not be primarily motivated by intent to arrest and seize evidence.

(c) There must be some reasonable basis approximating probable cause to associate the emergency with the area or the place to be searched. (emphasis added)

3. The Troopers had reasonable grounds to believe, and did believe when they approached Hotrum's residence, that there was an emergency requiring them to enter the residence and investigate.

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