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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 181  
October 26, 1993

WARRANTLESS ENTRY INTO PRIVATE RESIDENCE  
BASED ON "EMERGENCY-AID DOCTRINE"

Reference: Michael Harrison  
                  v.  
                  State of Alaska

Alaska Court of Appeals  
Opinion No. 1318  
                  P.2d  
October 15, 1993

FACTS:

Trooper Arno went to Harrison's cabin in Sutton to serve a misdemeanor arrest warrant. Through the cabin's picture window, Trooper Arno saw someone "face down" on the kitchen table. Although the trooper could not identify the person, she thought it might be Harrison.

She went to the front door of the cabin and "pounded pretty hard," but got no response. Trooper Arno then went to the picture window and "pounded on it," still getting no response. There also was no response to several additional attempts from knocking on the door and window. Trooper Arno decided to enter the house to make sure Harrison was alright. She opened the door and yelled. Hearing no response, she walked over to Harrison, called out to him and put her hand on his shoulder--still no response.

Later, Trooper Arno testified that she saw what appeared to be drugs all around Harrison on the kitchen table. Additionally, she testified she saw a mirror with white powder residue on it, a "tooter" used to snort cocaine, an ashtray with what appeared to be a marijuana cigarette in it, as well as what she believed to be cocaine residue on the table.

Trooper Arno left the cabin and requested assistance from another trooper. Upon arrival of the second trooper, the two of them re-entered the cabin, woke Harrison and placed him in custody. Based on Trooper Arno's observations, the troopers subsequently obtained and executed a search warrant. The warrant yielded cocaine and Harrison was charged with possession.

Regarding the initial entry into the cabin, Trooper Arno testified that "...I had no idea what was going on. The person could have been asleep or passed out or dead. I was concerned that he may have been injured if there had been a fight in the cabin. He could

have had a medical problem. He could have been dying. He could be dead."

ISSUE:

Was Trooper Arno's initial warrantless entry into the cabin justified?

HELD: Yes--under the emergency-aid doctrine.

REASONING:

1. The warrantless entry of a dwelling is allowed when an officer has reasonable grounds to believe there is an immediate need to take action to prevent death or to protect persons or property from serious injury.

2. Trooper Arno had ample reason to believe an emergency existed; there appeared to be an immediate threat to Harrison's welfare.

3. The three conditions for the emergency-aid doctrine were met:

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

b. The search 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 place to be searched.

NOTES:

Once the emergency is over, the search must stop. In this case, the emergency entry by Trooper Arno was lawful and the cocaine was in "plain view." The officer obtained a search warrant based on her observations after entering the cabin.

Review of Section C, "Emergency," of your manual is recommended and especially the following cases:

Anchorage v. Cook, Legal Bulletin No. 26--warrantless entry into vehicle justified as emergency.

Mincy v. Arizona, Legal Bulletin No. 31--there is no murder exception to the warrant requirement.

Payton v. New York, Legal Bulletin No. 34--warrantless entry into residence requires emergency.

Gallmeyer v. State, Legal Bulletin No. 54--warrantless entry into residence to seize armed person.

Johnson v. State, Legal Bulletin No. 66--warrantless entry into residence to seize armed rapist.

Williams v. State, Legal Bulletin No. 165--warrantless entry to homicide scene.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section C, "Emergency," and Section K, "Plain View," of your Contents and Text. File Legal Bulletin No. 181 numerically under Section R of the manual.