



## From Behind the Redwood Curtain Patrick Boyle Region 1

Well my wife is always complaining that I don't eat enough and that I am getting to skinny, so I have piled more on my plate than it can hold. I am going to have to switch to a platter with side rails at this point. This summer we are taking on the addition of managing Grizzly Creek State Park. Thanks to a \$40K settlement and \$20K in additional funding from Save the Redwoods and the strong support and backing from the local State Park managers, we were able to come up with an operational plan and budget. Dana Jones (past CSPRA co-chair), (Welcome to Humboldt County) was instrumental in pushing through the paperwork personally at Sacramento so we could open in time for the Memorial Day Weekend. Hopefully this will get us through the year until the state can come up with way to fund all the parks that were slated for closure due to the budget issues. Unfortunately we cannot offer all the services that the State normally provides. At the moment we are not able to do evening campfire programs or Jr. Rangers but hope to be able to do something as we get ourselves adjusted to the new responsibilities and policies.

We were able to keep Adam, the full time maintenance worker, and hire Dana who has been the senior park aid for the past 20 years. This has cut the staffing at Grizzly Creek by 6 individuals. We also have Kevin, an ETD (Employment Training Development) worker that comes to us at no cost for the summer that is splitting time between the Duzen and Grizzly Creek. At the moment we are stuck with the state park fee schedule but are working at getting those changed to the lower county fee schedule. (There is always one glitch in the system.) Grizzly Creek is operating on a first come first serve basis with the possibility of some limited reservations. We may even be looking into hiring one more seasonal to help with the additional workload. If you know of any responsible, hardworking, able bodied individual with good people skills looking for work have them get in touch with me.

If you haven't been out Hwy 36 in a while come in and check us out. Grizzly Creek is located along the Van Duzen River and has a wonderful Visitor Center, picnic area, campground, and a small group area for the day or overnight use. The best way to keep all our parks open is through use. Come on out and take a swim, a hike in the redwoods, camp, or just have a picnic in the park. You can even volunteer to take some off my plate if you are so inclined. Stop by and say Hi if you are out this way on vacation this summer.

If you have a park or event you would like to feature in the *Signpost* please let us know. Stay safe and enjoy the summer!

## From the Presidents Desk

If you are a regular reader of the Signpost then you are most likely an individual or voting member of PRAC and I wish to thank you for holding that membership. Your membership is not only appreciated but is more important to this organization than you may know.

As you are aware PRAC is, and always has been, a collection of like minded folks working together to protect and preserve our nations most valuable resource- our parks and open spaces. It doesn't matter if that park is a patch of green in the middle of a concrete city for the neighborhood kids or huge National Park that draws visitors from across an ocean, it is land that is open to all and important to the community.

Unfortunately, our collection of like minded individuals is shrinking. We know there are less rangers due to agencies eliminating ranger programs or reducing staffing but our membership is dropping at a rate much faster than program elimination. The membership fees paid by individuals make up the bulk of PRAC's operating budget. Over the years we made reductions, cut costs and done all we can to keep a lean budget but for the last two years our income has not matched our expenses. We've been fortunate to have some savings to keep us going but we cannot continue to exist as a professional organization without active members.

I truly believe that PRAC is a valuable asset for park professionals. If I didn't believe that I wouldn't write that check every year. Like most of you, I've taken pay cuts and have to watch every penny and I still maintain my individual membership.

I would like to issue a challenge to all of our members. Please, talk to your co-workers and peers and recruit one new individual member to PRAC. If we all recruited one person we could double our membership almost overnight.

I will also ask you to fill out and return the Training Survey that is part of this newsletter. One of the greatest benefits of PRAC membership is access to high quality training..

PRAC was founded in 1976, 36 years of working together for a common goal. Let's not let PRAC disappear-each of us has the ability to keep this organization alive and well in our own hands.

**Pam Helmke**

**From the Bedside Table**

## **The way of the Scout by Tom Brown Jr.**

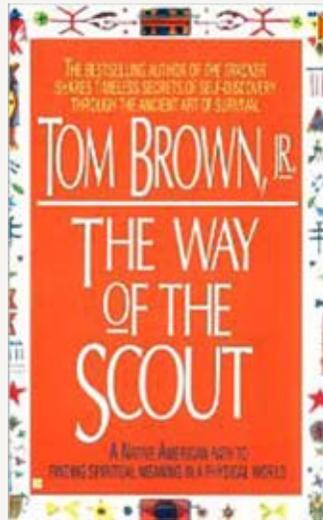
**Patrick Boyle Region 1**

**R**eading a Tom Brown book is like having my favorite Uncle stop by for a visit. You are always going to laugh, you're going to learn some new things about him and there are always some great stories. Tom Brown learned tracking and ways to be one with the land from an 83 year old Apache that he called "Grandfather." For the next 11 years Tom lived the Apache spiritual and philosophical skills that "Grandfather" would teach him in the Pine Barrens of New Jersey. That teaching reached its pinnacle when he learned the way of the scout. The scouts were the best survivalists and trackers and the most highly aware individuals, most attuned to the earth and the spirit that moves through all things. They took great pride in being to leave camp with nothing and travel

endlessly through the toughest terrain and harshest conditions, and survive lavishly and undetected.

The stories about the Jersey Devil and the philosophy of the scout way of living make you want to sign up for one of Tom's classes. Tom Brown runs a survival school. He is

an expert tracker who has been called in to locate missing people and fugitives. Tom Brown has several field guides and books all centered on the Apache teachings he learned. His goal is to keep this knowledge alive and pass it along to as many people as possible. If you have not read a Tom Brown book start with "The Tracker" and go from there. Here is the link for Toms Tracking School <http://www.trackerschool.com> Hope you get a chance to do a little reading this summer.



## **2013 Annual Parks Conference**

**February 25<sup>th</sup>-27<sup>th</sup>**

**Patrick Boyle Region 1**

**S**et your calendars and get ready for an early spring break in Seaside. We are set for the 25<sup>th</sup> through the 27<sup>th</sup> of February at the Embassy Suites Seaside (Monterey). Base Room rates will be \$84 / \$104 a night plus tax with a free cooked to order breakfast and a nightly manager's reception with complimentary appetizers and beverages. Clear the Day Planner and pen it in and put in those training and or time off requests.

**Monday the 25<sup>th</sup>** will be check in and Field trips.

**Tuesday the 26<sup>th</sup> and Wednesday the 27<sup>th</sup>** will be training sessions with the banquet Wednesday night.

**Thursday** will be check out and possibly some specialized training sessions.

If you are interested in sharing your skills or know of an excellent program or trainer tell your local regional director. Seen a great presentation you think we all would enjoy or find useful, tell us all about it. Or maybe with budget cuts you find yourself a little short on certified training. Let us know how we can help you. You can help us by being involved. So start thinking about possible silent auction items, training topics, and don't forget to pack your beach towel and sunscreen.

We will be updating the website and prcnet on a regular basis as we finalize the details.

## Curtilage in a Campground:

*United States v. Basher* (9th Cir. Jan. 20, 2011) 629 F.3rd 1161

**Rule:** (1) A detention is justified where officers have personal knowledge of defendant's possible illegal use of a firearm and an illegal campfire. (1) Miranda is not required in a non-custodial situation. When asking about a firearm, the "public safety exception" excuses the lack of a Miranda admonishment even if the situation were custodial. (3) A head-nod in response to a request to retrieve a firearm is an express consent. (4) The area around a tent in a public campground is not the equivalent of the curtilage around a residence, and therefore is not entitled to Fourth Amendment protections.

**Facts:** On the evening of September 1, 2007, campers on National Forest Service land in Yakima County, Washington, heard intermittent gunfire over a time-span of some two hours. The shots appeared to be coming from a "dispersed" (i.e., nearby, undeveloped) campsite, set away from the regular sites. A campfire could also be seen at the same location even though a "burn ban" was in effect at the time. The campers making these observations included two off-duty law enforcement officers; Yakima County Deputy Sheriff Dan Cypher and Forest Service Officer Blair Bickel. Both officers independently decided the next day, upon reporting to work, to check the area of the dispersed campsite. Arriving at about the same time, the officers noted a pickup truck, a tent, and a fire ring with rocks piled higher than normal around the edge, ostensibly to make it harder to see a fire. Smoke was still emitting from the fire ring. Deputy Cypher parked his vehicle nose-to-nose with the truck, at least partially blocking it from leaving. On the seat of the truck the officers observed a half-empty open box of shotgun shells. Deputy Cypher emitted a few short bursts from his vehicle's siren,

causing the occupants of the tent to begin to stir. As the officers approached the tent, Deputy Cypher announced; "Sheriff's Office." Upon seeing movement inside the tent, the occupants, defendant and his son (age unknown), were "asked" to come out, which they did. As they exited their tent, they were asked to keep their hands in view. But no one was handcuffed or frisked. Deputy Cypher asked defendant where the gun was. Defendant responded; "What gun?" After it was explained to him that the officers had seen the shotgun shells in his truck and that there had been reports of gunfire coming from the campsite, defendant admitted that it was in the tent. When Deputy Cypher asked if defendant's son could retrieve the weapon from the tent, defendant looked at his son and nodded affirmatively for him to get it. The only thing the officers said to defendant's son was related to how to handle the gun safely. The weapon turned out to be a sawed-off shotgun. Defendant was arrested and given his Miranda rights and questioned, making inculpatory admissions. Charged in federal court with being a "prohibited person" in possession of a firearm (18 U.S.C. § 922(g)(1)) and possession of an unregistered firearm (18 U.S.C. § 5861(d)), defendant's motion to suppress was denied. He pled guilty and appealed.

**Held:** The Ninth Circuit Court of Appeal affirmed. (1) Detention: Defendant challenged the legality of the initial contact, arguing that it was done without cause (i.e., no more than a "hunch.") The Court, however, found that Officers Cypher and Bickel had an articulable reasonable suspicion "that criminal activity may be afoot," justifying a temporary detention for investigation. From their own knowledge, they had reason to believe that illegal shooting and an illegal campfire had

occurred at (or at least nearby) the defendant's campsite, with no guarantee that it wouldn't continue. Further, asking about the firearm was properly within the scope of the investigation. But even if it wasn't, asking about the gun was not improper in any case so long as it did not prolong the detention.

(2) **Miranda:** Defendant argued that asking him about a gun without benefit of a Miranda admonishment was illegal. The Court disagreed. The issue was whether at the time Deputy Cypher asked defendant where the gun was, was defendant in custody for purposes of Miranda? Such custody requires that there be a restriction on a person's freedom to the degree of a formal arrest, or as might be associated with a formal arrest, as perceived by a reasonable person under the circumstances. Briefly sounding a police siren, verbally announcing their presence, and asking the subjects to come out of their tent did not amount to an arrest. Neither did the act of asking defendant and his son to keep their hands in view; an officer safety issue. And although one of the patrol cars was parked directly in front of defendant's truck, the evidence was that the truck could have still been driven around the officer's car. Further, even if Miranda did apply, the "public safety exception" allowed for the question concerning the gun. So long as there is an "objectively reasonable need to protect the police or the public from any immediate danger associated with the weapon," Miranda is not required.

(3) **Consent:** Defendant further argued that the officers made him produce the gun from his tent, the equivalent of a search without probable cause. The Court disagreed, finding that it was consensual. Assuming for the sake of argument that defendant had a reasonable expectation of privacy in his tent, the Court held that his head-nod to his son, made in response to Deputy Cypher's request that he allow his son to retrieve the gun from the tent, was an express consent.

(4) **Privacy Expectation in a Campsite:** Lastly, defendant argued that he had privacy rights

in the campsite around the area of his tent similar to that of the curtilage of one's home. While recognizing that defendant may have had privacy rights in the interior of his tent itself, there is no authority for extending the curtilage theory to the area around his tent. The area around defendant's tent was open to the public and exposed to view by anyone passing by. As such, the officers did not violate the Fourth Amendment by entering into his campsite without a search warrant.

**Note:** The Court made a big deal about having an articulable reasonable belief that defendant had been engaged in illegal activity, justifying a detention. To me, this was a non-issue. But even if they had not, I believe we would still have had a strong argument that the contact really was no more than a "consensual encounter," for which no reasonable suspicion is needed. The main reason I briefed this case at all was to discuss the privacy rights of a camper in his tent, and the area immediately surrounding it. Citing *United States v. Gooch* (9th Cir. 1993) 6 F.3d 673, the Court assumed, without discussing, that it would have been a Fourth Amendment violation for the officers to conduct a warrantless search of defendant's tent. But *Gooch* involved a situation where the defendant took steps to secret his tent in the brush, creating an expectation of privacy for himself. There was no such evidence in this case. California has no contrary authority, although the State of Washington, in *State v. Cleator* (1993) 857 P.2d 306, 308-309, ruled contrary to *Gooch*, finding no privacy rights in one's tent. I also found interesting defendant's attempt to extrapolate a residential curtilage theory to the area around his tent. You have to give him an "A" for effort on that one. And that's just the kind of weird stuff the Ninth Circuit sometimes goes for, so why not give it a shot. But at least this time, weird didn't fly.

*Reprinted from Robert C. Phillips, Deputy District Attorney (Ret.) legal update.*

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**Training Needs Survey**

What Region do you Work In? (circle one please)    1    2    3    4    5    6

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List Topics or Speakers you'd be interested in:

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Resource Management Training

List Topics or Speakers you'd be interested in:

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Emergency Medical Services Training

List Topics or Speakers you'd be interested in:

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Search and Rescue Training

List Topics or Speakers you'd be interested in:

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Wildland Fire Training

List Topics or Speakers you'd be interested in:

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Law Enforcement Training

List Topics or Speakers you'd be interested in:

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I prefer training sessions to be: (circle one please)

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One Day

Two Days

How far would you be willing to travel for a one day training session?

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What do you consider a reasonable fee for a one day training session?

(Please Circle One)      \$25              \$50              \$75

Comments

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Optional Contact Information

Name: \_\_\_\_\_

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