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City Attorney Law Letter

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A Discussion Regarding the Difference Between Primary and Secondary Enforcement in Arkansas

All laws in Arkansas are subject to either primary enforcement or secondary enforcement. It is crucial for an officer to know which laws are subject to primary enforcement and which laws are subject to secondary enforcement. It is equally crucial for an officer to know what is meant by the terms "primary enforcement" and "secondary enforcement."

I. Primary Enforcement

A traffic law subject to primary enforcement is one that permits an officer to stop a vehicle based solely on the officer's observation of a violation of that law. *See* Op. Ark. Att'y Gen. No. 2009-167. Absent a stated limitation on enforcement, all laws in Arkansas are subject to primary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167. With respect to crimes subject to arrest, Arkansas law is clear that primary enforcement is the general rule in Arkansas, as it is in other states. *See* Op. Ark. Att'y Gen. No. 2009-167; *see also* Ark. Code Ann. § 16-81-106(b) (2)(A) (LexisNexis Supp. 2009) (stating that "[a] certified law enforcement officer may make an arrest . . . [w]ithout a warrant, where a public offense is committed in his or her presence"); Ark. R. Crim. Proc. 4.1(a)(iii) (stating that "[a] law enforcement officer may arrest a person without a warrant if . . . the officer has reasonable cause to believe that such person has committed any violation of law in the officer's presence").

II. Secondary Enforcement

A law subject to secondary enforcement is one that contains language limiting its

enforcement and precluding primary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167. An officer must have some other reason to stop a vehicle or to detain a person before citing the driver or a person for a violation of a traffic law that is subject to secondary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167. To state it a different way, an officer cannot justify a stop based on a violation of a traffic law that is subject to secondary enforcement.

III. Specific Examples of Arkansas Laws Subject to Primary or Secondary Enforcement

A. Paul's Law

"Paul's Law," codified at Ark. Code Ann. § 27-51-1501 et seq. (LexisNexis Supp. 2009), generally prohibits the use of handheld devices to engage in text messaging while operating a motor vehicle. *See* Ark. Code Ann. § 27-51-1501 et seq. (LexisNexis Supp. 2009). Paul's Law is subject to primary enforcement because it contains no provision limiting its enforcement. *See* Ark. Code Ann. § 27-51-1501 et seq. (LexisNexis Supp. 2009); *see also* Op. Ark. Att'y Gen. No. 2009-167.

B. Cell Phone Use in School Zones and Construction Zones

Act 37 of the 2011 Arkansas General Assembly prohibits a driver of a motor vehicle from using a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building, except in cases of an emergency. *See* Ark. Code Ann. § 27-51-1609 (LexisNexis Supp. 2011) (effective October 1, 2011). Act 37 also prohibits a driver from using a handheld wireless telephone while operating a motor vehicle in a highway work zone when a

highway worker is present, except in cases of an emergency. *See* Ark. Code Ann. § 27-51-1610 (LexisNexis Supp. 2011) (effective October 1, 2011). This statute specifically states that a "driver of a motor vehicle is not to be stopped or detained solely to determine compliance with this subchapter." *See* Ark. Code Ann. § 27-51-1605 (LexisNexis Supp. 2011) (effective October 1, 2011). Because of this limiting enforcement language, this law is only subject to secondary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167.

C. Cell Phone Use by Drivers Under the Age of 21 and Under the Age of 18

A driver of a motor vehicle who is under eighteen (18) years of age shall not use a wireless telephone for wireless interactive communication while operating a motor vehicle, except in cases of an emergency. *See* Ark. Code Ann. § 27-51-1603 (LexisNexis 2010). A driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age shall not use a handheld wireless telephone for wireless interactive communication while operating a motor vehicle, except in cases of an emergency. *See* Ark. Code Ann. § 27-51-1604 (LexisNexis 2010). These laws are subject to the same statute specifically stating that a "driver of a motor vehicle is not to be stopped or detained solely to determine compliance with this subchapter." *See* Ark. Code Ann. § 27-51-1605 (LexisNexis 2010). Once again, because of this limiting enforcement language, these laws are only subject to secondary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167.

D. Evolution of the Arkansas Seat Belt Law

In 1991, the Arkansas General Assembly passed Act 562, which required drivers and

front seat passengers in any motor vehicle operated on a street or highway in Arkansas to wear a properly adjusted and fastened seat belt. *See* Act 562 of the 78th General Assembly of the State of Arkansas at Section 2 (approved March 14, 1991). Act 562 contained a provision stating that an officer could not stop, inspect, or detain any motor vehicle, operator of such vehicle, or passenger of such vehicle solely to determine compliance with the Act. *See* Act 562 of the 78th General Assembly of the State of Arkansas at Section 4 (approved March 14, 1991); *see also* Ark. Code Ann. § 27-37-704 (LexisNexis 2008) (hereinafter the "Arkansas Seat Belt Law"). Because of this limiting enforcement language, beginning in 1991, the Arkansas Seat Belt Law was only subject to secondary enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167; *see also* Op. Ark. Att'y Gen. No. 94-268.

The Arkansas Seat Belt Law remained subject to secondary enforcement until 2009. In 2009, the Arkansas General Assembly passed Act 308, which repealed in its entirety Ark. Code Ann. § 27-37-704, the statute containing the limiting enforcement language. *See* Act 308 of the 87th General Assembly of the State of Arkansas at Section 2 (approved March 4, 2009); *see also* Ark. Code Ann. § 27-37-704 (LexisNexis Supp. 2011) (reflecting that the state legislature repealed this statute). Because the Arkansas Seat Belt Law was no longer limited to secondary enforcement by statute, it became subject to primary enforcement on June 30, 2009, the date listed in the emergency clause contained in Act 308. *See* Act 308 of the 87th General Assembly of the State of Arkansas at Section 6 (approved March 4, 2009); *see also* Op. Ark. Att'y Gen. No. 2009-167. Today, the Arkansas Seat Belt Law remains subject to primary enforcement because it contains no provision limiting its

enforcement. *See* Op. Ark. Att'y Gen. No. 2009-167.

E. Review

As explained in Section III herein, it is illegal to do any of the following in Arkansas: (1) to use a cell phone to engage in text messaging while operating a motor vehicle; and (2) to operate a motor vehicle while not wearing a seat belt. These two laws, like most laws in Arkansas, are subject to primary enforcement. Thus, an officer observing a person violating either of these laws can stop and detain such person solely on the basis of a violation of one of these laws.

Also as explained in Section III herein, it is illegal to do any of the following in Arkansas: (1) to use a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building, except in cases of an emergency (effective October 1, 2011); (2) to use a handheld wireless telephone while operating a motor vehicle in a highway work zone when a highway worker is present, except in cases of an emergency (effective October 1, 2011); (3) for a driver of a motor vehicle who is under eighteen (18) years of age to use a wireless telephone for wireless interactive communication while operating a motor vehicle, except in cases of an emergency; and (4) for a driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age to use a handheld wireless telephone for wireless interactive communication while operating a motor vehicle, except in cases of an emergency. Because of limiting enforcement language contained in the applicable Arkansas statute, these four laws are subject to secondary enforcement only. Because these four laws are subject to

secondary enforcement, an officer may not stop and detain a person based solely on a violation of one of these laws, even if such a violation occurs in the officer's presence.

If an officer sees someone driving through a school zone, during school hours, when children are present and outside the building, and the officer only observes the driver talking on a cell phone, the officer cannot stop the person. If, however, in the same scenario, the officer also observes the driver not wearing a seat belt, the officer can stop the person and charge them with a seat belt violation and a cell phone violation. Finally, assume an officer is called to an accident scene that occurred in a school zone, during school hours, when children were present and outside the building. The officer determines that the party at fault in the accident failed to yield and was driving without a driver's license. In addition, the party not at fault in the accident admits to the officer that he was talking on his cell phone when the accident occurred. In this scenario, the officer can obviously cite the party at fault for failure to yield and driving without a driver's license. The officer can also, however, cite the party not at fault for a cell phone violation. *See* Op. Ark. Att'y Gen. No. 94-268. The key in this scenario is that the officer did not stop or detain the party based solely on a cell phone violation. *See* Op. Ark. Att'y Gen. No. 94-268.

IV. Conclusion

It is crucial for an officer to know the distinction between a law subject to primary enforcement and a law subject to secondary enforcement. Without this knowledge, an officer may lose a criminal case and, even worse, may open himself and his department up to civil liability based on a wrongful arrest or detention. Hopefully, this article explains how an officer can tell whether a law is subject to primary or secondary

enforcement. In sum, if a statute contains express language limiting its enforcement by, for example, stating that a person cannot be stopped or detained solely to determine compliance with the specific law, then the law is subject to secondary enforcement, and an officer cannot stop or detain a person based solely on a violation of that law. On the other hand, if a law does not contain such limiting language, then the law is subject to primary enforcement, and an officer can stop and detain someone based solely on a violation of that law. A key factor to determine when an officer can enforce a law subject to secondary enforcement will always be the reason for the stop, detention, or encounter. As long as the stop, detention, or encounter did not arise solely based on a violation of the law subject to secondary enforcement, then the officer would be legally authorized to charge someone for a violation of a law subject to secondary enforcement.

Jonathan D. Nelson
Deputy City Attorney

Constructive Possession Upheld in Jointly Occupied Residence

Facts: Defendant, Cleveland Lamont Evans [Evans], had been staying at his mother's home for several days after she had bonded him out of jail on other charges. Investigators went to the house to serve a felony arrest warrant on Evans and received permission from his mother to search the home. The investigators testified at trial that both Evans and his mother were present during the search. A pistol and a rifle were discovered in a laundry room that was connected to the den where Evans was sitting during the search. The guns were on

an open shelf above the dryer. The investigator who recovered the guns testified that he could see Evans when he retrieved the guns. Evans's mother testified that she had not seen the guns before and had not put anything on that shelf in over a year.

Evans was convicted in Pulaski County Circuit Court of being a felon in possession of a firearm, a Class D felony. He was sentenced to five years' probation, a \$500 fine, and court costs. On appeal he claims the State failed to prove he possessed the firearm.

Argument and Discussion: As stated before in these constructive possession cases, neither exclusive nor actual physical possession is necessary to sustain a conviction for possession of contraband. *Young v. State*, 77 Ark. App. 245, 248 (2002). Instead, constructive possession-the control or right to control contraband-is sufficient. *Id.* Constructive possession can be inferred when the contraband is in the joint control of the defendant and another if there is an additional factor linking the defendant to the contraband. *Id.* The State must only prove that the defendant exercised care, control, and management over the contraband and that the defendant knew that the object possessed was contraband. *Id.* at 249. Control and knowledge can be inferred from the circumstances, such as the proximity of the contraband to the defendant, the fact that it is in plain view, and the ownership of the property. *Id.* at 249.

In this case, the DNA profile taken from the pistol matched that of Evans. A forensic chemist for the State Crime Lab testified that in order to leave a DNA profile, an object would have to be used more than just touching it-minimal contact would not leave skin cells behind. She testified that the profile linking Evans to the pistol was a one-

in-a-million-probability link. Further, the testimony from Evans's cousin and brother relating to their alleged ownership of the weapons was inconsistent; differing in relevant detail and it was within the province of the fact-finder to resolve the conflicting testimony in the State's favor.

Evans's proximity to the firearm at the time of the search, the fact that the only other person who could have been in control of the weapon testified that she had never seen it before, and the compelling DNA evidence linking Evans (as more than a casual handler) to the pistol, when taken together, constitute more than sufficient evidence to prove Evans constructively possessed the weapons and his conviction was affirmed.

Case citation: This case was decided by the Arkansas Court of Appeals on August 31, 2011. The case was from Pulaski County Circuit Court, Honorable Ernest Sanders, Jr., Judge. The case citation is *Evans v. State*, 2011 Ark. App. 485.

Brooke Lockhart
Deputy City Attorney

Arkansas Court of Appeals Affirms DWI Drugs Conviction Where Quantity of Drugs in System Was Unknown

Facts Taken From the Case: Malcolm Morton was convicted by a jury of careless driving, driving while intoxicated, possession of marijuana, and possessing an instrument of crime. Morton was sentenced to nine months in jail and fined \$750. Morton appealed only his DWI conviction. The following is a summary of the facts introduced into evidence at the trial court.

Detective Jim Sanders of the Union County Sheriff's Department was on patrol at about 6:00 p.m. on February 14, 2009, when he responded to a call about a reckless driver. Detective Sanders located a vehicle which was later determined to be driven by Malcom Morton. Detective Sanders observed Morton driving erratically on the highway and initiated his blue lights. Detective Sanders saw Morton's car leave the highway and "high-center" on the side of the road. Morton drove his vehicle onto an incline with the accelerator still engaged and one of the tires spinning while barely in contact with the road.

When Detective Sanders approached the vehicle, he observed that Morton was apparently passed out with his foot still on the accelerator. Detective Sanders tried numerous times to access the vehicle to turn off the ignition, but the car was locked. After Detective Sanders radioed for backup, Morton partially opened his eyes and eventually turned off the car and unlocked the door.

State Trooper Brian Albritton arrived, and he and Detective Sanders assisted Morton in exiting the vehicle. Detective Sanders described Morton as being in a daze, unresponsive, and unable to walk or stand on his own. Officer Albritton said that Morton was unstable, incoherent, and was slurring his speech. Morton appeared at one point to have fallen asleep while leaning against the trooper's patrol car.

Officer Albritton smelled an odor of marijuana emanating from Morton's car, and Morton admitted to smoking marijuana and to having some in his car. The officers searched Morton's vehicle and found marijuana, including a partially-smoked marijuana joint. Officers also found several bottles of cold medicine inside the vehicle and rolling papers on Morton's person.

Morton admitted to the officers that he had ingested large amounts of the cold medicine.

Morton was arrested for DWI and for possession of marijuana. Officer Albritton said it was obvious that Morton was intoxicated. Morton was taken by the police to the hospital where blood was drawn, and Morton was then taken to the Sheriff's Office where Morton was allowed to call someone to pick him up. Officer Albritton said that Morton was still intoxicated at the time he was picked up from the Sheriff's Office, but that his level of intoxication had improved somewhat.

Heather Singletary, a forensic pathologist, tested Morton's blood sample at the crime lab, and the sample returned as negative for alcohol but positive for cannabinoids (marijuana). Ms. Singletary did not testify as to the amount or level of cannabinoids found in Morton's blood. Ms. Singletary also found a 5 percent level of carbonoxyhemoglobin in Morton's blood, which was normal according to Ms. Singletary. Ms. Singletary testified that a person suffering from carbon monoxide poisoning would likely have a 20 percent or 30 percent level of carbonoxyhemoglobin.

Deputy Johnny Davis of the Calhoun County Sheriff's Department testified that he made contact with Morton between 3:30 p.m. and 5:00 p.m. on February 14, 2009, while Morton was sitting in his car. Deputy Davis said that Morton's vehicle was not running. Deputy Davis also said that he did not smell marijuana and that Morton did not appear intoxicated at that time. Deputy Davis, who is also the coroner of Calhoun County, testified that he knows the effects of carbon monoxide poisoning from his experience. Deputy Davis acknowledged that he had treated only one person with carbon monoxide poisoning, that it was more than ten years ago, and that he had

never personally experienced it. The State objected to Deputy Davis testifying about the effects of carbon monoxide poisoning based on lack of qualification, and the trial court sustained the objection.

While testifying in his own defense, Morton admitted to smoking marijuana on February 14, 2009, after speaking with Deputy Davis. Morton said that he smoked about one-third of a joint while his car windows were down, that he then turned the fan to high, rolled up his windows, and drove down the highway. Morton stated that he made it less than two miles before getting lightheaded and beginning to pass out. Morton also acknowledged that he could not stand up straight and had to be assisted by officers. However, Morton maintained that his condition was caused by carbon monoxide poisoning and insisted that he did not think smoking a half-joint would have caused his symptoms since "marijuana has never affected anybody that way."

Argument and Decision by the Court of Appeals: Morton argued on appeal that the evidence was insufficient to support his DWI conviction. Morton emphasized that he had testified that marijuana would not have caused him to fall asleep and have trouble standing, and that those symptoms were instead caused by carbon monoxide poisoning. Furthermore, Morton claimed that his theory about carbon monoxide poisoning was supported by the testimony of crime lab pathologist Heather Singletary, who testified that it is possible for carbon monoxide poisoning to cause a person to feel disoriented. Finally, Morton said that while Ms. Singletary testified that the presence of marijuana was detected in appellant's blood, she did not testify about the amount or level of marijuana in Morton's system.

The Arkansas Court of Appeals discussed the law applicable to the facts of the case by citing Arkansas Code Annotated section 5-65-103(a), which provides that it is unlawful for any person who is intoxicated to operate or to be in actual physical control of a motor vehicle. The court also said that "intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination of alcohol, a controlled substance, or an intoxicant, to such a degree that the driver's reactions, motor skills, and judgment are substantially altered and the driver therefore constitutes a clear and substantial danger of physical injury to himself and to other motorists or pedestrians.

In upholding Morton's DWI conviction, the court of appeals held that the conviction was supported by substantial evidence. The court reasoned that the evidence showed that Morton drove his car erratically, causing him to leave the highway and to "high center" the vehicle on the side of the road. Additionally, the court noted that Morton was passed out in his car with his foot on the accelerator and a tire still spinning; that the police had to assist Morton out of the car because he was unsteady and unable to walk or stand on his own; that Morton was dazed with slurred speech; that the car smelled of marijuana and contained a partially-smoked joint; that Morton told the police he had smoked marijuana and ingested large amounts of cold medicine; and that Morton testified at trial that he had smoked marijuana immediately before operating his vehicle.

The court also addressed Morton's theory that he was suffering from carbon monoxide poisoning instead of marijuana. The court said that the jury was not required to believe Morton's testimony, as he was the one most interested in the outcome of the trial.

Furthermore, the court stated that Morton's blood tested positive for marijuana, and that contrary to Morton's assertion, there is no statutory requirement that a specific quantity or level of a drug be detected in a DWI drugs case. Finally, the court noted that observations of police officers regarding actions consistent with intoxication can constitute competent evidence to support a DWI charge.

Case: This case was decided by the Arkansas Court of Appeals on June 15, 2011, and was an appeal from the Union County Circuit Court, Honorable Hamilton H. Singleton, Judge. The case citation is *Morton v. State*, 2011 Ark. App. 432.

Taylor Samples
Deputy City Attorney

Arkansas Court of Appeals Determines Stop and Search of Vehicle Was Not Illegal

Facts Taken From the Case: On April 26, 2009, Daniel Cupples drove by A & B Sales business in DeWitt, Arkansas, around 8:20 p.m., and he saw a man putting some car wheels in a ditch. Mr. Cupples then went to his father's house, where he called the police. Officer David Scott Malone received a call regarding a theft in progress. Officer Malone drove to A & B Sales and saw Terry Penister's vehicle coming from the road beside the store. Officer Malone stopped Penister's car because he had some suspicion that the car was involved in the theft. At the time Officer Malone stopped Penister's vehicle, Officer Malone had no information about the suspect or about a vehicle.

After Penister was stopped and detained by Officer Malone, Officer James Paxton arrived at the scene with the caller, Daniel Cupples, who identified Penister as the man he saw placing wheels in a ditch. Officer Paxton then opened the trunk and saw the wheels in plain sight. Penister was arrested for theft of property and filed a motion to suppress evidence. After the trial court denied Penister's motion to suppress evidence, Penister conditionally pled guilty to felony theft of property with the right to appeal the denial of his motion to suppress evidence.

Argument and Decision by the Court of Appeals: The Arkansas Court of Appeals noted that in reviewing the denial of a motion to suppress evidence, it conducts a de novo review based upon the totality of the circumstances and will reverse the decision of the trial court only if the trial court's ruling is clearly against the preponderance of the evidence.

The Court of Appeals then began to discuss the law applicable to the facts of this case. The court referenced Arkansas Rule of Criminal Procedure 3.1 and said that a law-enforcement officer lawfully present in any place may, in the performance of his duties, stop and detain any person who he reasonably suspects is committing, has committed, or is about to commit (1) a felony, or (2) a misdemeanor involving danger of forcible injury to persons or of appropriation of or damage to property, if such action is reasonably necessary either to obtain or verify the identification of the person or to determine the lawfulness of his conduct. Furthermore, the court stated that the justification for the investigative stop depends upon whether, under the totality of the circumstances, the police have specific, particularized, and articulable reasons indicating that the person may be involved in criminal activity. Finally, the court

recited the definition of "reasonable suspicion" as a suspicion based on facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is, a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

The Court of Appeals further noted that Arkansas Rule of Criminal Procedure 14.1 provides that an officer who has reasonable cause to believe that a moving or readily movable vehicle is or contains things subject to seizure may, without a search warrant, stop, detain, and search the vehicle and seize things subject to seizure discovered in the course of the search where the vehicle is on a public way. The court also pointed out that Arkansas Rule of Criminal Procedure 2.2 allows for an officer to request any person to furnish information or otherwise cooperate in the investigation or prevention of crime, and to respond to questions, appear at a police station, or comply with other reasonable requests.

Penister argued that his constitutional right against unreasonable search was violated when officers conducted the stop and warrantless search of his vehicle. Penister emphasized that he had not violated any traffic laws; that Officer Malone knew there was a theft in progress but had no information about the suspect or the vehicle; that Officer Malone stopped Penister's vehicle because it was at the scene; and that Officer Malone had nothing more than a mere suspicion when he made the traffic stop. In addition, Penister claimed that Officer Malone stopped him merely because he happened to drive down a public road close to an alleged crime scene, not because Penister was violating any traffic or other laws. Finally, Penister said that it was not until Officer Paxton arrived with witness Daniel Cupples (who identified Penister)

that Officer Malone had more than a suspicion. Therefore, Penister concluded that Officer Malone did not have reasonable cause under Arkansas Rule of Criminal Procedure 14.1 or reasonable suspicion under Arkansas Rule of Criminal Procedure 2.1 to stop and detain Penister, and that the evidence should be suppressed.

The State responded to Penister's arguments by comparing the facts of this case to *Baxter v. State*, 274 Ark. 539 (1982). In *Baxter*, officers heard the broadcast of a robbery and immediately began patrolling a city park which was located one-fourth of a mile from the scene of the robbery. An officer met Baxter's car, turned around, followed it, and then stopped the vehicle. The court in *Baxter* held that the stop was lawful because the scene of the crime was nearby; the time sequence made it likely that the vehicle in the park had been involved in the robbery (it was the only vehicle in the park); the intrusion was minimal compared to the government interest; the crime under investigation, a felony, was serious; and the initial encounter was not aggressive.

In likening the facts in this case to the facts in *Baxter*, the Arkansas Court of Appeals affirmed the trial court's ruling denying Penister's motion to suppress evidence. The court noted that Officer Malone arrived on scene less than thirty seconds after the police broadcast; that Penister was seen driving away from the scene; and that Penister's vehicle was the only one in the area. Furthermore, the court stated that the stop was brief, which was a minimal intrusion compared to the government's substantial interest in investigating a serious crime. Finally, the court pointed out that the stop was nonaggressive and that Penister was not placed in custody until after he and the vehicle were identified by witness Daniel Cupples. Thus, Penister's guilty plea to theft of property was upheld.

Case: This case was decided by the Arkansas Court of Appeals on June 1, 2011, and was an appeal from the Arkansas County Circuit Court, Honorable David G. Henry, Judge. The case citation is *Penister v. State*, 2011 Ark. App. 405.

Taylor Samples
Deputy City Attorney

Arkansas Court of Appeals Finds Substantial Evidence of Possession of Cocaine With Intent to Deliver

Facts: On August 10, 1008, Sergeant Bobby Hicks [Hicks] of the University of Arkansas at Little Rock Police Department, stopped Kyle Dishman's [Dishman] black Lexus for speeding. When Hicks ran Dishman's license it revealed that Dishman had an outstanding warrant in Pulaski County. Hicks arrested Dishman and handed him off to Officer Matthew Boyd [Boyd] who searched Dishman and found three cellular telephones and \$295. Boyd then placed Dishman in the back of his patrol car.

Hicks identified the passenger of the vehicle as Venja Crump [Crump]. After removing Crump from the vehicle, Hicks searched the vehicle for inventory purposes and found a large amount of what appeared to be cocaine shoved between the driver's seat and the center console. Boyd also discovered digital scales in the glove compartment. Boyd testified that Hicks instructed him to "keep an eye on" Crump. Upon searching Crump's purse, Hicks found \$4,973 on top of the contents of her purse. Hicks, however, did not arrest Crump or seize the money she had in her purse even though he testified that he did not believe it was

Crump's money, considering she was a hair dresser.

Detective Lawrence Welborn, with the Little Rock Police Department's Narcotics Division, testified that a person who possesses almost an ounce of cocaine is generally a dealer, rather than a user, of drugs. Detective Welborn also testified that it is common practice for drug dealers to have more than one cellular phone and to have scales in their vehicle. He also testified it is not uncommon for one person to handle the drugs and another person to handle the money, because those trafficking drugs mistakenly believe that the money cannot be seized if there is such an arrangement. Detective Welborn testified that the \$4,973 in the case should have been seized.

Christy Williford, a forensics chemist at the Arkansas State Crime Laboratory, testified that the white powder substance seized from Dishman's vehicle was 22.4453 grams of cocaine. Terry Kersey, an employee at the Arkansas Office of Motor Vehicles, testified that the registration and title for the 1992 Lexus that Hicks stopped on August 10, 2008, were in Hicks' name.

At a bench trial, the court ruled that Hicks constructively possessed the cocaine seized from his vehicle and that, given the amount of cocaine involved, the presumption of intent to deliver applied. The court found Dishman guilty of possession of cocaine with intent to deliver and sentenced him as a habitual offender to ten years' imprisonment. The trial court also revoked Dishman's probation in connection with a previous drug conviction.

Argument and Discussion: Dishman argued on appeal that there was not sufficient evidence to prove that he constructively possessed the cocaine and

that the cocaine was not immediately and exclusively accessible to him because Crump had the same access to the cocaine and was the last occupant to exit the vehicle. Dishman argued that Crump alone exercised care, control, and management over the cocaine, despite the fact that he owned the vehicle.

The court has consistently held that possession of contraband may be proved by constructive possession, which is the control or right to control the contraband; thus, it is not necessary for the State to prove actual physical possession of the contraband. *Jones v. State*, 355 Ark. 630 (2004). Further, constructive possession can be implied where the contraband is in the joint control of the accused and another person. *Bradley v. State*, 347 Ark. 518 (2002). Although, joint occupancy of the car is not enough, there must be some other factor linking the accused to the contraband. *Walley v. State*, 353 Ark. 586 (2003). Those factors include: (1) whether the contraband was in plain view; (2) whether the contraband was found with the accused's personal effects; (3) whether it was found in, or in the proximity to, the side of the vehicle on which the accused was sitting; (4) whether the accused was the owner of the automobile, or exercised dominion and control over it; and (5) whether the accused acted suspiciously before or during the arrest. *McKenzie v. State*, 362 Ark. 257 (2005).

There are at least two factors linking Dishman to the cocaine beyond joint occupancy of the vehicle. Dishman owned the vehicle in question, and the cocaine was found on the same side of the vehicle where he was sitting. The trial court, in determining the credibility of testimony, concluded that Crump did not have an opportunity to move the cocaine because Hicks took measures to prevent that from

happening. The trial court also concluded that the circumstances surrounding Dishman's arrest were consistent with drug-trafficking behavior.

The Court of Appeals determined that there was substantial evidence to support Dishman's conviction for possession of cocaine with intent to deliver.

Case citation: This case was decided by the Arkansas Court of Appeals on June 15, 2011. The case was from Pulaski County Circuit Court, Honorable Ernest Sanders, Judge. The case citation is *Dishman v. State*, 2011 Ark. App. 437.

Brooke Lockhart
Deputy City Attorney

Knock and Talk Struck Down by Eighth Circuit

Facts: Early on May 20, 2009, Officer Shane Bates [Bates] of the Poplar Bluff, Missouri police department received a tip from a confidential informant that Michael Joe "Buster" Wells [Wells] was manufacturing methamphetamine in an outbuilding behind his house. Bates drove by Wells's house several times but noticed nothing. When Bates drove by a fourth time between 3:00 and 3:30 a.m., Bates noticed two open doors; one on a camper parked on the street in front of the house and the other on a shed behind the house. Bates testified he thought it was "possible" that the open doors signified a burglary.

Bates called two other officers who were on patrol at the time, James Gerber [Gerber] and Timothy Akers [Akers]. The three officers met to discuss how to proceed and decided to do a "knock and talk."

Wells's house is on a lot that is fenced along its sides and back but not along the front. The house is set back 27 feet from the street and occupies nearly two-thirds of the width of the lot. A short paved driveway leads from the street to a carport set into the house, and a paved walkway leads from that driveway to the front door. On either side of the house there is a 12-foot-wide gap between the house and the lot fence. The gap on the western side was covered in grass, while the eastern side forms part of an unpaved driveway running from the street, along the side of the house, to a shed in the back. Behind the house, across the backyard from the unpaved driveway, is a two-story outbuilding. The outbuilding has a ground-level door with frosted glass, and a second-story door accessible by a flight of stairs. The outbuilding sits at least ten feet behind the house and is poorly visible from the street.

The officers arrived at Wells's house at about 4:00 a.m. Akers and Gerber looked inside the camper, finding no one. Bates walked down the unpaved driveway to look in the shed and he only saw "junk." The officers regrouped and from the unpaved driveway near the rear corner of the house, they could see the outbuilding and a light on inside. The officers walked to the lighted door across the backyard and could see movement inside the building although they could not identify any individual person inside. Gerber then knocked on the door and Wells answered the door. Officers immediately smelled the strong odor of burnt marijuana and saw smoke in the air.

The officers ordered Wells and another man, Charles Brummit, to come outside. Gerber went inside to make sure no one else was in the building and he saw a large bag of marijuana on the table beside the door. Wells and Brummit were arrested for possession of marijuana and a search of

Wells's person revealed a coffee filter with methamphetamine in it. Later that morning, officers obtained a search warrant for the outbuilding and officers seized 34 items, pursuant to the warrant, from the outbuilding as evidence of the manufacture of methamphetamine.

Wells moved to suppress the evidence found during the "knock and talk" and the search warrant. He argued that officer had violated the Fourth Amendment when they first entered the protected curtilage of his house. The government argued that Wells had no reasonable expectation of privacy in the unpaved driveway. The District Court suppressed the evidence and the government appealed.

Argument and Discussion: The protection of the Fourth Amendment "extends to the curtilage surrounding a home," *United States v. Weston*, 443 F.3d 661 666 (8th Cir. 2006), which "is the area to which extends the intimate activity associated with the sanctity of a man's home and the privacies of life, and therefore has been considered part of the home itself for Fourth Amendment purposes." *Oliver v. United States*, 466 U.S. 170, 180 (1984) (citation and internal quotation marks omitted). The court must determine if the officers entered the curtilage of Wells's home when they walked along the unpaved driveway to the backyard and, if so, if the entry was reasonable.

The district court determined that the portion of the unpaved driveway extending past the rear of Wells's home and into the backyard was part of the home's curtilage and that Wells had a protectable expectation of privacy to the part of the driveway in the back of the house. The Eighth Circuit Court agreed. The factors considered in determining if the curtilage is afforded Fourth Amendment protection are: (1) the

proximity of the area claimed to be curtilage to the home, (2) whether the area is included within an enclosure surrounding the home, (3) the nature of the uses to which the area is put, (4) the steps taken by the resident to protect the area from observation by people passing by. *United States v. Dunn*, 480 U.S. 294, 301 (1987).

The first three factors weigh in favor of the unpaved driveway being considered the curtilage. The area of the driveway in which the officers were standing was past the paved walkway leading to Wells's front door, and was flanked on three sides by Wells's fence. Also, the record reflected evidence that the backyard, including the part of the driveway where the officers stood, was used for "the intimate activity associated with the sanctity of [Wells]'s home and the privacies of life." *Oliver*, 466 U.S. at 180. Among other things, it contained a child's wagon and sled, a boat, a lawnmower, a rabbit hutch, and a burn barrel.

The final factor is less conclusive. Although the entirety of the unpaved driveway is visible from the street, the court is hesitant to give that factor controlling weight. A reasonable expectation of privacy will not always be an expectation of absolute privacy. *See, e.g., Katz v. United States*, 389 U.S. 347, 349-52 (1967) ("[Katz] was as visible after he entered [the telephone booth] as he would have been if he had remained outside. But what he sought to exclude when he entered the booth was not the intruding eye- it was the uninvited ear. He did not shed his right to do so simply because he made his calls from a place where he might be seen."). Similarly, the homeowner may expose portions of the curtilage of his home to public view while still maintaining some expectation of privacy in those areas. In this case, although Wells exposed his unpaved driveway to

public view, he could reasonably expect that members of the public would not traipse down the drive to the back corner of his home, from where they could freely observe his entire backyard. Therefore, the court concluded that the officers were standing in a area where Wells had a reasonable expectation of privacy when they observed the lighted outbuilding.

Next, the court had to determine if the officers' entry onto the curtilage was constitutionally unreasonable. There is no argument that the officers did not have Wells's express consent or a warrant when they entered the backyard. In addition, the government did not appeal the district court's conclusion that the claim of exigent circumstances [possible burglary] was too weak to pass constitutional muster.

Therefore, for the officers' entry to be justified, it could only be under those cases recognizing that "no Fourth Amendment search occurs when police officers who enter private property restrict their movements to those areas generally made accessible to visitors." *United States v. Reed*, 733 F.2d 492, 501 (8th Cir. 1984). This principle is commonly referred to as the "knock and talk." *United States v. Weston*, 443 F.3d 661, 667 (8th Cir. 2006). To the extent that the "knock-and-talk" rule is grounded in the homeowner's implied consent to be contacted at home, we have never found such consent where officers made no attempt to reach the homeowner at the front door. In *United States v. Anderson*, we concluded that it was constitutionally reasonable for police officers, who were trying to find a suspect "to question him about [a] theft," to "proceed [] to the rear [of the suspect's home] after receiving no answer at the front door," even though doing so "invaded an area with respect to which [the suspect] had a reasonable expectation of

privacy." 552 F.2d 1296, 1300 (8th Cir. 1977).

In this case, the officers made **no** attempt to raise Wells at the front door, nor did they pause at the door in the carport, but instead walked to the back corner of the home at 4:00 a.m. Other than their suspicion of drug manufacturing, there was no reason to think that Wells would be found in the backyard of his home at that time. The "knock-and-talk" rule does not apply to situation in which the police forgo the knock at the front door and, without any reason to believe the homeowner will be found there, proceed directly to the backyard. *Accord Young v. City of Radcliff*, 561 F. Supp. 2d 767, 788 n.12 (W.D. Ky. 2008).

Case citation: This case was decided by the United States Court of Appeals for the Eighth Circuit on August 8, 2011. The case was from the Eastern District of Missouri. The case citation is *United States v. Wells*, 2011 U.S. App. LEXIS 16330 decided August 8, 2011.

Brooke Lockhart
Deputy City Attorney

2011 Acts of the Arkansas General Assembly

Below are laws passed by the 2011 Arkansas General Assembly that affect law enforcement. The full text of the Act should be consulted before enforcing the laws. The Acts are divided into four categories: Acts Affecting Traffic Laws; Acts Affecting General Criminal Law; Acts Affecting Sex Offender Registration Laws; and Acts Affecting Police Administration. Some of the Acts contain comments from me.

All of the Acts that do not have a specific starting date or an emergency clause went into effect on July 27, 2011. The Acts that had an emergency clause went into effect the date they were signed by the Governor, so they are also in effect at this time. If an Act has a different effective date, the date is set out beside the Act.

All of the Acts affecting general criminal laws, traffic laws, and sex offender registration laws were the subject of a training class conducted by our office in July, 2011. Each Springdale Police Officer should have a book of the full text of each Act affecting traffic laws, criminal laws, and sex offender registration laws. However, you can also go to the internet and obtain a copy of the full text of an Act by going to www.arkleg.state.ar.us, then click on "Acts" to the left, and then enter the Act number you are looking for.

Acts Affecting Traffic Laws

Act 13 - An Act to Allow an On-duty Law Enforcement Officer or Person Performing an Official Law Enforcement Function to Operate All-Terrain Vehicles on a Public Street or Highway.

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*Act 37 - An Act to Improve the Safety of Highways and Roads by Prohibiting Wireless Telephone Use in School Zones and Highway Work Zones.*

**Comment:** This Act prohibits a driver of a motor vehicle from using a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building, except in cases of an emergency. It also prohibits the driver from using a handheld wireless telephone while operating

a motor vehicle in a highway work zone when a highway worker is present, except in case of an emergency. **The effective date of this Act is October 1, 2011. This Act is a secondary offense, and not a primary offense. See also related article on page 1 by Jonathan Nelson, Deputy City Attorney.**

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Act 194 - An Act to Amend the Statues Regarding the Suspension or Revocation of a Driver's License; to Amend the Statue Regarding the Penalties for Unlawful use of a License; to Make Technical Corrections.

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*Act 583 - An Act to Amend the Definition of All-Terrain Vehicles and to Define Recreational Off-Highway Vehicles.*

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Act 704 - An Act to Allow an Employee of a Utility, Telecommunications, or Cable Company Working During a Time of Emergency or Severe Weather to Operate an All-Terrain Vehicle on a Public Street or Highway.

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*Act 759 - An Act to Require Motorcycles to Have Turn Signals.*

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Act 781 - An Act to Limit the Use of Motorcycle Headlamp Modulation Systems to Daytime Use Only.

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*Act 811 - An Act to Raise the Age of Children for Whom Smoking is Prohibited in Motor Vehicles.*

**Comment:** This Act amends Ark. Code Ann. §20-27-1903 to provide that smoking is prohibited in any motor vehicle in which a child is less than 14 years of age is a passenger.

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Act 876 - An Act to Reinstate the Penalties that were in Effect From 1991 to 2009 for a Person Who Drives an Unregistered Motor Vehicle.

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*Act 908 - An Act to Authorize Electronic Traffic Tickets*

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Act 995 - An Act to Clarify the Right of Owner's Preference in Removal of a Disabled or Inoperative Vehicle.

Act 1025 - An Act to Amend the Law Related to the Removal and Storage of Unattended or Abandoned Vehicles for Clarification and Modernization; to Define "Impounded or Seized Vehicle".

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*Act 1046 - An Act to Allow Law Enforcement to Impound a Motor Vehicle that does not have the Minimum Liability Insurance Required by Law or a Certificate of Self-Insurance.*

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Act 1141 - An Act to Clarify the Light Transmission Levels for Window Tinting on Chauffeur-Driven Sedans.

Act 1221 - An Act to Raise the Age Requirement for a Person to Obtain a Motorized Bicycle Certificate.

Comment: This Act amends Ark. Code Ann. §27-20-111(c)(2)(A)(ii) and provides that no certificate to operate a motorized bicycle shall be issued to a person under 14 years of age, and further provides that a person under 14 years of age shall not operate a motorized bicycle within a municipality with a population of 10,000 or more.

Acts Affecting General Criminal Laws

Act 161 - An Act Concerning Criminal Penalties for the Possession of Certain Prohibited Weapons.

Comment: This Act amends Ark. Code Ann. §5-73-104(c) and provides that criminal use of a prohibited weapon is a Class A misdemeanor if the offense is possession of metal knuckles. Otherwise, criminal use of prohibited weapons is a Class D felony.

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*Act 172 - An Act Regarding a Person Filing Instruments Affecting Title or Interest in Real Property; and Declaring an Emergency – approved 3/4/2011 with an emergency clause*

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Act 198 - An Act to Prohibit the Sale of Herbal Snuff to Persons under Eighteen (18) Years of Age.

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*Act 277 - An Act to Amend §5-13-211 to Include all Certified Law Enforcement Officers.*

**Comment:** This Act amends Ark. Code Ann. §5-13-211 to add certified law enforcement officers to the law. The law provides that a person commits aggravated assault upon a certified law enforcement officer or an employee of a correctional facility if, under circumstances manifesting extreme indifference to the personal hygiene of the certified law enforcement or the employee of the correctional facility, the person purposely engages in conduct that creates a potential endanger of infection to the certified law enforcement officer or an employee of any state or local correctional facility while the certified law enforcement officer or employee of the state or local correctional facility is engaged in the course of his or her employment by causing a person whom the actor knows to be a certified law enforcement or employee of the state or local correctional facility to come into contact with saliva, blood, urine, fecies, seminal fluid, or other bodily fluid by purposely throwing, tossing, or expelling, or otherwise transferring the fluid or material. Aggravated assault upon a certified law enforcement officer or an employee of a correctional facility is a Class D felony.

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Act 514 - An Act to Amend the Penalties for Failure to Appear and to Declare an Emergency – approved 3/21/2011 with an emergency clause

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**Act 567 - An Act to Regulate the Release of Hogs into the Wild; and to Increase the Penalty for Releasing a Hog into the Wild.**

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Act 570 - An Act to Improve Public Safety and Slow Corrections Growth.

Comment: This Act makes many changes to the law including providing that if a person possesses less than 4 ounces of marijuana, it is a misdemeanor. See Ark. Code Ann. §5-64-419. The Act also amends Ark. Code Ann. §5-64-436 providing it is a Class A misdemeanor to possess marijuana, with the purpose to deliver or manufacture marijuana up to 14 grams. The Act also makes changes to the theft laws, generally requiring the theft to be over \$1,000 before it is a felony. However, the following theft offenses are still felonies: theft of a firearm valued at less than \$2,500; theft of a credit card or credit card account number; theft of debit card or debit card account number; or theft of property valued at least \$100, but less than \$500 and the theft occurs in an area declared to be under a state of emergency pursuant to proclamation by the President, Governor, or the Mayor; theft of livestock valued in excess of \$200; theft of anhydrous ammonia or a product containing any percentage of anhydrous ammonia in any form; and theft of building material obtained from a permitted construction site when the value of the building material is \$500 or more. Also, the hot check laws have been amended such that any hot check of \$1,000 or less is a misdemeanor. This Act is extremely long and needs to be consulted for its details. See also Act 1227 on page 18 of this edition of C.A.L.L.

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**Act 589 - An Act to Allow for the Issuance of a No Contact Order by the Court if it Appears that there is a Danger that the Defendant will Commit a Serious Crime, Intimidate a Witness, or Unlawfully Interfere with the Administration of Justice While Charges are Pending.**

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Act 613 - An Act Concerning Parental Notification by a School District of Law Enforcement Involvement.

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*Act 697 - An Act to Make Illegal the Defrauding of Prospective Adoptive Parents.*

*Act 741 - An Act Regarding Which Law Enforcement Officers are Allowed to Patrol Controlled-Access Facilities.*

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Act 751 - An Act Regarding Substances in Schedule I and Schedule VI and to Declare an Emergency.

Comment: This makes possession of synthetic marijuana a Schedule VI substance (the same as marijuana) and this Act was the subject to an article in the July, 2011 edition of *C.A.L.L.* The Act had an emergency clause and went into effect on March 28, 2011.

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*Act 783 - An Act to Limit Forensic Examinations of Allegedly Abused Children to Child Safety Centers.*

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Act 810 - An Act to Amend the Laws Regarding the Violation of Orders of Protection.

Comment: This Act amends Ark. Code Ann. § 5-53-134(d) to provide it is an affirmative defense to a prosecution for violation of orders of protection, if the parties have reconciled prior to the violation of the order of protection, or the petitioner for the order of protection invited the

defendant to come to the petitioner's residence or place of employment listed in the order of protection and knew that the defendant's presence at the petitioner's residence or place of employment would be in violation of the order of protection.

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*Act 905 - An Act to Establish the Crime of Cyberbullying.*

**Comment:** This Act creates a new crime of cyberbullying. Ark. Code Ann. §5-71-217 provides that a person commits cyberbullying if he or she transmits, sends, or posts a communication by electronic means with the purpose to frighten, coerce, intimidate, threaten, abuse, harass, or alarm another person and the transmission was in furtherance of severe, repeated, or hostile behavior toward the other person. Cyberbullying may be prosecuted in the county where the defendant was located when he or she transmitted, sent, or posted a communication by electronic means, in the county where the communication by electronic means was received by the person or in the county where the person targeted by the electronic communications resides. Cyberbullying is a Class B misdemeanor.

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Act 1003 - An Act Prohibiting the Concealing of a Corpse in an Offensive Manner.

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*Act 1120 - An Act to Make Various Corrections to Title 5 of the Arkansas Code of 1987 Concerning Criminal Offenses.*

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Act 1126 - An Act to Create Criminal Penalties for Disclosure of Records of a Children's Advocacy Center.

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*Act 1127 - An Act to Extend the Statute of Limitations on Sexual Offenses.*

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Act 1129 - An Act to Include School Principals, Athletic Coaches, and Counselors Among Persons who are Guilty of Sexual Assault in the Second Degree for Sexual Contact With a Student Less than Twenty-One (21) Years of Age.

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*Act 1143 - An Act to Amend the Child Maltreatment Act (only parts related to law enforcement).*

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Act 1152 - An Act to Amend the Laws Regarding the Purchase or Possession of Intoxication Liquor, Wine, or Beer by a Minor.

Comment: This Act amends Ark. Code Ann. §3-3-203(a) to provide that intoxicating liquor, wine, or beer in the body of a minor is deemed to be in his or her possession.

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*Act 1158 - An Act to Increase the Penalty for Abuse of a Corpse.*

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Act 1168 - An Act to Amend the Law Concerning the Use of Tear Gas or Pepper Spray.

Act 1177 - An Act to Clarify the Offense of Interference With Custody.

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*Act 1190 - An Act to Amend the Definition of "Child" in Certain Child Exploitation Statutes.*

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Act 1193 - An Act Regarding Scrap Metal Dealers and Sales.

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*Act 1227 - An Act Regarding the Theft of Utility Property.*

**Comment:** This Act amends Ark. Code Ann. §5-36-103(b)(1), the theft statute, to provide that it is a Class B felony if the property is utility property and the value of the property is \$500 or more. Utility means any person or entity providing to the public gas, electricity, water, sewer, telephone, telegraph, radio, radio common carrier, railway, railroad, cable and broadcast television, video, or internet services. Utility property means any component that is reasonably to provide utility services, including without limitation, any wire, pole, facility, machinery, tool, equipment, cable, insulator, switch, signal, duct, fiber optic cable, conduit, plant, work, system, substation, transmission or distribution structure, line, street lighting fixture, generating plant, equipment, pipe, main, transformer, underground line, gas compressor, meter, or any other building or structure or part of a building or structure that a utility uses in the production or use of its services.

**Acts Affecting  
Sex Offender Registration Laws**

*Act 64 - An Act to Require Sex Offenders to Verify Registration in Person at a Local Law Enforcement Agency and to Require Electronic Filing of the Verification.*

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Act 100 - An Act to Provide for Public Notification of Sex Offenders Registered in Another State.

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*Act 143 - An Act Regarding Sex Offender Verification, Email Addresses, and Internet Identities.*

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Act 286 - An Act to Amend the Procedures for an Administrative Appeal of a Sex Offender Assessment of a Sexually Violent Predator.

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*Act 816 - An Act to Prohibit a Level 3 or Level 4 Sex Offender From Being at a Water Park Owned or Operated by a Local Government.*

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Act 1009 - An Act Concerning the Registration of Sex Offenders; to Require Registration Payments to be Made.

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*Act 1023 - An Act Regarding the Prohibition Against a Sex Offender Working with Children.*

**Acts Affecting Police Administration**

*Act 171 - An Act to Allow the Donation of Certain Items Including Bicycles Seized and Forfeited by Law Enforcement Agencies.*

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Act 270 - An Act to Mandate that Law Enforcement be Notified in the Event that a Health Care Provider Treats a Burn that Reasonably Could be Connected to Criminal Activity.

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*Act 699 - An Act to Amend Juli's Law; to Require that a DNA Sample be Taken From a Person Arrested for Rape and to Declare an Emergency.*

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Act 904 - An act to Allow the Multiyear Registration of Personal-Use Motor Vehicles.

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*Act 995 - An Act to Clarify the Right of Owner's Preference in Removal of a Disabled or Inoperative Vehicle.*

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Act 1004 - An Act to Provide for Adult Abuse and Domestic Violence Reporting.

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*Act 1037 - An Act to Amend the Law Concerning Pawnbrokers, Precious Metal Dealer Licensing, and the Purchase of Gold, Silver, and Other Precious Metals.*

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Act 1199 - An Act to Require a Law Enforcement Officer to Complete Continuing Education and Training Relating to Persons with Disabilities in a Law Enforcement Context.

Act 1240 - An Act to Allow an Auxiliary Law Enforcement Officer Appointed as a Reserve Law Enforcement Officer to Administer Blood Alcohol Tests and to Operate a Device to Detect Excessive Speeding.

Jeff Harper
City Attorney

