



Tactical Advantage

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Washington State Tactical Officer Association

The Tactical Advantage Message from the President

What Are You Made Of?

"Train with passion, fight with courage, live with honor!" That is the motto of the WSTOA and we on the board take that motto seriously. We also feel privileged and honored to serve our membership and strive to meet the responsibility of our position. You may or may not have published values for your team, but you most assuredly operate based on some system of values. Hopefully they are not flawed. Hopefully you exude the values of your team. Hopefully your behavior, both at work and off work, bring honor to your family, team, and agency. As most of you know when SWAT officers screw up, the tendency is to lump us all together. It is rarely "Officer so-and-so screwed up!" It is usually "The SWAT guy(s) screwed up!" When SWAT officers behave badly it has a negative effect on the team and, at

times, our community. Here are my thoughts on WSTOA's motto in brief, and how it can challenge us as individuals, as teams, and as a community of tactical operators:

Train with Passion

Every time you go to training, show up mentally and physically prepared. When you are faced with a life or death decision when there is maybe a few seconds to act, what will you do? I know from personal experience you will pull from every moment of training and mental energy you have put into preparing yourself for that day. There is no rising to the occasion, but if you have prepared yourself, you will be ready to face danger. Your mind is an amazing thing and it has the ability to, in milliseconds, of action, and then take action. Take your training time

seriously, it is precious!

Fight with Courage

Courage is defined as, "The quality of mind or spirit that enables a person to face difficulty, danger, pain, etc., without fear; bravery." How does one create or build that "...quality of mind...?" It is built, in part, from mental preparation. Going through the physical parts of training are of great importance. Doing force on force training and seeing all kinds of scenarios helps us prepare. I believe one must individually take the initiative to mentally rehearse every conceivable scenario so that you have seen it 1000 times in your mind before it happens to you. That will prepare you mentally and emotionally for what you may have to do or see. Most of us are on part-time SWAT teams but we don't have the luxury of considering SWAT on a part-time basis, we must think about it more than just "part-time." Take every opportunity to mentally...
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A thought on Qualifications, SGT Bill Blowers



In the June newsletter I talked about changing up your qualification courses as a means to force training. If guys are worried about the change, hopefully that transfers to training. To be clear, I am NOT an advocate of shooting the qualification course over and over to “get good at it”. I will train so that I am good at it whatever it might be or require.

My last point on qualification is that if you are scoring or using pass/fail, that is not an accurate indication of your performance and it does not necessarily allow progression. You have only met the minimum standard required by the agency for the worst shooter. i.e. you have to draw, fire 2 rounds, speed reload, fire 2 more. The accuracy standard is the silhouette and you have a time hack of 10 seconds. You get it done in 8 seconds with good hits. Well goody gumdrops for you because the guy

you will have to fight can do it in 6 seconds. You feel good because you met, and in fact, exceeded the requirement. But you still suck and don't even know it. So how do we get there? I will spend the time and space allotted in this article to talk about dry fire. Booo-Hiss! Dry fire is boring and it's lame! Those things are in the eye of the beholder, and I will tell you that I have never considered getting better to be boring. First and foremost I schedule dry fire so that I do it every week. If I don't schedule it, I won't do it. We are all busy with the job, family, hobbies, yard, and so forth. If you don't put it on your calendar it won't become habitual. And I want it to be a habit. Mrs. Tap-Rack requires that I be good at a few things; saving my own skin is one of them. The popularity of the smart phone means you have a calendar that you can

put appointments in. Those appointments can be set so the phone reminds you of them in advance. So use your phone for more than posting pictures of your dinner on Facebook and sending twitter updates while you're on a mission. So what does my dry fire look like? I will illustrate a few things specifically but I hope that you will understand the concept more than obtaining a step by step guide. First off I must decide what is a critical skill that I want to ensure stays at status quo or that I am working to improve. A simple drill is a single shot from the draw. Now that I have identified it, I want to establish a standard. In this example, my target is a sheet of paper at 7 yards. If you don't have that much space, reduce the





Team Focus - North Sound Metro SWAT

The North Sound Metro (NSM) SWAT Team initiated the process of becoming a regional SWAT team in the summer of 2011. In January of 2012, the former teams of South Snohomish County SWAT, Monroe SRT, and Bothell SRT began training together. In the spring of 2012, the Executive Board of NSM SWAT finalized the Inter-Local Agreements and by the fall the team headed off to the Yakima Training Center for a weeklong training session. In March of 2013, Kirkland SRT joined the team and expanded the team's coverage and capabilities. The team currently includes members from a variety of municipal police departments: Bothell, Edmonds, Kirkland, Lake Forrest Park, Lynnwood, Mountlake Terrace, Mill Creek, and Monroe. Those officers who have an interest in becoming a team member must first get the endorsement of their home agency. The candidate officer must be off probationary status and have a minimum of three years of full-time experience. They then have to successfully pass a fitness test, an oral board, and a firearms proficiency test. Once selected and appointed to the team, they must complete basic SWAT school and a year-long SWAT FTO program.

The 28+ man team trains on a variety of topics to reflect the diverse coverage area of approximately 250,000 citizens. These include hostage situations, barricaded subjects, high-risk search warrants, high-risk apprehension, bus and train assaults, waterborne vessel boarding, and K-9 integration. The team has two training days a month, one range day and one practical day, as well as a weeklong advanced training session every year. The four officer sniper element has monthly sniper range days and attends quarterly team practical and team range days. Both entry and sniper elements are required to pass monthly qualifications to maintain their on-call status. One of the benefits to a regional team is the consolidation of equipment. The team now shares various tools that were otherwise confined to their host agency, to include a MRAP and a Peace Keeper armored vehicles. Team members are allowed to carry firearms that are approved by their host department. All team members currently carry an AR-15 platform carbine as their primary weapon, with Colt, Daniel Defense, and Primary Weapons Systems being the brands of choice. Side arms include Colt 1911's,

Glocks, Sig-Sauer, Smith & Wesson M&Ps, and Springfield Armory 1911's. The sniper element is well equipped with a LaRue OBR, a Robar SR-60, and a pair of Iron Brigade Armory Super Grades.

The team is fully supported by an Executive Board, a SWAT Commander, two Assistant SWAT Commanders, a full contingent of Crisis Negotiation Team (CNT) personnel, and a growing tactical medic program. Team members are on call 24 hours a day, seven days a week to provide the highest level of service to their communities.



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A Thought on Qualifications (continued from Page 2)

“Spend a majority of their training time training the core competencies tested.....”

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“I have to be honest with myself and “Call” the shots...”

target to 5X8 or whatever. I need the accuracy standard (8.5X11) and the distance to be a constant because I am going to track this over time. I have to be honest with myself and “call” the shot at the point the gun goes click. I have to get a “hit” for it to count. No hit, time is irrelevant.

OK, we have some things established, now we just have to figure out what the time should be. To help establish this I am going to live fire this drill 12 times when I go to the range. 12 total bullets fired, 100% accuracy required, as fast as I can do it, using a shot timer. I am going to delete my fastest and slowest times. Shit happens and so do miracles, so those two things go away. Add the total time, divide by ten, average for ME for that drill. Let’s just say it’s 2 seconds. (It’s not, I flat smoke this drill but I don’t want you guys to feel bad

about yourselves). When I set this up for dry fire, I put my shot timer on delayed start with a par time of 2 seconds. So I get a Beep to start and a second beep at the end of the 2 seconds. I should have pulled the trigger with a called shot prior to second beep. 100% hits required. If I can do it ten times in a row, then I am going to shave 1/10th of a second off the next time I dry fire, trying to get 10 clean reps at 1.9 seconds. You have to write this stuff down and maintain a record so you can review.

Does this sound like the same thing you would do if you were trying to improve your flat bench max? Or do you just go to the gym and randomly throw iron around and hope to get stronger? Same concept, applied to gun performance. I do this with several drills and establish live fire averages and then apply them to dry

drills. Beep.....Beep! Adding the shot timer makes dry fire challenging and fun. Tracking performance this way will give you the same rush you get with a new flat bench, WOD, or run PR. So track it to increase performance or stay status quo if you’re happy where you’re at. Apply the concept to any skill step or a series of skills in your dry fire and suddenly you are putting in a lot of quality firearms training in garage or living room. Last but not least, is dry fire safety. Go through a complete unload and download of ALL ammunition. IN my case it all goes right in the safe when the guns come out. It gets locked up and I move to a **DIFFERENT location** for dry fire. There is no ammo in this area. I have a hanger in my garage that I attach my plate carrier to, and then the sheet of paper or target gets taped to the plate.

Warrantless Entry in Washington

Part 2 of 2 – A 50,000 FOOT VIEW.

By Arthur "Pat" Fitzpatrick, Deputy City Attorney for
Kent

Part 2, continued from the
Summer 2014 issue.

Note about Fisher v. San Jose, 558 F.3rd 1069 (2009)

The *Fisher* case was a federal civil lawsuit in which it was alleged that a seizure was unreasonable under the 4th Amendment because the exigency that justified the original seizure expired. The 9th Circuit did not buy the argument and dismissed the case. The facts are as follows:

During a conversation with a security guard, Fisher became agitated, and pointed a rifle in the direction of the security guard. Police arrived and Fisher threatened to shoot anyone who came on his property. Police surrounded the apartment and Fisher retreated into the home. Over the course of a number of hours, Fisher made more threats to police, and at one point, pointed his rifle at two officers. He was last seen with a gun at 0630 hours. At 0700, SWAT arrived and assumed control of the scene. Over the next several hours, SWAT employed a bullhorn, throw-phone, and then flash-bangs, and tear gas in attempts to extricate him (While not specifically discussed by the court, a

warrantless entry occurred when officers deployed gas, flash bangs, and a phone into his apartment.). At 1415 hours, he was talked out of the apartment, was prevented from returning to his apartment with rubber bullets, and was taken into custody. Police had the apartment surrounded the entire time, and did not obtain a warrant. Fisher sued under 1983 for violating the 4th Amendment of the U.S. Constitution.

The court found that there was probable cause to arrest him. The court further determined that for legal purposes, *Fisher was seized while he was inside of his home at the point in which the apartment was surrounded, and that there were sufficient exigent circumstances to initially seize him without a warrant.* The court determined that a seizure is a continuous process that only ends once the person is free to leave. With this notion in mind, the court held that the almost eight hour period in which Fisher was not seen (0630 – 1425) did not work to re-ignite the arrest warrant requirement. The court held, "During an armed standoff, once exigent circumstances justify the warrantless seizure of the suspect in his home, and so long as the police are actively engaged in completing his arrest, the police need not obtain an arrest warrant before taking the suspect into full physical custody. This remains true regardless of whether the exigency that justified the seizure has dissipated by the time the suspect is taken into full custody."

Would the result in a civil case have been the same had the *Fisher* case occurred in Washington? The answer is yes. Remember that this was a civil lawsuit. If this occurred in Washington, and Fisher wanted to sue for a constitutional violation, he could only sue under the 4th Amendment to the U.S. Constitution, because, as noted above, there is no available legal claim against officers or police agencies for violations of the *Washington* Constitution (see above). Like San Jose, Washington is in the 9th Federal Court Circuit, and thus, the *Fisher* case is controlling law on the issue of civil liability under the 4th Amendment.

Note: This case does not stand for the proposition that surrounding a residence dispenses with the need for a warrant to enter. In order to enter a home, police must either have a warrant, an exigent circumstance, consent, or must be engaging in an emergency aid. In addition, if time and safety allows, it is always good practice to obtain a warrant.

Application of Fisher in the Criminal Context

The real question is how *Fisher* would apply in a criminal case in the state of Washington. Assume that the *Fisher* case arose in King County, and Fisher was charged with a crime – Would the King County Superior Court exclude evidence under Article 1, § 7 of the Washington Constitution if SWAT had physically entered Fisher's home and had seen evidence in plain view. It is my opinion, that under the facts of *Fisher*, a Washington court would determine that evidence seen in plain view upon the physical entry of Fisher's home without a warrant would be admissible.



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It is my opinion that like the 9th Circuit, Washington courts would determine that a person is seized at the moment he is surrounded by SWAT because his "liberty of movement or freedom to remain in the place of his lawful choice" would have been restrained to a degree tantamount to arrest (put another way, a reasonable person in a house surrounded by police would not be free to leave or otherwise end the encounter). Because the seizure would have occurred at the moment the dwelling was surrounded, and because a seizure does not end until a "reasonable person" would feel he is free to leave, it would be logical for the court to determine that, assuming there was lawful grounds for the initial seizure and the encounter was continuing in nature, there would be no need for a warrant to finish the seizure with a physical arrest.

Assuming the same facts in *Fisher*, it is my opinion that there was probable cause to arrest Fisher, and an exigency existed under Washington law for his warrantless seizure in his home at the moment his house was surrounded by police. He had 18 rifles, was loading them, was not in a balanced state of mind, had been drinking, and had threatened to kill others including police officers. Later, he had pointed his rifle at two officers. At a minimum, there was probable cause for the crime of harassment, and clearly, his acts constituted the exigency of being a "threat to the safety of officers or the public." At the moment he was surrounded, he was seized in his home. Neither the probable cause nor the exigency would have dissipated, by virtue of the period of no contact with Fisher between 0630 and 1425. Therefore, it is my opinion that

under the facts of *Fisher*, a Washington court would not exclude evidence resulting from an entry under the facts of *Fisher* had a full police entry occurred.

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rehearse everything we do.

Live with Honor

Living with honor is simply being a person of integrity. As a SWAT team member you are held to a higher standard. That's right, a higher standard. People expect you to be better. They expect you to behave correctly. We should all remember that, whether we like it or not, we are a reflection of our team. I have seen too many incidents recently where a SWAT officer acts unethically, or even illegally, and brings a bad light on their team and agency. If you are on a tactical team you should have been chosen, in part, because you are a person of integrity. We place the highest level of trust in fellow team members, often times with life hanging in the balance. If you cannot live with honor you cannot be trusted in a team environment. Every one of us should continually assess ourselves and at the point we cannot bring honor to our team, it is our responsibility to step down. It is not about you. There is too much at stake.

I want to challenge you to assess yourself and ensure your motives are true, and your compass is pointed in the right direction. If they are, continue on and continually strive to improve yourself and be "value added" to your team. If not, do the right thing.

