

# Northwest Evaluator

The Pacific Northwest  
Drug Recognition Expert Newsletter



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## OREGON'S 15<sup>TH</sup> DRE SCHOOL

by Sergeant Timothy Plummer

Oregon held its 15<sup>th</sup> DRE School in May 2007 at the Oregon Military Academy in Monmouth. Twenty-six applicants were accepted to attend. The DRE Pre-School was held on May 1<sup>st</sup> & 2<sup>nd</sup> directly followed by the 7-Day School starting on May 3<sup>rd</sup> through the 11<sup>th</sup>. Lieutenant John Diehl a DRE Instructor from DPSST took on the role as Course Manager for both the Pre-School and 7-Day School with the assistance of Sergeant Tim Tannenbaum a DRE Instructor with Washington County Sheriff's Office. Lieutenant Diehl also had the task of accommodating 11 new DRE Instructors into the course schedule in order to meet their teaching requirement.

Of course the school could not have been such a success without the assistance of our dedicated DRE Instructors as well as our guest instructors: Dr. Karl Citek, Pacific University; Dr. Mark Pedemonte, Pacific University; Jody Vaughan, Deschutes County Deputy District Attorney; Lynn Howard and Jennifer Bray, Oregon State Police Crime Lab.

All of the students were eager to learn and enthusiastic about the Drug Evaluation and Classification Program (DECP) which was evident by the last day. Three of the students received a 100% on the final exam, and the overall average for the class was a 94.8%.

Certification Training was held at the Oregon Department of Transportation (ODOT) Region I Headquarters Building in Portland. The class was divided between two weeks. The first week went from May 30<sup>th</sup> through June 2<sup>nd</sup>, and the second week was June 6<sup>th</sup> through the 9<sup>th</sup>. Officer Darke Hull, a DRE with Portland Police Bureau, Agency Coordinator, and a new DRE Instructor, was the site coordinator for this training. Officer Hull acted as a liaison with the Portland Police Bureau, Hoopers, AMR Ambulance, and various Community Outreach Programs. He also scheduled the DRE Instructors and Trackers for Certification Training.

During the two weeks of Certification Training, 248 evaluations were conducted to get the students certified, the 11 new instructors certified, and many DREs recertified.

There were also twelve new DRE students from Idaho who attended to get their certification complete as well as six DRE Instructors from Idaho to help with the training process. Thanks to those from Idaho who attended for their assistance and professionalism during the training.

This was a successful two weeks due to the perseverance of certified DREs that worked the streets of Portland to find the impaired individuals who helped by volunteering for the evaluations; and DRE Instructors who observed the students conduct their evaluations, review their reports, and sign off on their progress logs.

(Continued from Page 1 – Oregon's 15<sup>th</sup> DRE School)

I would be remiss if I did not acknowledge the dedication and hard work of a key individual. Her devotion to the Oregon DEC Program is reflected in her quiet unassuming role in this entire process, Administrative Specialist II, Laura Steward. As many of you know Laura does a lot of behind the scene work to ensure the success of you and me. Because of her efforts the program moves on in big ways.

A special thanks needs to go to ODOT for the use of their facility, NW Natural Gas who allowed us to use their parking lot for additional parking, IKON Marketplace for providing a photocopier for the students to use, Legacy Metro Lab for running the toxicology analysis on the specimens collected, and Days Inn for accommodating our lodging needs.

Congratulations to the new DRE Students, the DREs and DRE Instructors for a job well done. I hope all of you are able to enjoy the sunny blue skies of summer.

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### **ANHEUSER-BUSCH TO STOP SELLING SPYKES**

Anheuser-Busch said Thursday it will stop selling a malt beverage called Spykes, a product under fire from critics who charged that it appealed to underage drinkers.

Chief Executive August Busch IV made the announcement during a panel discussion at the National Alcohol Beverage Control Association annual conference in La Quinta, Calif., the brewery confirmed.

"Due to its limited volume potential and unfounded criticism, we have ceased production of Spykes," Michael J. Owens, Anheuser-Busch Cos.' marketing vice president, said in a statement.

He said Spykes was introduced about two years ago in test markets, and nationwide in January, but had not performed to expectations. Critics said the product was designed to attract underage drinkers.

Owens rejected that criticism, saying that Spykes was the lowest-alcohol content product in its market segment. The brewer has said younger drinkers favor products with higher alcohol content.

"Nonetheless, it was unduly attacked by perennial anti-alcohol groups, such as the Center for Science in the Public Interest and the Marin Institute," he said.

The Marin Institute, an alcohol industry watchdog based in San Rafael, Calif., said it was pleased with Anheuser-Busch's decision after many organizations and dozens of attorneys general raised concerns that

the brewer was targeting underage drinkers with the product.

"It's fine to point fingers, but it wasn't just us screaming bloody murder against this product," said research and policy director Michele Simon.

A phone call seeking comment from the Center for Science in the Public Interest was not immediately returned after business hours Thursday.

Spykes is a 2-ounce bottle of flavored-malt beverage meant to be mixed with beer or other drinks, or consumed as a shot. Packaged in colorful bottles, Spykes contains 12 percent alcohol by volume.

Critics, including more than two dozen state attorneys general, say those characteristics are attractive to underage drinkers. They say the flavor masks the strong taste of alcohol.

Spykes comes in four flavors -- lime, mango, melon and hot chocolate. It also contains caffeine, ginseng and guarana, which are components of energy drinks popular among teens and young adults.

Connecticut Attorney General Richard Blumenthal said, "This move by Anheuser-Busch, ceasing sales of Spykes after attorneys general raised significant concerns, is a significant victory in the fight against underage drinking."

He said Spykes appealed to children in taste, packaging and marketing.

"Anheuser-Busch is doing the right thing about Spykes -- and should become a model for the entire industry by stopping marketing of all caffeinated alcoholic drinks that appeal to underage drinkers," Blumenthal said.

Information obtained from *Business Week*  
By Betsy Taylor - May 17, 2007

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### **NORTHWEST BORDER AGENTS FIND \$5.2 MILLION IN ECSTASY IN TRUCK**

OROVILLE, Wash. - U.S. border guards uncovered more than \$5.2 million worth of Ecstasy inside a container truck's doors Friday, marking one of the largest Northwest drug discoveries of its kind in recent years, a federal spokesman said.

The discovery of 182 pounds of the drug occurred at the border crossing on U.S. Route 97 near Oroville, said Mike Milne, a U.S. Customs and Border Protection spokesman.

Officials scanned the 18-wheel truck, which was heading to California, with X-ray technology and

(Continued from Page 2 – Agents Find Ecstasy)

noticed "shading" in the tail doors, he said. They found 49 packages of the drug -- about 262,000 pills -- inside.

The Canadian truck drivers, a man and woman, were released, and U.S. officials had yet to arrest anyone. Investigators were trying to determine who owns the trailer and who packed it, Milne said.

In the past three or four years, smugglers have been trying to ship Ecstasy through the U.S.-Canadian border because it is more compact than "B.C. Bud," or marijuana, Milne said.

"It's more bang for the smuggling buck," he said.

The truck was hauling what was listed on its manifest -- wooden-pallet-making materials.

In recent years, that section of the border with Canada has seen smugglers attempt to sneak in marijuana, Ecstasy and illegal immigrants, including Korean nationals, he said.

Information obtained from Seattle Post-Intelligencer  
By Brad Wong

## DUII CASE LAW UPDATE

The Court of Appeals has been busy the last several months, issuing many cases that affect DUII law. The following is a brief synopsis of the more noteworthy cases. A more detailed analysis of all the cases decided in the last six months has been sent through the DUII list-serve. Please contact Deena Ryerson if you would like a copy or have any questions: [deena.a.ryerson@doj.state.or.us](mailto:deena.a.ryerson@doj.state.or.us).

**Breath Test Refusal:** An officer is required to read the implied consent rights and consequences only once before requesting an arrested driver to submit to a breath test. The officer is not required to re-read the advice or give the driver an opportunity to read the advice. If the defendant refuses test after the advice is read, the refusal stands. Davis v. MVD, 209 Or App 39, 146 P3d 378 (2006).

**Breath Test Certifications:** The court again affirmed that certified copies of breath test certifications are admissible under the public records exception. State v. Barber, \_\_Or App \_\_, \_\_P3d\_\_, (Dec 13, 2006).

**Evidence:** Evidence concerning the collection of blood is not "scientific evidence" because it does not require the explanation of an expert under OEC 702. An officer is therefore allowed to testify as to

his observations in witnessing a blood draw. (Note: It is especially important now to document whether you observed a blood draw and if so, the methods followed by the person drawing the blood. In the Owen case, the phlebotomist was not available and the officer was ultimately allowed to testify as to the procedure that was taken to draw the blood). State v. Owens, 207 Or App 31, 139 P3d 984 (2006).

**Intoxication and Evidence of Recklessness:** To support a charge of reckless endangering based upon risk to passengers in the defendant's car, the state does not need to prove that the defendant's driving was bad or affected by the defendant's impairment. Proof that the defendant/driver was intoxicated is sufficient in itself to establish the risk of harm to the passengers. (Note, you should be considering citing a DUII driver for reckless endangering every time there is a passenger in the car.) State v. Mojarro-Sandoval, 208 Or App 178, 144 P3d 996 (2006).

Evidence of a prior diversion was relevant to establish the defendant's subjective awareness of the risks of driving while intoxicated and therefore was relevant to the question of whether the defendant consciously disregarded that risk in a subsequent act of third-degree assault that resulted from intoxicated driving. State v. Cavaner, 206 Or App 131, 135 P3d 402 (2006).

**Right to Counsel:** Defendant invoked his right to counsel upon arrest. He was told he could make a phone call once they got to the station. At the station, he was taken to the intoxilyzer room. Defendant was given the phone and told he could "make any phone calls at that time." Defendant called his wife and the officer stayed in the room for the phone call citing concerns with leaving the equipment unattended. After the call to his wife, defendant blew and never requested to speak to an attorney and the officer therefore never left the room. The Court of Appeals ruled that the defendant's right to private counsel was violated. The Court citing State v. Durbin, 335 Or 183, 191, 63 P3d 576 (2003), reiterated that a person has a right to speak in private when a request for an attorney is made after arrest and that the person need not specifically make a request for privacy. The Court went on to say that when a person has asked to call an attorney, if an officer intends to remain seated in the room until the call is made, the officer must inform the person--before the call is made--that, once he or she contacts an attorney, privacy will be afforded. Finally, the Court said that a person does not need to ask more than once to speak to an attorney rather, the officer should provide a place for a private conversation once the first request is made and tell them they will be given privacy. State v. Matviyenko, \_\_Or App \_\_, \_\_P.3d\_\_, (April 11, 2007)

Where the defendant had invoked her right to counsel before submitting to field sobriety tests, cross-examination by the prosecutor regarding why she did not make certain statements to the officer when she found out she was under arrest for DUII and comment by the prosecutor on the same issue in closing argument was improper. The prosecutor's argument impermissibly commented "indirectly" on the defendant's right to remain silent by questioning the defendant's silence after she invoked her right to counsel. State v. Ragland, \_\_Or App\_\_, \_\_P.3d\_\_, (Dec 27, 2006).

**Speedy Trial:** Although an eighteen-month delay in taking a DUII to trial was found to be longer than average, dismissal was not required where the defendant was not held in pretrial detention and he did not show that the delay either impaired his ability to present a defense or subjected him to undue anxiety. State v. Siegel, 206 Or App 461, 136 P3d 1214 (2006).

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### MEMOREX ADDS INHALANT ABUSE DETERRENT TO POPULAR AIR DUSTER PRODUCTS

Inhalant abuse, commonly known as "huffing," is an alarming problem plaguing the youth of today searching for a quick and cheap high from any aerosol-based product. Memorex, a portfolio brand of Imation Corp (NYSE: IMN - News), today announced a new version of its leading Air Duster line of compressed-gas cleaner designed to help combat this potentially fatal practice.

Memorex Air Duster canned air, excellent for cleaning computers, office equipment, and electronics, now comes with an additive known as bitterant to discourage potential abusers from "huffing" by making the contents extremely unpleasant to inhale.

The Alliance for Consumer Education (ACE) reports that more than 2.1 million teens, ages 12-17, have used an inhalant to get high, meaning that 1 in 5 children will abuse inhalants by the 8th grade.

The Memorex Air Duster with bitterant formula is available now at retailers.



Information obtained from Memorex Newsroom  
May 23, 2007

Bitterant-infused Air Duster products to help curb wide-spread, dangerous misuse of aerosol products

### DEA SAYS FLAVORED METH SPREADING

Drug dealers are marketing flavored varieties of methamphetamine in at least eight states, USA Today reported March 26.

Meth mixed with strawberry, chocolate, cola and other flavors has appeared in California, Nevada, Washington, Idaho, Texas, New Mexico, Missouri, and Minnesota, according to the Drug Enforcement Administration (DEA). "Drug traffickers are trying to lure in new customers, no matter what their age, by making the meth seem less dangerous," said DEA spokesman Steve Robertson.

Experts say that it's not unusual for meth dealers to color or name their product to increase brand visibility. One version of flavored meth has been dubbed "Strawberry Quick," the Nevada Department of Public Safety noted.

"Strawberry Quick is popular among new users who snort it because the flavoring can cut down on the taste. Teenagers who have been taught meth is bad may see this flavored version as less harmful. 'Strawberry Quick' is designed for the younger crowd," the Nevada agency warned recently.

Deputy U.S. drug czar Scott Burns sees flavored meth as a sign that dealers are having a harder time selling the drug; use of first-time meth users fell in 2005. "The traffickers know the word is out about what a horrible drug this is," Burns said. "They are having a tough time selling this product, especially to young people. What do people in marketing do when they have a tough time selling a product? They have to come up with some sort of gimmick."

Information obtained from Join Together  
March 28, 2007 News Summary

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### Drug News: Sedative Drug Labeling Revised

The U.S. Food and Drug Administration (FDA) has requested that all manufacturers of sedative-hypnotic drug products, a class of drugs used to induce and/or maintain sleep, revise their product labeling to include stronger language concerning potential risks. The new warnings were prompted by reports of severe allergic reactions and complex sleep-related behaviors, which may include sleep-driving, making phone calls, and preparing and eating food (while asleep). Sleep-driving occurs when individuals drive when they are not fully awake after ingesting sedative-hypnotic products; they often have no memory of driving.

The drugs associated with the new concerns include zolpidem (Ambien and Ambien CR), Butabarbital (Butisol Sodium), flurazepam (Dalmane), quazepam (Doral), triazolam (Halcion), eszopiclone (Lunesta), estazolam (Prosom), temazepam (Restoril), ramelteon (Rozerem), secobarbital (Seconal), and zaleplon (Sonata).

**Patient Teaching:** Its important to remind patients about the proper use of sedatives, and the recommendation to avoid ingesting alcohol and/or other central nervous system depressants in combination with sedatives and hypnotics. These new findings stress the importance of initial and periodic monitoring during treatment to evaluate for possible adverse events and safety risks.

Information obtained from FDA website - May 12, 2007

### CHPA CAMPAIGNS TO STOP TEEN ABUSE OF COUGH MEDICINES

The Consumer Healthcare Products Association (CHPA) has launched a campaign designed to stop the dangerous trend of teens abusing cough medicines to get high. The Five Moms: Stopping Cough Medicine Abuse Campaign is an on-line, grassroots effort to raise parental awareness about this substance abuse problem and to offer resources. The campaign features five moms, from different walks of life and from all across the country, each dedicated to spreading the word about the dangers of cough medicine abuse. The home of the campaign is [www.FIVEMoms.com](http://www.FIVEMoms.com), a Web site where parents can find information about cough medicine abuse, read blog entries from the five moms and occasional "special guest moms," and link to sites that have additional resources for fighting cough medicine abuse.

### LARGE POLYDRUG SEIZURE NEAR SALEM, OREGON

The Oregon State Police Forensics Lab in Springfield recently received a multi-exhibit submission including 3 types of blotter papers (see Photos 3 and 4), 6 bags of powder (2 of which were labeled with printed stickers: "2-(4-Ethyl-2,5-dimethoxyphenyl) ethylamine" (2C-E)), a bottle of colorless liquid, 7 small vials of red liquid with an odor of strawberries (1 broken), 52 clear gelatin capsules containing a white powder, 16 pharmaceutical tablets (apparent oxycodone, several different formulations), and 44 Ecstasy-type tablets (17 different logos) sorted and bagged by logo type. The exhibits were seized by the Oregon State Police - Salem Area Patrol Office pursuant to a traffic stop, and (unusually) were found

in a safe in the trunk of the vehicle. Marijuana and mushrooms were reportedly also seized, but were not submitted for analysis.

Analyses were done via color testing, GC/MS, and FTIR, as appropriate. None of the samples were quantitated. Analysis of the blotter papers confirmed LSD in one sample (72 units) and indicated 4-iodo-2,5-dimethoxyphenethylamine (2C-I) in the other two sample types (totaling 79 units). Of interest, one of the latter two blotter papers also contained trace amounts of MDMA and methamphetamine (both confirmed) and MDA and caffeine (neither confirmed). Two of the powders (total net mass 1.2 grams) were identified as MDMA, 2 (total net mass 4.93 grams) were consistent with 2C-I, and 2 were residues consistent with a mixture of 2C-I and 2C-E (these were the labeled bags). The colorless liquid (total net volume 100 milliliters) was identified as 1,4-butanediol. The red liquids in the small vials (approximate total net volume in the 6 intact vials 6 milliliters) and the powder in the gelatin tablets (gross mass 3.35 g) were all consistent with 2C-I. The logos and presumptive testing of the pharmaceutical tablets gave results that were consistent with oxycodone. Of the 17 different types of Ecstasy-type tablets, 4 were analyzed; all 4 contained MDMA and 1 also contained ketamine.

This is believed to be the first submission of 1,4-butanediol to this laboratory, and the largest and also the most varied submission of 2C-I. The exhibits "consistent with" 2C-I and 2C-E were not confirmed due to lack of authenticated standards. LSD blotter paper submissions to the laboratory are uncommon. This laboratory has seen a distinct rise in the number of submissions of designer phenethylamines and tryptamines (both controlled and non controlled) over the past two years.



Information obtained from Microgram Bulletin February 2007

### UPCOMING CONFERENCES

GHSA Annual Meeting – Looking Beyond our Borders  
September 23-26, 2007, Portland, Oregon  
More information can be found at [GHSA.org](http://GHSA.org)

Lifesavers 2008 Conference – April 13-15, 2008,  
Portland, Oregon. Website will be updated in  
November – [lifesaversconference.org](http://lifesaversconference.org)



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"Drugs, Alcohol, &  
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***For more information, visit the conference website at [www.decp.org](http://www.decp.org)***