



October 2016

The BACKUP Newsletter

The Official Publication of the California Reserve Peace Officers Association



Malibu Search and Rescue Reserve Company and Los Angeles Sheriff's Department Join the Pink Patch Project

Steve Marshall, Malibu Search and Rescue

Earlier this year Malibu Search and Rescue decided to join the Pink Patch Project and inspired the Los Angeles Sheriff's Department as a whole to join as well. The Pink Patch Project is a collaborative cancer awareness fundraiser in partnership with the Los Angeles County Police Chief's Association and many other L.A. County Police Agencies.

Currently, Malibu Search and Rescue is the only SAR team participating out of over 60 organizations.

The program centers on vibrant pink versions of the public safety officer's uniform patch. These bright pink patches were specially designed by each participating agency specifically for the #PinkPatchProject campaign, with some authorizing them to be worn on service uniforms. They were created with the intention to stimulate conversation with the community, and encourage public awareness about the importance of early detection and the on-going fight against breast cancer.

The #PinkPatchProject is important for Malibu Search and Rescue as a whole because we believe it is a great cause. It is also personal, two of our team members have lost their wives to breast cancer in the last four years and others have wives who are breast cancer survivors.

The initial response to the Pink Patch Project was amazing, with the unique patches selling out the first week. Malibu Search and Rescue had more patches made and are available online at <http://www.malibusar.org/Shop.aspx> or in person at the Lost Hills Sheriff's Station's Open House on November 5th, 10:00-15:00.

For more information regarding the #PinkPatchProject and LASD's involvement or if your Reserve unit wants to make your own patch for 2017 please reach out to Reserve Deputy Steve Marshall, spmarsha@lasd.org





Chief Executive Officer's Report

VOTE NO ON PROPOSITION 63

Prop. 63 is overwhelmingly opposed by the law enforcement community groups because it will burden law abiding citizens without keeping violent criminals and terrorists from accessing firearms and ammunition.

Your Association joined with The California State Sheriffs' Association, Association of Deputy District Attorneys for Los Angeles County, California Correctional Peace Officers Association, California Fish & Game Wardens' Association, and numerous other law enforcement groups representing tens of thousands of public safety professionals throughout California to oppose this ineffective, burdensome, and costly proposal.

Prop. 63 would divert scarce law enforcement resources away from local law enforcement and overburden an already overcrowded court system with the enforcement of flawed laws that will turn harmless, law-abiding citizens into criminals. In fact, New York recently abandoned its enforcement of a similar proposal after it was passed, finding that it was impossible to implement and effectively maintain.

Doing what actually works to keep the public safe is the highest priority of law enforcement professionals who dedicate their lives to protecting Californians. Unfortunately, Prop. 63 will not make anyone safer. To the contrary, by directing resources away from measures that are truly effective at preventing the criminal element from acquiring guns and ammunition, it would make us all less safe. The immense public resources that Prop. 63 would waste should be used to hire more officers and to target, investigate, and prosecute dangerous individuals and terrorists.

After closely analyzing the language of Prop. 63, the law enforcement community found many problems in the details. Due to strict limitations on the Legislature's ability to amend voter-enacted propositions, most of these problems will be difficult or impossible for the Legislature to fix if Prop. 63 passes, saddling California with the burdens and costs of this flawed proposal forever.

By going around the Legislature, this initiative limits public safety professionals in developing future legislation that would truly promote public safety. California taxpayers should not waste hundreds of millions of their dollars on ineffective laws that have no value to law enforcement and will harm public safety by diverting resources away from effective law enforcement activities that are critical to public safety.

Please visit WWW.WHERESMYAMMO.COM for more information.

PLEASE VOTE NO ON PROP. 63.

Kevin Bernzott is the Chief Executive Officer of CRPOA and a Reserve Sergeant for the Ventura County Sheriff's Office. Kevin welcomes your questions and comments. Email him at bernzott@crpoa.org

Report from CRPOA General Counsel

Important CCW Case Distinguishes Peace Officer “Status” vs. Peace Officer “Authority”

By Jim René



Do you maintain your status as a reserve officer when you aren't actually working a shift? Do you think your agency considers you to be one of their reserve officers when you aren't on-duty working a shift for them – or do you disappear off their radar screen completely when you go off-duty, only to magically re-appear when you show up for your next shift? How about POST – do they cancel you out of their system every time you go off-duty, or do you think they show you as an active reserve peace officer after you have been duly appointed by your agency and entered into their system even when you aren't out in the field or at the station working a shift?

Maybe we should take a look at all your agency policies on off-duty conduct. I'm pretty sure they apply to you, don't they? And perhaps most importantly, do you think the Penal Code defines reserve peace officers in a way that tracks our day-to-day activities as a pre-requisite to peace officer “status?”

Well, according to the DOJ (assault weapon case in point) and some other misguided folks, they somehow can't figure out the difference between your status as an active reserve peace officer and your authority to take off-duty peace officer enforcement action. Luckily, however, a California court made an important ruling in a CCW case directly on this point which we expect will settle the matter once and for all.

The case, *Stanislaus County Deputy Sheriffs Association v. County of Stanislaus* (2016) 2 Cal.App.5th 368, deals with a group of correctional deputies who brought a lawsuit against the county because the Stanislaus County Sheriff required them to get a CCW in order to carry a firearm even though there is a clear exemption in PC 25450 applicable to them as 830.1 officers. Recall PC 25450(a) provides an exemption from the prohibition on carrying a concealed and loaded firearm for “[a]ny peace officer, listed in Section 830.1 or 830.2....”. Correctional deputies are appointed under PC Section 830.1(c). The Sheriff of Stanislaus County claimed that correctional deputies do not fall within this exemption because they do not have the “*status*” of peace officers when they are off-duty because they do not have off-duty peace officer authority, and thus cannot carry a firearm under this exemption. It's as if the Sheriff is saying they do not “exist” as peace officers off-duty and thus do not fall within the exemption.

The essence of the Sheriff's claim is that “status” and “authority” are the same thing. Another way to look at that (ridiculous) argument is its basic rationale, to wit: because PC Section 830.1(c) provides that correctional deputies do not have any off-duty peace officer authority, they are not entitled to any exemptions which apply to the category of peace officers appointed under PC Section 830.1 even though the exemption in this case, PC Section 25450, does not have any language in it which ties the exemption to their lack of off-duty authority.

The Court blew that argument out of the water. For your reading pleasure, [here is a link](#) to the case:

Law enforcement agencies and their lawyers have tried for years to make the exact same argument with regard to reserves (and that seemingly is the argument the California DOJ is making with regard to the peace officer exemption for the acquisition of patrol rifles, never mind the DOJ's own 2009 Notice in which it concluded

that reserves may acquire large capacity magazines because we are “sworn peace officers”). These agencies argue that reserve peace officers do not “exist” (in other words, have no status) as peace officers as defined by the Penal Code when they are off-duty.

Don’t get me wrong here: they aren’t addressing our authority, they are saying that unless we are actually working a shift we do not have the status of peace officers off-duty and thus not entitled to categorical “peace officer exemptions.” This is not how Penal Code Section 830 works. That section says: “Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer....”

The court completely rejected the argument that status and authority are the same thing. It held that the CCW exemption for 830.1 peace officers found in PC Section 25450 was not intended “to turn on and off like a light switch depending on the particular person’s activities, location or circumstances in a given moment.” Under that view, it would be like we are fired and re-hired every single time we went on-duty and off-duty. The argument is ludicrous and finally a court has addressed it directly.

Here are some great quotes from the court which clearly distinguish the concepts of “status” vs. “authority:”

In describing the construct of PC Section 830.1, the court quoted another case which wrote: “The plain import of this statutory system is that the Legislature intended to grant peace officer status, and the power and authority conferred with that status in particular instances.” (Here, the court is distinguishing the two concepts of “status” vs. “authority.”)

“[W]hen the Legislature wants to limit the [categorical] exemption to occasions in which a peace officer or other person is acting in the course of particular duties or authority, the Legislature does so *explicitly* – as it has done in the exemption statute itself, or (as noted below) in the applicable section of chapter 4.5.” (With this explanation, the court is saying that categorical peace officer exemptions apply without restrictions unless those restrictions are set forth explicitly in the exemption itself.)

“Because section 25450, subdivision (a), unequivocally grants an exemption from the law prohibiting the carrying of concealed weapons to [a]NY peace officer listed in Section 830.1, and since nothing in section 830.1, subdivision (c), purports to restrict or qualify what has been granted in that exemption, it follows that the exemption is fully applicable to custodial deputies.”

Respondents argue...that the limiting language of section 830.1, subdivision (c), relating to custodial deputies’ *scope of authority* as peace officers would cause them to lose their peace officer *status* at the moment when they were off-duty. **We disagree.** Section 830.1, subdivision (c), declares without any qualification that a custodial deputy *is a peace officer*, and then goes on to delineate a custodial deputy’s scope or extent of authority. **Nothing in that section’s description (including limitations) of custodial deputies’ scope of authority as peace officers indicates an entire loss of their status as peace officers when they are off duty.** (This is the crux of the court’s holding: peace officers without off-duty peace officer authority are still peace officers.)

This case deals with PC Section 830.1(c) in the same way PC Section 832.6 works. PC Section 832.6 defines the scope of authority for all reserve peace officers as being limited to the “duration of the person’s specific assignment” (with an exception for Designated Level 1’s per PC Section 830.6(a)(2), which grants them the same authority as 830.1 officers). That is no different than a geographical, time-based or circumstantial limitation on the authority of any peace officer in chapter 4.5 (and would be just like custodial deputies’ scope of authority in that respect).

As I have said in prior articles on this topic, reserve peace officers retain their status as peace officers when they are off-duty; it is only their authority as peace officers which changes when they go off-duty. When

an unlimited categorical exemption for “sworn peace officers” appears in the Penal Code for acquiring the tools of our trade: as examples, large-capacity magazines, off-roster handguns or patrol rifles, unless those exemptions are further restricted (for instance, by limiting those exemptions to “full-time paid peace officers” as the Penal Code does in other sections of the Penal Code), then reserves fall within those categorical exemptions.

When it comes right down to it, we are forced to argue that “a peace officer is a peace officer.” Hopefully we will get the court in our claim against the DOJ to agree to that pretty basic concept. The *Stanislaus County* court sure did.

Be safe everyone.

If you have a question or comment for Jim, please email Jim at rene@crpoa.org. Jim René is the General Counsel for the California Reserve Peace Officers Association and a Reserve Police Sergeant for the San Fernando Police Department, and previously was an LAPD reserve police officer for 15 years.

This article does not constitute legal advice and the recipient shall not be entitled to rely on it for any purpose whatsoever. The transmission of an email request for information does not create an attorney-client relationship, and the transmission of any response to such request or any other information contained herein is not intended to create, and the receipt thereof does not constitute, an attorney-client relationship between sender and recipient. All liability with respect to any information contained herein is expressly disclaimed. Under no circumstances may the recipient hold the CRPOA (or its directors and officers) responsible for any acts the recipient decides to take or not to take based on any information contained herein or otherwise. The recipient is strongly advised to consult his or her personal attorney in connection with any issue discussed herein.

WELCOME NEW CRPOA MEMBERS

Between 9/16/2016 and 10/15/2016

Eddie Cecilio	Maricopa PD	Justin Morgan	Piedmont PD	Brian Schulte	Fresno SO
Randy Chung	Garden Grove PD	Glenn McClinton	Inyo Co. SD	Kevin Callahan	Sanger PD
Rebecca Thorp	Campbell PD	Correction Lance Lee	is Santa Clara SD	Timothy Riordan	Fresno SO

Making A Difference - think about it

*Our greatest weakness lies in giving up.
The most certain way to succeed is always to
try just one more time.*

Thomas A. Edison

Chief Financial Officer's Report

October 2016 Membership and Financial Condition



It is my pleasure to report that our financial condition remains sound. The current month closed with all of our current obligations met. We added 8 new members that joined from the 16th of last month to the 15th of the current month.

While the Reserve Coordinator Training Course is not a requirement for the position, I want to emphasize its importance. It should be given priority by every agency that utilizes reserves as part of their law enforcement training. On December 12th through the 14th of this year, a three day, 24-hour Reserve Coordinators Course will be offered at Golden West College – Regional CJTC in Huntington Beach, CA. If you have a Reserve Coordinator that has not completed this training, please call (714) 895-8925 for enrollment information. **The class is designed to provide new techniques, skills, and abilities for managing reserve peace officer volunteer organizations. Emphasis is placed upon the recruitment, selection, retention, training and assignment of volunteers within a law enforcement agency.** A well-managed reserve program can be a valuable asset to your agency and your community.

We are now well on our way to setting up the new “paperless” invoicing membership system. Our new website registration system does require an email address for every member. We are also tracking all peace officers, active and retired, by their POST ID, and reserves by their Reserve Level (L1, L1 Designated, L2 or L3) as well. It will help our office if you can provide this information for each peace officer member. I would encourage every peace officer to know and record his or her POST ID number. If you are or were a fulltime or reserve peace officer in California, there is a very good chance that you have a POST ID assigned to you. **With your POST ID you can instantly check your POST Continuing Professional Training (CPT) and Perishable Skills (PS) training status.** To obtain your POST ID click on the following link and follow the directions: <https://www.post.ca.gov/obtain-your-post-id.aspx> .

- If you have not already created a PASS account, please create one
- Once you have created your PASS account, you must link your POST ID to your PASS account
- Then sign in with your new PASS credentials
- Once signed in, hover over the Training tab, and click on 'My Training Status'

A report listing all courses satisfying your current compliance cycle will be generated.

Chuck Adams is the Chief Financial Officer for CRPOA. He is also a retired Reserve Commander for Los Gatos Police Department. Chuck welcomes your calls and emails. You may contact Chuck at 408-371-8239 or cadams@CRPOA.org

CRPOA Online Store

Our online store has recently been upgraded to include all of our logo wear, challenge coins, posters, and additional merchandise. Check out our online store by [clicking here](#).

If you were not able to attend ARPOC this year, we have a limited number of ARPOC 2016 challenge coins available for sale online. Only \$10!



CRPOA and ARPOC 2015 Challenge Coins Just \$10 each



The **CRPOA Challenge Coin**, you can order online

[CRPOA Challenge Coin](#)

We have a few **ARPOC 2015 Challenge Coins**

[Purchase an ARPOC 2015 Coin online here](#)

*Matt Lujan, Vice President and 2015 Conference Chairman, Reserve Police Sergeant Pacifica P D
You are welcome to contact him at lujan@crpoa.org or call 855-552-7762 ext. 101*

*Don't Miss **ARPOC 2017***

August 16th - 19th in San Diego

A great network and training weekend
