



February 2017

The
BACKUP
Newsletter

The Official Publication of the California Reserve Peace Officers Association

Report from the ARPOC 2017 Committee

By Mike Voorhees, Committee Chairman

Planning for ARPOC 2017 is in full swing. We're now choosing classes and securing instructors and hope to release the class schedule in the next month or so. Were we missing a class that you wanted to take last year? Or, did we offer a class but it was full? Please help us help you by sending your suggestions for new or repeat classes to our Training Manager, Janet Adams at janet@crpoa.org, as soon as possible!

The room rate at the hotel will again be \$139 per night including parking, with in and out privileges. And, the hotel has a shuttle to nearby restaurants and the terrific Fashion Valley Plaza. For those of you who couldn't attend last year, use this link to see photos of the hotel [:Check out the hotel here.](#) To book your room online, go to our special booking website: [special booking website.](#) Or, if you prefer to book by phone, call 1-888-233-9527 and ask for the "California Reserve Peace Officers" rate.

Our conference chairman this year is CEO Kevin Bernzott. You can contact him at bernzott@crpoa.org. Or, email me at voorhees@crpoa.org or call me at 707-544-2181. See you there!



Mike Voorhees is Chairman of the Board Emeritus, Chairman of the ARPOC Site Selection Committee and is a retired assistant sheriff at the Sonoma County Sheriff's Office. He welcomes your questions and comments.

Chief Executive Officer's Report



Peruta v. California

Your association joined Western States Sheriffs' Association, ILEETA, Law Enforcement Legal Defense Fund, Law Enforcement Action Network, Law Enforcement Alliance of America, and 17 elected California County Sheriffs (Monterey, Mariposa, Shasta, Stanislaus, El Dorado, Trinity, Tehama, Siskiyou, Fresno, Modoc, Kings, Amador, Sierra, Alpine, Madera, Merced, and Kern) in filing an amicus brief with the US Supreme Court asking it to grant a petition for certiorari in *Peruta v. California*.

There isn't a "reserve dog" in this particular fight, but the opportunity came to us through Sean Brady of Michel & Associates, our outside counsel in the patrol rifle litigation against California DOJ. Jim Rene and I assessed that it behooves us to make common cause with other law enforcement organizations and chief executives of law enforcement agencies in the hope of finding more support for our issues down the road. I would be interested in hearing from members whether you agree.

Here are some excerpts from the brief.

"The amici in the present brief provide a different but important perspective, that of law enforcement officers charged with preserving peace and safety of our communities. For a federal appellate court to read out of existence any protection for the most important manner in which a constitutional right is exercised outside the home (concealed carry), and to cast doubt on the constitutional protection for any remaining ability to exercise that right (open carry), implies that there must be some compelling, indeed overwhelming, public safety need to deprive law-abiding citizens of their individual Second Amendment right to defend their lives. As amici demonstrate, however, disarming law-abiding citizens has no positive effect in controlling violent crime."

"Rather than posing a danger to public safety, allowing law-abiding individuals to obtain concealed carry licenses saves innocent lives and aids law enforcement. Of the 50 states, 42 have either a 'shall-issue' system of concealed carry licensing, in which licenses are freely issued to law-abiding citizens, or do not require any license or permit to carry concealed. Forty-five states allow open carry, and the majority do not require a permit. San Diego County's nearly total prohibition on carry of handguns, openly or concealed, is an extreme outlier. San Diego County's assertions that allowing law abiding citizens to carry concealed will result in firearms accidents on public streets, escalation of minor altercations into public gun battles, and a need to adopt extreme security measures at every place that is open to the public are unfounded. When states began implementing 'shall-issue' systems, similar dire predictions were made. Those fears turned out to be baseless. No state that implemented a 'shall-issue' system has reverted to a highly restrictive system or imposed a de facto ban such as the one in San Diego County."

"Because law-abiding concealed carry permit holders are an aid to law enforcement, large scale surveys of law enforcement officers of all ranks, and of police chiefs and sheriffs in particular, have shown overwhelming support for concealed carry by properly licensed citizens. Very large majorities agree that concealed carry by the law-abiding helps reduce crime. The evidence shows that individuals who obtain concealed carry permits are extremely law abiding. The rates at which they commit crimes are small fractions of the crime rates for the public as a whole. Figures cited by the en banc panel concurrence to show that persons with concealed carry licenses may become murderers are based on deeply faulty information published on the website of an advocacy group. Criminals cannot obtain a carry license, and would not go through the application process requiring a background check. Most violent crime is committed by repeat criminal offenders, not law-abiding citizens suddenly gone wild."

" Multiple well-designed studies demonstrate that defensive gun uses by citizens to prevent or defeat criminal attacks are prevalent and save lives. A large number of those defensive gun uses occur outside the home, and the percentage occurring outside the home has undoubtedly increased with the rapid expansion of the number of concealed carry permit holders over the past twenty years."

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

Making A Difference - think about it

“Americans of all ages, all conditions, all minds constantly unite. Not only do they have commercial and industrial associations in which all take part, but they also have a thousand other kinds: religious, moral, grave, futile, very general and very particular, immense and very small; Americans use associations to give fêtes, to found seminaries, to build inns, to raise churches, to distribute books, to send missionaries to the antipodes; in this manner they create hospitals, prisons, schools. Finally, if it is a question of bringing to light a truth or developing a sentiment with the support of a great example, they associate.”

--Alexis de Tocqueville, Author of 'Democracy in America'

WELCOME NEW CRPOA MEMBERS

Between 1/16/2016 and 2/15/2017

Herman Leon Santa Clara SO	Jeff Nocket Los Angeles PD	William Cagno Jr. Redwood City PD
Ken Cochran Redwood City PD	James Jolly Arroyo Grande PD	Carmen Silicato Los Angeles PD
Bell Clark Los Angeles SO	William Burkhalter Monrovia PD	Ryan Getty Amador SO
	Donna Turner Auburn PD	

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

August 16th - 19th a great networking and training weekend

Tactical Casualty Care (TCC) This is not a first aid class! This is a foundational tactical medical class teaching you how to apply the latest best-practice trauma skills in hostile combat zones for military or law enforcement. All information and skills practice are evidence-based and conform to all guidelines from (CoTCCC), (NAEMT), (C-TCC), (POST) and (EMSA). The course is designed to teach the principles of life-saving care (self-care/buddy-care) in the tactical environment. Areas of instructions will include traumatic hemorrhage control, treatment of penetrating chest trauma, airway adjuncts and the use of hemostatic dressings.

Report from CRPOA General Counsel



THE CLASH OF THE FOURTH AMENDMENT AND THE SECOND AMENDMENT

There are times when our roles as law enforcement officers come into conflict with our views on civilian concealed carry (or perhaps more accurately, on the Second Amendment). Many of us carry a firearm off-duty and may come into contact with law enforcement officers when off-duty (whether in California or, under LEOSA, outside of California) in a “detention” context. Think T-stop, but who knows what other circumstances? I think it would be fair to say that most law enforcement officers support the Second Amendment. See, for instance, a recent poll of police chiefs and sheriffs published by the National Association of Chiefs of Police and Sheriffs in which 86.4% of respondents answered yes to the question “does your department support nationwide recognition of state issued concealed weapon permits?” [A good article on this topic is available here](#), the poll itself can be [found here](#):

That being said, with the proliferation of firearms being legally carried by law-abiding citizens nationwide, how does this affect officer safety and, in particular, to what extent can an officer perform a *Terry* frisk on a law-abiding and licensed concealed carry holder who has been detained in the absence of any indications that the citizen is “armed and dangerous” (the standard under *Terry*). Recall that in *Terry v. Ohio*, 392 U.S. 1 (1968), the U.S. Supreme Court held that officers may perform a pat down of suspects who are legally detained without violating the Fourth Amendment’s prohibition on unreasonable searches and seizures if there are facts which would indicate that the citizen may be “armed and presently dangerous.” For a quick review, [the Terry decision](#) can be found here.

Despite what appears to be overwhelming LEO support for civilian concealed carry, there are times in our roles working the streets as cops that the thought of every citizen we stop being armed can and should cause us to take extra precautions, as well it should. That is why the *Terry* decision recognized that we are permitted to perform a pat down search on persons we have reasonable suspicion to detain in circumstances where officer safety may be compromised (in other words, we have facts indicating the subject may be “armed and presently dangerous”).

But what if the person is a legal concealed carry holder with a license? In other words, is legal CCW alone, without more, a basis to justify a *Terry* frisk? That is the exact question which the Fourth Circuit Court of Appeals, in *U.S. v. Robinson*, 2017 U.S. App. LEXIS 1134 (Decided January 23, 2017), just answered, and CCW holders are sure to be unhappy about it. [You can read the case here](#):

The question the court considered was framed as follows: “This appeal presents the question of whether a law enforcement officer is justified in frisking a person whom the officer has lawfully stopped and whom the officer reasonably believes to be armed, **regardless of whether the person may legally be entitled to carry the firearm**. Stated otherwise, the question is whether the risk of danger to a law enforcement officer created by the forced stop of a person who is armed is eliminated by the fact that state law authorizes persons to obtain a permit to carry a concealed firearm.”

The facts of this case involve a tip from an anonymous caller who saw a man loading a firearm in the parking lot of a 7-11 (in a high crime area), putting the gun in his pocket and driving off as a passenger in the subject vehicle. The officers located the vehicle near the scene, stopped it and performed a *Terry* frisk on the subject. It just so happens that our not-so-upstanding citizen was a convicted felon and so he was promptly arrested for being a felon-in-possession. He was convicted and appealed on the basis that the Fourth Amendment did not permit the officer to perform the frisk. Here was his argument: The standard under *Terry* requires that the officers have facts indicating the subject may be “armed and dangerous.” *Robinson* argued that while he was indeed armed, there were no facts to suggest he was “dangerous.” Because West Virginia is a “shall issue” CCW state, many of its citizens are armed all the time, but they are not dangerous simply because they are legally carrying a firearm. The perp was asserting the argument that he had done nothing wrong, there was nothing to indicate that he was armed **and** dangerous, CCW’s are common in West Virginia, and as a result of

all of this the officers did not meet the standard set forth in *Terry* authorizing them to perform a frisk free of the unreasonable search and seizure standard of the Fourth Amendment.

The court disagreed with Robinson's argument and in essence held that being armed **is** by definition "dangerous." This means that the standard isn't really "armed and dangerous" but should be read to mean armed **and therefore** dangerous. One of the judges in the case, who concurred with the result but not with the reasoning, framed the case as involving 2 key issues:

1. Whether individuals who carry firearms – lawfully or unlawfully – pose a categorical risk to others and police officers, in particular; and
2. Whether individuals who choose to carry firearms forego certain constitutional protections afforded to individuals who elect not to carry firearms.

Without getting into the detail of how those issues were discussed in the concurring opinion, the key takeaway for me from this decision is that CCW holders who are legally carrying firearms (of which there are many in the U.S., perhaps not so many in California) and are detained by a law enforcement officer for, say, a traffic stop or in any other kind of circumstance, are potentially subject to a *Terry* frisk even though they have not engaged in any activity which would lead the officer to believe they are armed **and** dangerous. In other words, armed **is** dangerous in and of itself. This of course has the world of legal CCW holders up in arms, leading one commentator to write an article entitled "Fourth Circuit Shreds Civil Liberties," which you find here: "[Fourth Circuit Shreds Civil Liberties](#)," Another commentator has said this is a perfect example of "bad facts make bad law."

But in law enforcement circles, this decision almost certainly is a welcome outcome, which leads to the inescapable clash between the Fourth Amendment and the Second Amendment. What's good for civilian CCW carry may also lead you (when you are carrying off-duty) to an extra level of scrutiny and potentially subject you to a *Terry* frisk. Perhaps that is just a trade-off we all will have to live with. That may be a small price to pay for being armed, which for us can be easily avoided by presenting our credentials immediately upon being stopped if we should be so unlucky to be put in that position and establishing right off the bat that we are the good guys (and ladies!). So what may be good for us as cops may be a little uncomfortable as we go about our business in the civilian world. With all that is going on these days with attacks on officers, better safe than sorry, and in my opinion a small price to pay for legally carrying a firearm off-duty.

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.

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*They pin on their badges, load
their pistols and go on the prowl*

California's Civilian Cops

This is from a 1954 Readers Digest; the article was condensed from The Kiwanis Magazine by Karl Detzer

When two automobiles collided at a busy San Jose, Calif., intersection during the rush hour, cars and trucks behind them immediately went into an impatient, honking snarl.

A druggist who had been directing traffic at the next corner ran to the scene. Two minutes later a police radio car arrived, its red light flashing. Out jumped a dentist and a divinity student, like the druggist, they wore regulation police uniforms, with handcuffs and pistols on their belts.

After making sure that no one had been hurt, the three private citizens in uniform went to work quickly and expertly, unsnarling the traffic, questioning witnesses, filling out official accident reports. They gave one of the drivers, who was at fault, a summons and called by radio for a tow truck to haul away the battered cars. The druggist then went back to traffic-point duty, the divinity student and the dentist to patrol.

Later that same evening a San Jose householder reported a burglary. Three police cars responded. In them rode three professional policemen -- plus an office manager, a truck driver and an electrical engineer. Like the part-time policemen who earlier had handled the traffic accident, these three private citizens gunning for a burglar wore regulation uniforms. Only the letter "R" above the number on their badges showed that they were not full-time members of the police force.

All six chased the burglar across lots but he got away. The next night 20 additional citizens in uniform went on patrol in the same neighborhood -- some in cars, some afoot, four riding bicycles. This time they got their man.

Every day and night in San Jose, Berkeley, Oakland, San Francisco, Los Angeles and a score of other California cities, business and professional men, merchants and mechanics, teachers and truck drivers get into uniform, proudly pin on their badges, make sure their pistols are loaded and go out to give the regular police a skilled and appreciated helping hand.

Several thousand of them, up and down the Coast, are augmenting the understaffed police, making their communities safer at a small cost to the taxpayers. They are finding more adventure in radio cars and on foot beats than they would on any golf course or in any movie theater.

Cities all over America enlisted auxiliary police in World War II as part of civilian defense. Nearly everywhere they gave valuable service. When need of civil defense ended on V-J Day the platoons were disbanded or placed on inactive status, but a few West Coast cities prudently kept a nucleus of volunteers, invited them to monthly meetings to discuss police problems, allowed them to keep their uniforms, just in case. Berkeley and San Jose were among these foresighted communities.

Four years ago, when juvenile delinquency, burglary, traffic-law violations and other crimes took an alarming upswing in San Jose, a delegation of businessmen called on City Manager A. P. Hamann and demanded better police protection.

Hamann pointed out that the city's budget would permit no additional policemen. The force was well trained and well equipped, but it was too small for the fast growing industrial community.

Police Chief J Raymond Blackmore suggested the use of volunteers. Manager Hamann directed him to recall some of his wartime reservists if they were willing to serve at no cost to the taxpayers.

When Blackmore announced that he would consider applications for "a few" volunteers, hundreds of eager citizens began to pound on his door. Blackmore explained that the entrance examination would be stiff, the hours long, the work hard tedious and sometimes dangerous, the discipline severe. His warning discouraged the more timid ones but seemed to make many volunteers even more anxious to get to work.

Before he gave them their badges and allowed them to get into uniform, Blackmore put each man through a brief but intensive training course under experienced policemen and faculty members from the school of criminology at San Jose State College. Here again a few dropped out, but within three months several dozen of the applicants were at work. They now number 175, and there is a waiting list to fill vacancies.

These men donate from four to ten hours a week to their part-time police job. For every hour on duty a man receives 25 cents -- in vouchers good only for the purchase and upkeep of his uniform and equipment, not a penny goes into the pocket of any reservist, no matter how long or hard he works. San Jose now gets a surprising amount of police protection for every dollar it spends.

One night a year the volunteers take over the police department, lock stock and radio transmitter. That is the night of the annual police ball. From 7 p.m. until 1 a.m. not a single professional policeman is on duty in the entire city. The well trained reserves fill all positions, from the chief's desk to the radio cars, make all decisions, handle all emergencies. They do all this so well that in three years there has not been one complaint of inadequate police protection on these nights.

At about the same time San Jose reactivated its volunteers, Berkeley's erudite police chief, John D. Holstrom, (who also teaches several course at the University of California), called back *his* wartime auxiliary force. When it disbanded in 1947 Holstrom had quietly retained a nucleus of some 50 picked members. Under the law he could not use them in actual police work, but he permitted them to keep their trigger fingers steady on the police target range and to sit in as spectators as the city's excellent police-department training school. When civil defense was re-established early in the Korean crisis, it gave Holstrom the opportunity he needed. Like Blackmore of San Jose, he now uses the civil-defense law to give his volunteers protection in case they are wounded or injured on duty.

Berkeley now has 185 well-trained auxiliary police. The entrance examination is stiff. Before he becomes a full-fledged member of the reserve, each man must take 183 hours of classroom study, spread out over 15 months, plus 90 hours of field work in patrol cars with regular policemen. He receives no pay. The city furnishes uniforms and equipment.

Unlike San Jose, Berkeley does not permit its amateurs to work alone but teams them with regular officers. Only when the volunteer corps is called into service to handle football crowds, a parade or a civic function are members paid anything. Then each man receives for each hour he is on duty the hourly wage of the new recruit on the regular force. Each reservist spends two to four hours a week in classroom or gymnasium or on the target range, six hours a month riding patrol with the regular officers.

In the West Coast cities, the auxiliary is a cross section of the community. Among the members of the force in San Jose are leading merchants and successful industrialists, a lawyer, a dentist, a building contractor, two ministers, several dozen carpenters, plumbers and electricians, a teacher and the city register of elections. At Berkeley a civil engineer, a Chinese born American, has done invaluable work with Oriental residence. Two doctors of philosophy from the state university escape from the academic calm of the campus several nights a month, get into uniform and ride the radio cars.

To qualify for a reserve badge in any California city a man must have an excellent reputation for sobriety, honesty and intelligence, must pass a psychological test to determine his stability and adaptability. Everywhere the auxiliaries themselves double-check applicants to make sure that only trustworthy recruits join their ranks. Everywhere up and down the West Coast where citizen-police organizations flourish, the people are gaining a new respect for the man behind the badge. The volunteers are giving both large cities and small towns better police protection at a lower cost than ever before. And they are having fun.

*This article was sent to us by one of our fellow officers as he was cleaning out his father's garage.
Attempts to reach anyone at Kiwanis or the Readers Digest for comments were unsuccessful.
I want to thank those who reported on the early years of volunteer police officers in California.*

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August 16th - 19th a great networking and training weekend



Legislative Update Report

By Pete Downs

2/10/2017

Things are fast and furious in Sacramento these days with the bill filing deadline coming up Friday, the 17th. I wanted to highlight one of the bills that has been introduced so far that is definitely not good for the LE community; Senate bill 54. CRPOA is composing a letter of opposition for this bill, along with several other law enforcement groups including the California Peace Officers Association and the California State Sheriff's Association.

Here is the official bill summary:

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things, prohibit state and local law enforcement agencies and school police and security departments from using resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified. The bill would require, within 6 months after the effective date of the bill, state agencies to review their confidentiality policies and identify any changes necessary to ensure that information collected from individuals is limited to that necessary to perform agency duties and is not used or disclosed for any other purpose, as specified. The bill would require, within 3 months after the effective date of the bill, the Attorney General, in consultation with appropriate stakeholders, to publish model policies for use by those entities for those purposes. The bill would also require, within 3 months after the effective date of the bill, the Attorney General to publish model contractual provisions for all state agencies that partner with private vendors for data collection purposes to ensure that those vendors comply with the confidentiality policies, as specified. The bill would require all public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters to implement the model policy, or an equivalent policy. The bill would state that all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

The bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

This bill was introduced by Senator Kevin de Leon who represents the 24th Senatorial district. The 24th Senate District includes the Los Angeles neighborhoods of Boyle Heights, El Sereno, Highland Park, Eagle Rock, Glassell Park, Mt. Washington, Cypress Park, Lincoln Heights, Atwater Village, Elysian Valley, Arlington Heights, Echo Park, Silver Lake, Los Feliz, East Hollywood, Little Armenia, Thai Town, Larchmont, Koreatown, Pico-Union, Westlake-MacArthur Park, Historic Filipinotown, Chinatown, Little Tokyo, Arts District, Civic Center, City Terrace, and East Los Angeles.

Pete Downs is a CRPOA Director, Co-Chairman of the Law & Legislation Committee and a volunteer in policing with the Sonoma County Sheriff's Office.

We thank Pete Downs for his Legislative update and you may contact him at Downs@CRPOA.org



Financial Officer's Report

February 2017

Membership and Financial Condition

From Chuck Adams

It is my pleasure to report that our financial condition remains sound. The current month closed with all of our obligations met. We have 10 new members who joined from the 16th of last month to the 15th of this month.

I want to thank all of our members that have taken the time to update their membership record with current addresses, phone numbers, POST ID's and Reserve Levels. This is phenomenal and helps us a great deal to provide you with accurate and timely information.

What is also phenomenal, on a less positive side, is our Membership Dues accounts receivable aging numbers. At the start of this month we had over \$1,400.00 dollars showing overdue between 61 to 90 days and \$887.00 over 90 days. My focus in the coming days will be to send additional late payment notices to all of our members that have forgotten to mail in their payment. If you receive a reminder in error, I would ask you that you call me so we can update our financial records. What I continue to remind everyone about is that "Your membership is very important to us. Our organization IS our membership."

On a lighter side, I read an article entitled "What's the word 'phenomenal' worth?" It all depends on who says it. *Barron's* shared *Wilshire Associates'* calculations which indicated the word was worth about \$175 billion – the amount markets gained last Thursday – when President Trump used it to describe the tax plan his administration will deliver "ahead of schedule." Markets gained another \$100 billion in value on Friday. *Barron's* reported:

"While tax reform is definitely coming, a final bill is still a long way off, and a 2017 effective date is looking less likely...Yet, as the action late last week suggests, the equity markets are more than willing to give the new administration the benefit of the doubt. Something's coming, even if we don't know what or when. And that seems good enough to bid stocks higher..."

The word 'phenomenal' is probably worth a bit less than *Wilshire's* estimate, but United States stocks pushed higher on positive earnings growth, too. With 71 percent of companies in the Standard & Poor's 500 Index reporting results for the fourth quarter of 2016, "...the blended earnings growth rate for the S&P 500 is 5.0 percent. The fourth quarter will mark the first time the index has seen year-over-year growth in earnings for two consecutive quarters since Q4 2014 and Q1 2015."

So, I will close this month's financial report hoping that my use of the word "phenomenal" will bring a "positive" result regarding our financial condition in the coming months.

The CRPOA Membership Office (855-55-CRPOA ext. 2) can help you to setup your 911 user id and password. It takes only a few minutes of your time. You need to have access to your computer to complete this task.

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

