



October 2017

The
BACKUP
Newsletter

The Official Publication of the California Reserve Peace Officers Association

Chief Executive Officer's Report



A Fight for Survival

I begin this month with thanks to General Counsel Jim Rene and Sean Brady of the Michel law firm for their efforts in *Llanos & CRPOA Vs. Kamala Harris*. See Jim Rene's article for a thorough explanation of the total victory achieved. Officer Llanos' patrol rifle is now registered, and further relief was obtained.

When the California Department of Justice under Attorney General Kamala Harris began illegally refusing to register patrol rifles for reserve peace officers as required by the Penal Code, I was reminded of Billy Jack sitting astride his horse in the eponymous movie, implacably telling trespassers: "When policemen break the law, then there isn't any law - just a fight for survival."

And I remain flabbergasted that in the United States of America sworn peace officers had to go before a Superior Court judge and ask for orders compelling the Attorney General to obey the law. *Obey the law* - it's a pretty simple concept! What a sad, sad day for the State of California. The Attorney General wasted who knows how many taxpayer dollars unsuccessfully defending an indefensible position. And now they'll waste more taxpayer dollars because they're going to pay for CRPOA's legal fees and costs. I'll let you know what that number turns out to be.

I appreciate your trust, confidence and support. More fights remain - and not just ours. Our legislative advocates and lobbyists in Sacramento have a full plate for the coming session. And we will be standing shoulder to shoulder with our full-time brothers and sisters against those who would attack their pensions.

Stay safe, stand tall - and survive!

Kevin

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



CRPOA General Counsel

The California DOJ “Assault Weapon” Lawsuit: Time to Get Political

Now that the dust has settled on our successful lawsuit against the California DOJ, I wanted to share my thoughts about this dispute and what I really think was going on here. Many of you have asked me why the top law enforcement agency in the State would change its long-standing policy and practice of routinely and without objection registering so-called “assault weapons” acquired by authorized reserve police officers and deputy sheriffs for deployment while working the dangerous streets of our State. Many of you also asked me:

“Aren’t there more important priorities in California than focusing Cal DOJ lawyers and taxpayer money on disarming sworn, trained and supervised reserve law enforcement officers especially given the clear language in the Penal Code exempting them from the prohibitions generally applicable to civilians?”

“Why would the lead law enforcement agency in the State want to take these tools away from reserves working the streets without any engagement or discussion with us whatsoever?”

“Why wouldn’t Cal DOJ simply follow the law as they have for all these years?”
I have only one answer: politics.

When I was first contacted about this issue, I learned that, behind the scenes and in a veil of secrecy, Cal DOJ staff was directed to “get guns off the street.” As part of this effort, Cal DOJ determined that reserve peace officers should not acquire “assault weapons” for their law enforcement duties even though they conceded that we are legally allowed to possess them, at least while on-duty. My view is that this was purely a policy decision which directly contradicted California law. Another solution in search of a problem but, from the point of the Cal DOJ, one that was driving their own political agenda.

So, without any notice to law enforcement agencies in the State (or to us for that matter), Cal DOJ simply began rejecting “assault weapon” registration applications submitted by our reserves on the basis that these firearms could not be acquired by us “for personal use” even though we followed all the Penal Code and regulatory requirements applicable to sworn law enforcement officers. I also learned that Cal DOJ quietly directed FFL’s throughout the State not to sell us these rifles. This, despite the fact that (1) there is clear language in the Penal Code providing an exemption for sworn peace officers to acquire patrol rifles, (2) for years Cal DOJ accepted registration applications submitted by reserve peace officers, (3) our registration applications were accompanied by letters from Chiefs and Sheriffs specifically authorizing the acquisition of these firearms for law enforcement purposes, (4) POST requires all law enforcement officers (including reserves) to be trained in their use before deployment (minimum 16 hours but in reality most agencies impose more stringent requirements), and (5) there is clear legal precedent from a California Court of Appeal drawing the legal distinction between law enforcement “status” and “authority” and specifically rejecting Cal DOJ’s purported justification for its position. And to add insult to injury Cal DOJ never carved out Designated Level 1’s from their new policy even though DL1’s have the same legal authority as 830.1 officers.

The result of the new Cal DOJ directive was that, in many cases, patrol rifles were pulled out of radio cars staffed by reserves. Agencies didn’t understand the new Cal DOJ policy and thought for the most part that reserves were not allowed to possess patrol rifles in the field “per the Cal DOJ.” Also, many agencies do not equip their reserves with patrol rifles either because they cannot afford to or because this is not how their rifle cadres work. The bottom line result: no more patrol rifles for reserves, full stop.

When the CRPOA first got involved in this matter, we attempted to engage Cal DOJ in a dialogue. Even if we disagreed, we could at least discuss it and understand their view, right? Wrong. At first, we were completely ignored: no response to our inquiries. It took forever to get any kind of response at all. Once we did, the answer was a cryptic and insufficient

explanation that these firearms could not be acquired by reserves “for personal use.” The big problem with that was these rifles weren’t being acquired for personal use. Where did that come from? Cal DOJ: wrong on the facts and the law.

Again, we sought a more direct explanation of why the exemption in the Penal Code did not apply since reserves are sworn peace officers and the rifle acquisitions in question were specifically authorized by the heads of their agencies for use relating to law enforcement duties, all in accord with the Penal Code. The answer from Cal DOJ was the same: “we stand by our position.” Our only option at that point was to go to court and get a court order.

Thankfully the CRPOA’s arguments were vindicated by the judge hearing our case. The judge’s opinion aligned perfectly with our view: (1) the Penal Code exempts sworn peace officers, (2) reserves are sworn peace officers, (3) law enforcement agencies were authorizing and overseeing these purchases for law enforcement purposes, and (4) reserves were following the same rules as are applicable to all other law enforcement officers. Which brings me back to my thoughts on this legal battle and your questions: with the law so clear, and with so much evil in the world and in our State, why would Cal DOJ focus on us rather than applying their resources to the criminals and terrorists? (Remember this all started with our officer in San Bernardino who responded to the terrorist incident there with just his duty handgun – something the Chief of his department tried to remedy.)

Again, politics. Cal DOJ as much as admitted this when we were told that even if they lost this case, all they need to do is go back to the legislature and “get this fixed.” Get what fixed? Do reserve law enforcement officers working our streets as sworn police officers and deputy sheriffs pose a danger to our communities by acquiring this equipment for their law enforcement duties? What is the problem with reserve law enforcement officers acquiring patrol rifles? Was there some incident involving a reserve and an “assault weapon” that I missed? Of course not.

Let’s not forget that if Cal DOJ goes to the Legislature to exclude reserves from the exemptions generally available to other law enforcement officers regarding the acquisition of patrol rifles, what is really going on here is that Cal DOJ is putting itself in between Chiefs and Sheriffs who have responsibility for their officers and deputies and ultimately control how they will be equipped and how their communities will be policed. Let’s also not forget that no law enforcement officer can acquire a patrol rifle unless specifically approved in writing by the head of that officer’s agency. That is the control mechanism the Legislature put in place and which presently exists. The Cal DOJ seeking to change the law is tantamount to it saying that it doesn’t trust law enforcement executives to manage their officers. Our law enforcement agency heads should be as outraged about that as we would be if in fact Cal DOJ seeks to “fix” a problem that doesn’t exist.

If a legislative effort is mounted on this issue, CRPOA will be there to make sure you are protected and you have the equipment you need to do your jobs. If this comes around in the next legislative session, please let your Chiefs and Sheriffs know and solicit their support to oppose any effort to make our jobs more difficult and more dangerous. Not to mention the threat to the citizens we are sworn to protect if we don’t have the tools we need. Without the equipment we need to fulfill our duties, in this case patrol rifles, the citizens we protect are put at risk.

Rest assured your safety and the safety of our citizens are top priorities for the CRPOA and we will be there to make sure our communities (and you!) stay safe.

Jim

Jim Rene, General Counsel

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 Dept. He previously was an LAPD reserve police officer for 15 years.

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2017 Annual Awards Presentations Part 2

By Nancy Elam, 2017 Awards Committee Chairman

The California Reserve Peace Officers Association was pleased to honor several individuals at ARPOC 2017 in San Diego during the Awards Luncheon on Friday, August 18th. Candidates were nominated by their own law enforcement agencies or by a General Member of CRPOA for special recognition of their service to law enforcement, the community, or to the California Reserve Peace Officers Association.

In this second in the series of Awards Presentation articles, those receiving the Award of Appreciation are being highlighted in this Issue. Contributions have been made to the California Reserve Peace



Officers Association by numerous individuals and groups in a variety of ways throughout the Association's existence. The Award of Appreciation has been designed to recognize and honor those providing distinguished service to the members of the California Reserve Peace Officers Association.

2017 Award Recipients

Assemblyman Tom Lackey - Award of Appreciation

Ed Deuel - Award of Appreciation

Rich Wemmer - Award of Appreciation

Luke Lucas - Award of Appreciation

Stephen Marshall, Los Angeles County Sheriff's Department - Distinguished Service Award for Lifesaving

Scott Sand, Los Angeles County Sheriff's Department - Distinguished Service Award for Lifesaving

John Vernali, San Jose Police Department - Distinguished Service Award

Thomas Fakehany, Los Angeles County Sheriff's Department - Meritorious Service Award

James O'Malley, Mountain View Police Department - Meritorious Service Award

Dave Schwartz, San Mateo County Sheriff's Department - Meritorious Service Award

Jeffrey Smethurst, San Francisco Police Department - Meritorious Service Award

William Miller, San Jose Police Department - Reserve Coordinator of the Year

Considerations for the **Award of Appreciation** include:

- Distinguished service to the Association either in a single act or over time.
- Substantial assistance or contribution to the Association.

Award of Appreciation for Excellence in Training **Rich Wemmer and Ed Deuel**

Rich Wemmer joined the Los Angeles Police Department in 1970, after first serving at the Pasadena Police Department as a police cadet and at the Monterey Park Police Department as a reserve police officer. At LAPD, Rich worked various operational, specialized, and training assignments, promoting to sergeant, lieutenant, and retiring several years ago as captain. When the California Reserve Peace Officers Association first met Rich, his face was familiar to many of us involved in law enforcement for many years as he was a popular and active participant in the POST training tele-courses. It is not an overstatement to say that Rich dedicated a great portion of his career to training his fellow officers.



Ed Deuel began his law enforcement career at the Whittier Police Department in 1973. He joined the Huntington Beach Police Department in 1977 where his assignments included SWAT, Department Training Manager, and the Officer-in-Charge of the Crimes against Persons Unit. Since 1980, he has served as a law enforcement trainer for basic and advanced courses in Patrol Procedures and Tactics, Officer-Involved Shooting Investigations, SWAT Operations, Use of Force, and Trauma Response Team. Ed retired as a Lieutenant after 33 years of distinguished service.

From their LEOKA website, CRPOA learned that in the 1980s, these two California police officers were deeply concerned with the safety and welfare of law enforcement personnel. Nationwide, more and more peace officers were being assaulted, and far too many were losing their lives on and off-duty. Individually, they recognized that police work was becoming more demanding, difficult and extremely dangerous. Although initially unknown to each other, their passion for preparing officers to face that "Moment in Time" was a common theme that would eventually unite them.

In 2007, Ed and Rich decided to unify their efforts and law enforcement knowledge to form the Peace Officer Safety Institute. Combining over 70 years of practical law enforcement experience, including their numerous examinations of peace officer accidental deaths, assaults and murders, they developed a center to research and to train peace officers at all ranks to make accurate assessments and timely decisions in tactical situations.

These two gentlemen have spent two lifetimes teaching peace officers how to stay alive and well during their careers. They have each contributed untold hours providing exceptional training at Annual Reserve Peace Officers Conferences for decades, consistently getting rave reviews and repeat attendees at their courses. It is a distinct pleasure and a high honor for the California Peace Officers Association to award these gentlemen our first-ever Award of Appreciation for Excellence in Training.

Award of Appreciation

Luke Lucas, San Francisco Police Department

Luke Lucas completed his second term as a director for CRPOA last May. During his six years on the board he has served as chairman of the Recruitment and Retention committee and as vice president, a post he continues to hold. Luke was one of the proponents for limiting terms and seeking to attract new blood to the leadership of our organization. As such, he chose to not seek a third term and instead make room for someone else. Luke intends to stay active in the organization on committees and during conference time. CRPOA is pleased to present its Award of Appreciation to San Francisco Police Reserve Sergeant Luke Lucas for his service to the Association.



In next month's issue of the **BackUp**, watch for the next Awards Presentations article featuring Assemblyman Thomas Lackey's **Award of Appreciation** along with **Reserve Officer of the Year, Reserve Coordinator of the Year** and **Medal of Honor** recognition awards

WELCOME NEW CRPOA MEMBERS

Between 9/16/2017 and 10/15/2017

Steve Murry Placer SO
Steve Kirby Hercules PD
Robert McEwen Fresno SO
Todd Kamigaki Stockton PD

Declan Leave Stockton PD
David Kamita San Francisco PD
Jimmy Delcon Fresno SO

Johnathan Fernandez Hercules PD
Mark McLaughlin Stockton PD
Marco Vallejo Hercules PD
Jazmine Lopez Fresno SO

Making A Difference - think about it

"Like a welcome summer rain, humor may suddenly cleanse and cool the earth, the air, and you."

--Langston Hughes, American poet

Golden West College
Criminal Justice Training Center

RESERVE COORDINATOR COURSE

December 11-13 (Mon – Wed)

24 hours - P.O.S.T. Certified - Plan IV - P.O.S.T Certification: 3670-41850-17-001

This 24hrs POST approved course provides participants with the necessary skills and knowledge to effectively administer and coordinate the RESERVE PROGRAM. The course is intended for Directors and Coordinators of Agency Reserve Units.

Topics: POST Regulations

Reserve Program Management and Ethics

Recruitment, Selection and Retention

Discipline and Termination

Background Procedures

Training Issues

Reserve Workshop/Contemporary Problems/Issues

Reservations or information:

**Coordinator Carolyn “Cici”
Amador**

Email:

camador4@gwc.cccd.edu

714-895-8372

VERY IMPORTANT!!!

*Participants **MUST** apply for the Fall 2017 semester online to obtain the GWC student ID number needed for registration. You need to bring your printout with your student ID number that was emailed to you. We will register you in the class on the first day.*

<http://www.goldenwestcollege.edu/enrollment-center/>

- **Location:** Golden West College / Criminal Justice Training Center
15744 Golden West St. - Huntington Beach, CA 92647
- **Class Date:** December 11-13, 2017
- **Class Time:** 0800 – 1700
- **Course Fee:** \$55.00 (\$46. Enrollment & \$9. Materials Fee). Payment is by credit card authorization or check. Make check payable to GWC. Note: Self-parking fee is \$3 per day we suggest you park in parking lot “F”

Criminal Justice Training Center -15744 Golden West St. Huntington Beach CA 92647-2748

www.goldenwestcollege.edu

*Thinking of our CRPOA Staff and our fellow fire fighters
working the wildfires throughout the state*

Chief Financial Officer's Report

October Financial Report 2017

We are very close to wrapping up the financial accounting for ARPOC 2017. We are still waiting for a final report from our training partners in order to present the final numbers. My hope is to have this completed before the end of this month. I must extend a word of thanks to our former Board of Directors member, Mike Torres, of the San Diego Police Dept. Mike was successful in bringing in a wide variety of vendors to ARPOC 2017. Every table was occupied and from the feedback received, it was a successful event. This is not an easy task and can easily involve many hours of follow-up and phone calling effort. "Bravo, Mike"!

We will miss you and wish you well! I would be remiss if I failed to note the support provided by our newest Director, Tim Nakamura, in welcoming these vendors and helping them to get setup and enjoy their stay.



ARPOC is much like an iceberg. What you see on the surface is only 13% of what is below the surface. Prep time and the effort that occurs *before* and *after* you leave the conference represent 87% of the work to conduct an ARPOC conference. Much of this effort occurs here in the Membership and Finance Office in San Jose. Between March and mid-July, Janet Adams and many of the Directors work diligently to secure qualified instructors. At the same time, our office gathers resumes and outlines for instructor's certification by POST. In August, after the conclusion of the conference, our office turns to tabulating classes you successfully completed. We report the results to you for your concurrence, and then to your agency and entrance into the POST EDI website. This year there were over 220 entries each containing up to six reportable classes. Janet has successfully completed the entry of all ARPOC 2017 results into the POST EDI system and you and your agency has received the class completion report.

This month our CEO asked Donald "Don" Wharton to fill the term for Mike Torres. Don is a reserve commander with the Imperial County Sheriff's Office with over 20 years of service. I have worked with Don for several years dealing with membership payments and educational services. He will be a valuable resource to our Board of Directors.

In January, we will expand our paperless invoicing process to include our auto bill agencies. We have 68 agencies that have requested that we invoice them for all reserves, search and rescue members and their VIPs. With the frequent changes to the reserve coordinator positions, it makes it difficult to track down the correct person to receive the invoice. We will be contacting the administrative departments to update current names and addresses for invoicing purposes.

This month we added 11 new members to the membership database. It is my pleasure to report that our financial condition remains sound. The current month closed with all our current obligations met.

Chuck Adams is the Chief Financial Officer for CRPOA.

He is also a retired reserve commander for the Los Gatos Police Dept.

Chuck welcomes your calls and emails; you may contact him at 408-371-8239 or cadams@CRPOA.org

Welcome Don to the Board



Donald L. Wharton, Commander, Imperial County Sheriff's Reserve Unit--BIO

Don Wharton comes to the board with 20 years of law enforcement experience with the Imperial County Sheriff's Reserve Unit. He has held the position of Commander for the Reserve Unit since 2004. Don has worked in multiple divisions within the Sheriff's Office including Patrol, Off-Highway Enforcement, Boating, and 3 years on the Special Emergency Response Team (SERT). Don has been instrumental in the growth of the Reserve program with special detail contracts with corporate partners. Don Also serves as the Chief Pilot of the Imperial County Narcotics Task Force Air Support Division. Outside of law enforcement, Don is serving as a councilmember with the City of Brawley, including a term as Mayor.

Professionally, Don has worked for over 30 years in the aviation industry, with over 10,000 flight hours. Don has been employed with REACH Air Medical Services for the past 10 years and is the current Director of Business Strategy. He also serves as a governmental affairs representative for the California Association of Air Medical Services. Don holds a Master in organizational management and a Master in Business Administration.

Don is married to his wife, Suzy, of 25 years and has two grown boys, Donald and Hunter.

You can contact Don Wharton@CRPOA.org or by Phone 855-55-CRPOA or(855-552-7762) ext. 117



ARPOC 2017

**CROWNE PLAZA HOTEL
San Diego-Mission Valley**



*It was a great time,
the weather was warm,
and everyone enjoyed the training.*





Surviving Police Work in the 21st Century



Urban Tracking



Vehicle Unlock



15 minutes of Video Fame or Shame



First Aid/CPR/AED





***BREAKING
BAD –
Avoiding the
Chemical
Bullet***



***Off-Duty
Survival***



Reserve Coordinators Workshops



Tactical Casualty Care



SWAT Tactics for the Patrol Officer



**ARPOC Conference Classes are all great!
Thank You Instructors!**

Plan on great training and networking

ARPOC 2018

DoubleTree Hotel, Sacramento August 15th -18th, 2018