



March 2018

The  
**BACKUP**  
Newsletter

The Official Publication of the California Reserve Peace Officers Association

## CRPOA General Counsel

### SELF-DEFENSE LAW

Carrying a firearm off-duty is a tremendous responsibility. When it comes to owning, carrying and potentially having to use your firearm for self-defense, the challenges are daunting. We often overlook the legal aspects of carrying a firearm off-duty, in particular the likelihood that in an off-duty incident, you will be treated as a civilian for legal purposes (unless of course you are a Designated Level 1, but even then for DL1's remember that not every off-duty self-defense scenario is going to be considered law enforcement action). For our retired CRPOA members, you absolutely will be treated as a civilian, which is why understanding the legalities of a self-defense incident is so important.



With regard to on-duty carry, every law enforcement agency has protocols and policies in place that address firearms use in an on-duty capacity, including the drawing, exhibiting and use of firearms in a use of force scenario when taking law enforcement action. As a quick refresher, I address that at the end of this article. The emphasis of this discussion is what happens in an off-duty, non-law enforcement use of force incident from a legal standpoint.

What is the best way to educate yourself? Normally I do not endorse or recommend that you purchase any particular product in the marketplace. However, I want to share with you a book I recently read which I highly recommend for our readers. It is called *The Law of Self Defense* (3<sup>rd</sup> edition) by attorney Andrew Branca. Mr. Branca is a subject matter legal expert on self-defense law and his book is a must for anyone who ever may be in the position of having to use force to defend themselves, in particular with a firearm. I also commend you to visit his website, [www.lawofselfdefense.com](http://www.lawofselfdefense.com) and consider availing yourself of the excellent products Mr. Branca offers on the law of self-defense.

As a teaser for this outstanding book, Mr. Branca describes the 5 factors which are taken into account in pleading self-defense if you are ever required to use deadly force in defense of your life or, in some instances, your property. They are (1) innocence [you yourself have to be the victim and not the perpetrator or instigator of the incident], (2) imminence [the use of force had to be used right then without delay], (3) proportionality [the force used has to be proportional to the threat], (4) reasonableness [your use of force had to be reasonable under the circumstances], and (5) avoidance [there simply was no avenue of escape or retreat and the use of force could not be avoided]. Mr. Branca describes the book briefly here. [the book briefly here](#). And take note of the tab for military and law enforcement as there is a 15% discount for us.

As a quick refresher on on-duty use of force legal principles, recall the standards set forth in *Graham v. Connor*, which are paraphrased as follows:

The reasonableness of force will be judged from the perspective of a reasonable law enforcement officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that law enforcement officers are often forced to make split-second decisions. This is particularly true with regard to the amount of force that reasonably appears necessary in a specific situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving. As such, the amount of time available to a law enforcement officer to evaluate and respond to changing circumstances may impact that officer's decision. Thus, officers may use that degree of force reasonable under the circumstances to fulfill the officer's duty to enforce the law.

It is critically important for you to know the legal principles of self-defense both on-duty and off-duty. Educate yourselves and, above all, be safe everyone,

## ***Jim***

Jim Rene, General Counsel

***If you have a question or comment for Jim, please email Jim at [rene@crpoa.org](mailto: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.***

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 relating to any issue discussed herein.

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# **2018 Election Notice**

Each year, three of the nine directorships for the CRPOA Board are elected. Nomination petitions for candidates to be elected this year must be delivered to our San Jose office no later than **5:00 PM, March 31, 2018**. Please go to this page <https://crpoa.org/wp-content/uploads/2018/02/CRPOA-2018-Director-Candidate-Nomination-Petition.pdf> to print one or more forms, read the instructions thoroughly and call our San Jose office (408-371-8239) if you have any questions

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***Making A Difference - think about it***

*"You don't concentrate on risks. You concentrate on results.*

*No risk is too great to prevent the necessary job from getting done."*

*--Chuck Yeager, retired United States Air Force officer, flying ace, and test pilot*

# Harbor Police Department appoints new police chief



*Harbor Police Chief Mark Stainbrook*



**Lyndsay Winkley** Contact Reporter

The Harbor Police Department's newest police chief didn't always want to be a top cop.

That changed in 2003.

While a sergeant at the Los Angeles Police Department, Mark Stainbrook, who was also a U.S. Marine Corps reservist, deployed to Iraq.

As a civil affairs officer, he was given a monumental task — take a team of Marines and help rebuild the Iraqi police force in the days immediately following the fall of Baghdad.

"I just realized I could do more, help people, lead people, make a difference," he said. "I got back from that experience and focused my career on achieving that — on running my own department."

When an assistant chief spot at San Diego County's bayside agency opened up in 2011, Stainbrook went for it. He was named chief of the department on March 1.

The Harbor Police Department has more than 130 sworn officers and is the law enforcement arm of the Port of San Diego.

Its jurisdiction includes the San Diego Bay, the San Diego International Airport, and coastal areas in Chula Vista, Coronado, Imperial Beach, National City and San Diego.

Stainbrook said one of his primary goals is to continue to forge strong partnerships with the community, the airport and nonprofits like the Alpha Project.

The homeless outreach organization recently started working with the police department to better connect with the homeless population.

Stainbrook said many of the agency's repeat offenders are transient.

"We see the same people getting arrested over and over and over again," Stainbrook said. "So we're working closely with the Alpha Project to try and break that cycle."

He also wants to better employ technology to help his officers use their time more efficiently and effectively. For example, the department is looking into different applications to help streamline the report- and ticket-writing process, allowing officers to spend less time in their cars and more time in the community.

He said he would also like to see the department better harness the region's network of cameras to solve crimes.

Stainbrook had been serving as the Harbor Police Department's chief in an acting capacity since October 2017.

His first job in law enforcement was patrolling Lake Champagne in Vermont as a reserve officer. He went on to serve 16 years at the Los Angeles Police Department with assignments that included patrol, gangs, internal affairs, intelligence and counter-terrorism

**The California Reserve Peace Officers would like to Sincerely Thank: The San Diego Union-Tribune and Reporter Lyndsay Winkley for the informative article on a new "Top Cop"**



**JACKIE LACEY**  
**DISTRICT ATTORNEY**

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

# ONE MINUTE BRIEF

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NUMBER: 2018-03

DATE: 03-02-18

BY: Devallis Rutledge

TOPIC: Search for Minors' Guns

## **ISSUE: What are the Fourth Amendment rules on searching a minor and his/her property at school or at home, based on reports that the minor is armed, or has made shooting threats?**

In the aftermath of schoolhouse shootings, it is not uncommon for police to receive increased reports of students threatening to carry out shootings at local schools. To avoid potential tragedies, officers may need to act quickly to disarm minors and to search such places as school lockers and minors' bedrooms, without opportunity to seek search warrants (still preferable, safety permitting). Court decisions have accommodated such "special needs."

- **Detentions.** *"Detentions of minor students on school grounds do not offend the Constitution, so long as they are not arbitrary, capricious, or for the purposes of harassment."* *In re Randy G.* (2001) 26 Cal.4th 556, 567 (ruling that reasonable suspicion is **not required**).

- **Searches at School.** *"Under ordinary circumstances, a search of a student by a teacher or other school official will be justified at its inception when there are **reasonable grounds** for suspecting that the search will turn up evidence that the student has violated or is violating either the **law** or the **rules** of the school."* *New Jersey v. TLO* (1985) 469 US 325, 341-42 (upholding the search of a student's purse for evidence of smoking and drugs).

A school resource/police officer is a "school official" under *TLO*. *"For purposes of Fourth Amendment analysis, 'school officials' include police officers ... who are assigned to high schools as resource officers."* *In re KJ* (2018) 18 Cal.App.5th 1123, 1129 (upholding detention and search at school based on an anonymously-texted report of an armed student).

Although **anonymous tips** may not qualify as reasonable suspicion away from school, the US Supreme Court has suggested that this rule does not necessarily apply at school. *"Nor do we hold that public safety officials in quarters where the reasonable expectation of Fourth Amendment privacy is **diminished**, such as airports and schools, cannot conduct protective searches on the basis of information insufficient to justify searches elsewhere."* *Florida v. JL* (2000) 529 US 266, 274.

- **Parental Consent.** A parent can give **valid consent** for a search of his or her minor child's rooms and property in the parent's home. The US Supreme Court has repeatedly suggested that the parent-child "hierarchy" allows such consent. *"[O]ne might contemplate how parental custodial authority would be **impaired** by requiring judicial approval for search of a **minor child's** room."* *Griffin v. Wisconsin* (1987) 483 US 868, 876. *"Unless the people living together fall within some recognized hierarchy, like a household of **parent and child**..., there is no societal understanding of superior and inferior [authority over the premises]."* *Georgia v. Randolph* (2006) 547 US 103, 114.

Accordingly, a parent can give valid consent, even over the express objections of the minor child. “[M]other, as the parent of a minor child, had the **authority to consent** to a search of his bedroom and to **override any objection** he raised to the search of her apartment.” *In re DC* (2010) 188 Cal.App.4<sup>th</sup> 978, 981.

*In re Scott K* (1979) 24 Cal.3d 395, held that a parent could not consent to a search of the minor child’s locked toolbox; however, this **pre-Prop 8 case** was decided solely on the basis of the **California Constitution**—not the Fourth Amendment—and is **no longer binding precedent** for the exclusion of evidence, because **the US Supreme Court has never adopted this ruling**. “Our state Constitution thus forbids the courts to order the exclusion of evidence at trial as a remedy for an unreasonable search and seizure unless that remedy is **required** by the federal Constitution **as interpreted by the United States Supreme Court**.” *People v. Camacho* (2000) 23 Cal.4<sup>th</sup> 824, 830.

**BOTTOM LINE: Officers responding to reports of armed or threatening minor students may make detentions and searches, under these and related authorities, where the circumstances reasonably warrant such actions.**

(Emphases added in quoted material.)

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.

*The California Reserve Peace Officers Assoc. would like to thank the Los Angeles County District Attorney’s Office and Devallis Rutledge for the permission to reprint the One Minute Brief.*

# *WELCOME NEW CRPOA MEMBERS*

**Between 2/16/2018 and 3/15/2018**

**Delray Shelton** Merced SO

**Jacque Craig** California City PD

**David Bush** Los Angeles PD

**David Johnson** Monterey Park PD

**David Katz** Los Angeles SD

**Jack Garden** Los Angeles SD

**Brad Fine** Culver City PD

**Randell Richards** Fullerton PD

**Steve Lee** Orange Sheriffs Dept.

**Guy Martinez** Fremont PD

**Eric Jensen** Palo Alto PD

*Plan on great training and networking*

*ARPOC 2018*

**DoubleTree Hotel, Sacramento August 15<sup>th</sup> - 18<sup>th</sup>, 2018**





# Chief Financial Officer's Report

## March 2018 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 9 new members that joined from the 16th of last month to the 15th of the current month.

### CRPOA MEMBERSHIP GROUPS

Aside from individual members that pay for their annual benefits each year, we also have Auto-bill agencies that cover the annual fees for their participating members. This year we are offering groups with-in a department the ability to pay for their participating members. This is the way PORAC operates, allowing a subset of a departments members to gain the benefits provided by CRPOA to the full agency. The group will identify a leader that collects the annual dues from each member and submits a single annual payment to CRPOA for the group's membership fees. In turn CRPOA provides group ARPOC registrations, as deferred payment along with membership benefits.

#### CRPOA benefits include:

- Discounted registration the Annual Reserve Peace Officers Conference, ARPOC, offering CPT training, POST certified courses, recognition awards and networking opportunities.
- State legislative advocacy, bill monitoring and lobbying with law enforcement peer associations.
- Assistance with department administrative, personnel, disciplinary and related legal matters.
- Temporary accident and disability insurance for on-duty incidents.
- Access to our Legal Services Plan, including advise with separation/retirement matters, ID cards, concealed carry privileges, and rights under the Law Enforcement Officers Safety Act (LEOSA)
- Online store and members-only services.
- The Backup newsletter, CRPOA's official publication.
- Strength in numbers: more than 370-member agencies.

Becoming a member of CRPOA ensure that you have access to a full range of resources, including training to perform at the height of your abilities and somewhere to turn if you need help with work-related matters.

Need more information? Call the CRPOA Membership and Finance Office at 855-552-7762 or 408 371-8239.

***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](mailto:cadams@CRPOA.org)***

# 2018 CRPOA

## Awards Announcement and Criteria

The California Reserve Peace Officers Association is proud to announce the Annual Awards Program for 2018. We invite you to nominate a deserving member of your organization for one of several recognition awards.

The awards will be presented at our Annual Awards Luncheon at the Annual Reserve Peace Officers Conference in Sacramento. The luncheon is held in conjunction with ARPOC 2018, which offers 28 hours of POST approved training.

**Do not miss out on an opportunity to honor a deserving individual within your organization**

Review the award nomination information to determine which award is best suited to your nominee. **Along with the Award Nomination Application, a letter of nomination must be submitted detailing the nominee's qualifications and accomplishments. Documentation supporting the nomination letter must be included.** Questions can be forwarded to [nancy@crpoa.org](mailto:nancy@crpoa.org). Nominations must be submitted no later than July 1, 2018.

We look forward to receiving your nomination.

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### **Award Criteria**

*Please note, in 2013 the CRPOA Board of Directors voted to modify the time restriction on awards to three years. You may now submit a nomination for events which occurred up to three years ago. The Board will also consider exceptions for older events on a case-by-case basis.*

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### **Award for Valor**

For an act of conspicuous bravery in the line of duty, performed in conscious disregard of peril to the officer. To be awarded, all of the following criteria must exist:

- ◆ The bravery exhibited must be above and beyond that expected in the line of duty.
- ◆ Failure to take such action would not justify censure.
- ◆ The risk to the officer's life actually existed and the officer was able to perceive the risk and disregard it.
- ◆ The objective was of sufficient importance to justify the risk.
- ◆ The officer accomplished the objective or was prevented from accomplishing it by incurring serious injury or death.

*Notes:*

- The criteria for this award include consciousness of the peril and the disregard thereof. Thus, merely finding oneself in the middle of a perilous situation and having to take action to get out of it would not qualify.
- There is no limit to the number of qualifying awards.
- May be awarded to a reserve peace officer, search and rescue member or volunteer in policing.
- The nominee does not need to be a CRPOA member.
- The act must have occurred between June 1, 2015 and May 31, 2018, inclusive.

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### **Award of Honor**

Presented to the family of a reserve peace officer, search and rescue member or volunteer in policing whose life was given in the line of duty due to the action of a third party.

*Notes:*

- This award recognizes supreme sacrifice in the line of duty. It does not require that the officer knowingly placed himself or herself in a perilous situation nor does it require an act of heroism in order to be awarded. It does require the action of a third party in causing the death.

- There is no limit to the number of qualifying awards. In an appropriate case, an Award for Valor and an Award of Honor could be made for the same action.
- May be awarded to a reserve peace officer, search and rescue member or volunteer in policing.
- The decedent need not have been a CRPOA member.
- The death must have occurred between June 1, 2015 and May 31, 2018, inclusive.

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## Reserve Officer of the Year, Search and Rescue Member of the Year, and /or Volunteer in Policing of the Year

Awarded to the nominee excelling in all the qualifications for the Meritorious Service Award which place the reserve officer/search and rescue member/volunteer in policing clearly above all other candidates.

- Notes:
- Only one qualifying award shall be made each year for each of three categories: reserve peace officer, search and rescue member and volunteer in policing.
  - The nominee must be a general member of CRPOA on the date the nomination is received.
  - The qualifying actions must occur prior to May 31, 2018.

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## Meritorious Service Award

For especially meritorious service to the department in a duty of great responsibility. The duty may be either assigned or self-initiated. Superior performance of the normal duties of the position will not alone justify the award.

Considerations for the award include all areas of:

- ◆ Outstanding performance of the officer's duties either in a single act or over time
- ◆ Extraordinary level of assistance to the reserve unit and/or the department
- ◆ Extraordinary level of service to the community
- ◆ Training or teaching within the department
- ◆ Longevity with the department

- Notes
- The nominee must be a general member of CRPOA on the date the nomination is received.
  - There is no limit to the number of qualifying awards.
  - The qualifying actions must occur between June 1, 2015 and May 31, 2018, inclusive.

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## Distinguished Service Award

For distinguished service by a reserve officer, SAR member or volunteer in policing.

Considerations for the award include one or more of the following:

- ◆ Distinguished service either in a single act or over time
- ◆ Substantial assistance to the reserve unit and/or the department
- ◆ Substantial service to the community
- ◆ Training or teaching within the department
- ◆ Longevity with the department

- Notes:
- The nominee must be a general member of CRPOA on the date the nomination is received.
  - There is no limit to the number of qualifying awards.
  - The qualifying actions must occur between June 1, 2015 and May 31, 2018, inclusive.

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## Award of Appreciation

For distinguished service to the members of the California Reserve Peace Officers Association.

Considerations for the award include:

- ◆ Distinguished service to the Association either in a single act or over time



- ◆ Substantial assistance or contribution to the Association

Notes: - *There is no limit to the number of qualifying awards.*  
*The qualifying service must occur between June 1, 2015 and May 31, 2018, inclusive.*

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## Coordinator of the Year

Presented to the coordinator of reserve peace officers, search and rescue members or volunteers in policing who excels in:

- ◆ Displaying a strong commitment to the unit
- ◆ Dedication to the enhancement of the professionalism and training of the unit members
- ◆ Promoting a positive image of unit members within the department and the community
- ◆ Demonstrating efforts to use unit members in non-traditional roles or assignments

Notes: - *The nominee must be a full-time employee of the department in which he or she serves as the coordinator of a reserve peace officer, search and rescue or volunteer in policing unit.*  
- *The nomination must be made from within the unit supervised by the nominee. It may not be made by the department or by another full-time employee of the department. Supporting letters from the department are encouraged.*  
- *Only one qualifying award shall be presented.*  
- *The qualifying service must occur prior to May 31, 2018.*

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## **General Notes**

### **Important note to nominators:**

Nominators for any CRPOA award shall be:

- *A chief executive of a law enforcement agency; or*
- *A full-time officer who serves as a reserve coordinator; or*
- *A General Member of the Association.*

*When submitting a nomination please review the awards criteria thoroughly to assure that your nominee meets the criteria. You may submit a nomination for the highest possible award for which you believe your nominee meets the criteria. The Awards Committee may determine that your nominee qualifies for the category nominated or may select the nominee to be recognized in a different category. For example, a candidate nominated for Reserve Officer of the Year might receive that award or may be honored with the Meritorious Service Award or other qualifying award.*

### **Nominations packets *must* include:**

- ***An application, completed and legible.***
- ***A letter of nomination summarizing the qualifications of the candidate for a specific award.***
- ***Documentation supporting qualifications, such as awards, certificates, commendations, letters.***
- ***Nominators must also assure that information provided for contact for award notification is current.***

***Incomplete nominations packets may not be considered; however, the Awards Committee will notify nominators of incomplete nominations.***

### **Nominations must be sent to the Awards Committee at:**

- ***California Reserve Peace Officers Association, P.O. Box 5622, San Jose, CA 95150-5622***
- ***Or scan and e-mail your nomination packet to [nancy@crpoa.org](mailto:nancy@crpoa.org).***

*If you do not receive confirmation of receipt of the nomination packet by the Awards Committee within 2 weeks of mailing or emailing documents, contact Nancy Elam by email or phone immediately.*

Any questions about the nomination process can be forwarded to Nancy Elam, Awards Committee Chairman



***The deadline for the receipt of nominations is July 1 2018***

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***New classes and a valuable time to meet with other officers***

**Plan NOW *ARPOC 2018* the DoubleTree Hotel**

***Sacramento August 15<sup>th</sup> – 18<sup>th</sup>***

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**THE  
RECRUITMENT UNIT  
DEPARTMENT OF JUSTICE**

Hello!

The California Department of Justice is currently looking for a Criminal Identification Specialist II in the Bureau of Firearms. This is the perfect opportunity to take that next step in your career and find work you can feel passionate about every day!

Don't miss out on this job opportunity and apply online today!

For more information on the job and how to apply click [HERE](#)



# CRIMINAL IDENTIFICATION SPECIALIST II

Sacramento

Final Filing Deadline: Mar 28  
APPLY ONLINE TODAY!

Bureau of Firearms, Armed and Prohibited Persons Section

Desirable Qualifications:

- ✓ High degree of initiative
- ✓ Independence and originality
- ✓ Good judgement
- ✓ Ability to communicate effectively
- ✓ Proficient in Microsoft Word, Excel, and Outlook

Questions? | [Careers@doj.ca.gov](mailto:Careers@doj.ca.gov)



If you have any questions regarding the application process please don't hesitate to contact a DOJ Recruiter!

Sincerely,

## DOJ Recruitment Unit

Office of Human Resources

Office of the Attorney General  
California Department of Justice

[Careers@doj.ca.gov](mailto:Careers@doj.ca.gov)

