



May 2018

The
BACKUP
Newsletter

The Official Publication of the California Reserve Peace Officers Association

Hope your planning for **ARPOC 2018**

New Officer Safety Class offered by some of our best instructors

“Use It, Write It, Tell It”

A cop’s primer on use of force. Learn to tell your force story the RIGHT WAY

Being a Police Officer may require using force to get your job done. Do you know WHEN and How TO USE force? HOW DO YOU WRITE ABOUT the encounter? HOW DO YOU TESTIFY ABOUT it? If you are wrong, are there dire consequences?

David Demurjian has a 30 year of history of advising, defending and trying “use of force” cases on behalf of law enforcement personnel throughout the country. Aside from his legal experience, he is also a defensive tactics instructor for the state, federal law enforcement agencies and the U.S. Armed Forces. For over 20 years, he has been a sworn member of a large law enforcement agency in southern California. He is a graduate of New York University & Fordham University School of Law. He is also a member of the California, New York, and Massachusetts State Bars

Surviving Your Attacker: Law Enforcement Officers Killed and Assaulted

“Is today your day?”

- * Inspiring true stories from shooting survivors
 - * On-duty and off-duty safety
 - * Preparing to win in deadly encounters
 - * Overcoming the mindset of your attacker
- * Why do things go right and wrong in police work?
- * Lessons Learned - Before, During, & After a Critical Incident

The instructors * Rich Wemmer – Captain, Los Angeles Police Department (ret.)

- * Stacy Lim – Sergeant, Los Angeles Police Department/SURVIVOR
- * Marcus Young– Mendocino County Sheriff’s Office/SURVIVOR

Major Crime Scene Investigations for First Responder

This course of instruction will discuss major crime scenes (Homicides, Rapes, Robbery and Suspicious Deaths) and what first responders need to consider. These considerations include the search for additional victims, suspects, loss of evidence due to weather or other exigent circumstances the victim’s family and the media. The L.I.N. (Locate, Isolate and Neutralize) theory of crime scene investigations and other theories related to crime scenes will be discussed. Graphic photographs will be presented during this course of instruction.

Full Conference Registration notice will be emailed to all current members shortly

OBITUARY: IN REMEMBRANCE OF FRANK BARNES



I can't say enough remarkable things about this man. He was a mentor to many in this organization. He's a walking encyclopedia and was as sharp as a tack.

Many times, when a staff person was assigned to conduct a City facility refurbishment or needed to find an archived plan, they would ask and he would have an answer.

A Korean War veteran, Frank entered government service in the 50s, worked for LADOT from the 60s until 1980, then joined the Santa Monica team. He obtained his Master's in Civil Engineering from UCLA in 1968, and fully utilized his knowledge, skills, and experience in service to this community. He worked for several City departments, including the airport, Big Blue Bus, and eventually to the traffic management division in PCD. He's been the backbone of that department as he tutored many planners, analysts, and engineers on project delivery and good safe design.

He was a fully deputized reserve deputy Sheriff officer and served in that capacity through 2017.

He's been a staple of the Southern California branch of the Institute of Transportation Engineers for over five decades. He was presented the ITE classic engineer award in 2016.

His plan was to never retire. Frank cared deeply not only about the work, but also the people. He hosted an annual holiday party for his colleagues for over 25 years in a row and was always asking us about our spouses, partners and children. This extended to members of the public as well and there are countless people in the community who developed strong bonds with him.

We will dearly miss him and his contributions to the City and residents of Santa Monica. City Council adjourned their April 24 meeting in his memory.

*Henry Servin
Parking & Traffic Manager
City of Santa Monica*

Election of Directors and Vacancy on the Board of Directors By Kevin Bernzott, Chief Executive Officer

We currently have two vacancies on the board of directors.

Pursuant to the Bylaws, the board has the responsibility to fill these two vacancies. I am soliciting general members interested in serving as a director.

Interested persons must have been a general member for two years immediately prior to appointment. Desirable qualifications include the ability to work effectively within a group of people who come from a variety of backgrounds and whose interests and points of view, even as to law enforcement, are varied. A great deal of work must be regularly performed by directors to discharge their responsibilities and attendance at regularly scheduled (mostly telephonic) board meetings is required. Computer literacy and access to the internet and email is necessary.

If you are interested in serving on the board of directors, please send an email to bernzott@crpoa.org. You do not need to submit a nomination petition. A questionnaire will be sent by email to all applicants. Interviews will be held at ARPOC 2018 in Sacramento.

The participation of new people with diverse backgrounds and points of view is crucial to the long-term health of your association. Please consider volunteering to serve.

New blood and new points of view are important. Thanks for your interest in serving your Association!

CRPOA General Counsel

The American Warrior Society

As law enforcement officers, we all have a responsibility (frankly an obligation) to keep ourselves fit both mentally and physically. That point should be obvious. You may have noticed that this profession has become increasingly difficult and challenging, not just from an officer safety standpoint, but also from the perspective of legal liability. Everything we do is caught on tape for everyone to see – good or otherwise. Body worn cameras are the norm, mobile devices with video and audio capability are everywhere, and the risks are enormous. These challenges face us both on-duty and off-duty. Not to mention the alarming increase in attacks on officers, something which is a cause for deep concern.



Of course, it's easy to Monday morning quarterback absolutely everything and when it comes to how we do traffic stops, what we say and do when we stop a citizen in an investigatory detention and possibly go hands-on, or whether we decide to involve ourselves in an off-duty incident (whether voluntarily or otherwise), you can bet a very bright light will be shone upon us with all the world to see.

If that isn't bad enough, the political environment is not much better. In fact, it's worse. You may have seen a recent piece of legislation (Assembly Bill 931) introduced in California known as the Police Accountability and Community Protection Act (the words speak for themselves). PORAC has done a good job summarizing where they stand on this matter and the "dangerous rush to judgment" language in the title of their letter also speaks for itself. [see the Letter Here](#)

So how do we as law enforcement professionals deal with all of this? Let's start with training, training, training. We can't get enough of it. Which leads me to the title of this article: The American Warrior Society [See the article here](#). Step 1: get their podcast and listen to it. Step 2: go to their website and see the awesome material that is available to you. I invested in a yearly subscription and am only getting started with all the articles, videos and other material that is there.

The American Warrior Society is led by Mike Seeklander and Rich Brown. Mike and Rich are both great guys, former police officers and all-around experts in a number of areas that touch the law enforcement community. Mike's and Rich's bios [Can be found here](#). There are also quite a few YouTube videos Mike and Rich have done which I found extremely enlightening and helpful to my training. They are true heroes and an inspiration. Check them out.

Full disclaimer: I have no financial or similar interest whatsoever in AWS or any other training providers I discuss. Rather, I strongly advocate organizations like AWS because this training not only teaches you a lot about tools and techniques relevant to your law enforcement careers, but regularly accessing their material and listening to their podcasts gets your head straight and focuses your mindset. That is absolutely critical both on-duty and off-duty. Throw in the hard skills they teach, and you should be good to go.

So, go check out the American Warrior Society website. Mike and Rich are offering our members a 30% discount off subscriptions if you use the discount code CRPOA2018.

Last point: having your head straight has as a direct link to what you do in the field and how it may affect your legal situation, your assets and potentially your freedom. The job we do as cops is incredibly important but also unimaginably difficult and risky. There is no room for error. Getting the training that AWS offers is a critical component to doing our jobs expertly and flawlessly. Make it happen!

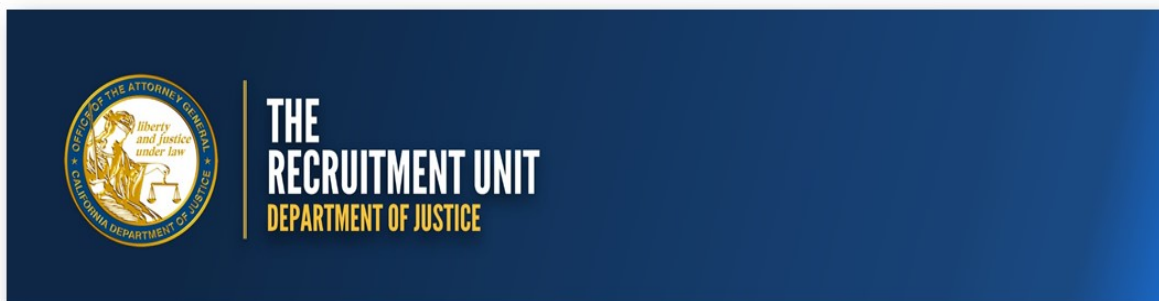
Stay safe everyone.

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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Hello!

Are you looking to take that next step in your career and find an exciting career that you enjoy doing every day? If so, apply to our Criminal Identification Specialist II position in the Background Clearance Unit!



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

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

Plan on great training and networking

ARPOC 2018

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



JACKIE LACEY
DISTRICT ATTORNEY

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

ONE **MINUTE** **BRIEF**

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NUMBER: 2018-06 **DATE:** 04-26-18 **BY:** Devallis Rutledge and Kraig St. Pierre **TOPIC:** Search Before Formal Revocation

ISSUE: After summary revocation of probation, parole, PRCS or mandatory supervision, but before a formal revocation hearing is held, does a previously-imposed search-and-seizure term continue in effect?

PC §§ 1203.2, 3000.08 and 3455 prescribe procedures for the revocation of probation, parole, PRCS and mandatory supervision ("status," in short). In some cases, petitions may be filed for the revocation of status, violators may be re-arrested, or arrest warrants may be issued for absconders. Status is then sometimes said to have been "summarily revoked."

To comply with constitutional due process, however, status cannot *actually* be revoked until the person has been afforded certain procedural protections at a **formal hearing**. *Morrissey v. Brewer* (1972) 408 US 471, 487-88 (parole); *Gagnon v. Scarpelli* (1973) 411 US

778, 782 (probation); *People v. Vickers* (1972) 8 Cal.3d 451, 460-61 (probation); *In re La*

Croix (1974) 12 Cal.3d 146, 152 (parole); *People v. Deleon* (2017) 3 Cal.5th 640, 647 (applying *Morrissey* to post-realignment parole, noting that the declared purpose of § 1203.2 is to "provide for a **uniform** revocation process for petitions to revoke **probation, mandatory supervision, post-release community supervision and parole**.").

- A person who is subject to warrantless search and seizure as a condition of his or her status **remains subject to that condition** (and all others) until status is **formally** revoked, following the **hearing** required to satisfy due process:

"Officer retained the authority to conduct an otherwise permissible parole search while Hunter was incarcerated on a parole violation because Hunter was still a parolee until his parole was formally revoked. Parole is not revoked until a formal revocation hearing is held. ... Authorities may conduct a parole search until parole is formally revoked...." *People v. Hunter* (2006) 140 Cal.App.4th 1147, 1152- 53, 1155.

"Summarily revoking probation for the purpose of bringing the probationer before the court for a Morrissey-Vickers hearing does not itself terminate probation, so that the probationary conditions remain in effect. ... Actual revocation cannot occur until the probationer has been afforded the due process hearing rights provided in Vickers. ... Hence, the condition of probation authorized the search...." *People v. Barkins* (1978) 81 Cal.App.3d 30, 33-34.

"The decision in Barkins is sound. As a matter of due process, summary revocation cannot affect a grant of probation or its conditions.... The search condition remained in effect." *People v. Pipitone* (1984) 152 Cal.App.3d 1112, 1117-18.

Officials may conduct searches under an applicable search term, **even if the person has been taken into custody** pending revocation proceedings, or for another crime. *Hunter, supra*, 140 Cal. App. 4th at 1151 (search of parolee's storage unit was OK while he was incarcerated on a "parolee-at-large" warrant for absconding, before formal hearing and revocation); *People v. Johnson* (1988) 47 Cal.3d 576, 591-96 (search of parolee's home was OK while he was incarcerated for a new crime, before formal revocation); and *People v. Burgener* (1986) 41 Cal.3d 505, 529-36 (same).

BOTTOM LINE: A search-and-seizure condition of probation, parole, PRCS or mandatory supervision remains in effect between summary revocation and formal revocation, even if the person is incarcerated.

(Bold emphases added and citations omitted from 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.



JACKIE LACEY
DISTRICT ATTORNEY

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

ONE  **MINUTE**

BRIEF

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NUMBER: 2018-07

DATE: 05-04-18

BY: Devallis Rutledge

TOPIC: Arrestee Phone Calls

ISSUE: What are the rights of a person to make phone calls after arrest or booking?

"There is a **well-established tradition** against holding prisoners incommunicado in the United States. It would be hard to find an American who thought people could be picked up by a policeman and held incommunicado, without the opportunity to let anyone know where they were, and without the opportunity for anyone on the outside looking for them to confirm where they were." *Halvorsen v. Baird* (9th Cir. 1998) 146 F.3d 680, 688-89. California has **statutory mandates** to protect against protracted custody without access to communication.

- PC § 851.5 provides that **immediately upon booking** an **adult**, or except where physically impossible **within 3 hours of arrest** (whichever occurs first), officers must **advise** the person of the right to make **3 calls** and must then accommodate the calls if requested. Officers must also **inquire** as to whether the person is the **custodial parent** of any minor children and must permit **2 additional calls** if needed to make child-care arrangements. **Signs** containing this information must be conspicuously posted. Any violation of this section is a **misdemeanor**.

- W&I § 627(b) mandates that **immediately upon lodging** a **minor**, or except where physically impossible **within 1 hour after taking custody** (whichever occurs first), the minor must be advised of and afforded the right to make **2 phone calls**. Violation is a **misdemeanor**.

- Failure to comply with mandatory statutes governing the right to make phone calls after arrest may result in **federal civil liability** against officers and agencies. *Carlo v. Chino* (9th Cir. 1997) 105 F.3d 493 (damages and attorney's fees assessed against city and officers who failed to allow calls until 14 hours after DUI arrest); *Henry v. Shasta County* (9th Cir. 1997) 132 F.3d 512 (denying qualified immunity and holding officers subject to suit for allegedly violating PC § 851.5).

- *One appellate opinion held that a suspect's admission* to attempted murder should have been **suppressed** where the suspect invoked her right to counsel and was not then promptly advised of her rights under PC § 851.5, despite the passage of more than 3 hours from arrest. *People v. Locke* (1984) 152 Cal.App.3d 1130, 1133 (basing suppression *not* on the statutory violation, but upon the effect this violation had in undermining efficacy of the *Miranda* warning).

- Although **officers may not eavesdrop upon or record** communications between a prisoner and a doctor, lawyer or spiritual advisor (PC § 636), “*police may require a defendant first to disclose the telephone number of the person to whom the call is being placed, and then may place the call and ... overtly listen to the defendant's side of any [non-privileged] conversation....*” *People v. Siripongs* (1988) 45 Cal.3d 548, 566.

- A prisoner who has **escaped** from sentenced confinement remains in *custodia legis* and so is not “arrested” when recaptured; therefore, there is **no right to new phone calls** under § 851.5. *People v. Robinson* (1968) 266 Cal.App.2d 261, 265-66; *People v. Moreland* (1971) 15 Cal.App.3d 269, 273.

- Where an **emergency** or the suspect's **medical condition** or other factors make compliance with the statutory time limits impractical, “*an accused is not guaranteed the Absolute right to timely use of a telephone.*” *People v. Moreland* (1971) 15 Cal.App.3d 269, 275 (search-and-rescue activities during a flood prevented timely compliance).

BOTTOM LINE: Arrestees must be timely notified of their rights to phone calls (3-5 for adults within 3 hours or at booking; 2 for minors within 1 hour or at lodging) and calls then requested must be promptly accommodated. Violations may be punished as misdemeanors, may engender civil liability, and may affect admissibility of evidence.

(Bold emphases added, and citations omitted from quoted material.)

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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 4/16/2018 and 5/15/2018

Mark Stevenson Los Angeles SD

Blake Burgard Santa Barbara PD

Mario Luna Imperial PD

Kevin Augarten Los Angeles SD

ARPOC 2018

August 15th to 18th

ARPOC 2018 Conference Rates	Full Conf. 15th -18th	Single Day Wed. 15th	Single Day Thur. 16th or Fri. 17th	Single Day Sat. 18th
<i>Member Early Bird (before July 1st)</i>	\$ 340.00	\$ 80.00	\$ 155.00 per day	\$ 110.00
<i>Member Regular (July 1st-July 31st)</i>	\$ 370.00	\$ 90.00	\$ 165.00 per day	\$ 120.00
<i>Member Late Registration (After July 31st)</i>	\$ 390.00	\$ 100.00	\$ 175.00 per day	\$ 130.00

Making A Difference - think about it

*“Philanthropy is almost the only virtue which is
sufficiently appreciated by mankind.”*

--Henry David Thoreau, American essayist and naturalist



SB 1421 Peace Officer: Release of Records Public Safety Committee Hearing

SB 1421 Senate Public Safety Committee - Member Comments

PORAC President, Brian Marvel, introduces footage from an April 17th, 2018 Senate Public Safety hearing. The discussion is around SB 1421 by Senator Skinner (D-Berkeley). PORAC wants to inform our members on what is being said in the rooms of our Capitol. We continue to come to the table to educate and express the challenges of our profession to policymakers and to the public.



Legislative Info & Language on SB 1421

For a more in-depth look into SB 1421, we've provided a link to the proposed legislation language in its current iteration [Read More...](#)

PORAC will continue to be the voice for Law Enforcement at the Capitol and fight for the rights of our members.

Stay informed and involved with all things PORAC and Law Enforcement. Follow & Like us on Social Media for the most up to date content! #WeArePORAC

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. Nominations must be submitted no later than July 1, 2018.

We look forward to receiving your nomination.

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.

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.

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.
-

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.
-

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.
-

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.
-

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.

Coordinator of the Year

5

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.*

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.*

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
by email at nancy@crpoa.org or by phone at 408-309-8756.**



***Deadline for the receipt of nominations is
July 1st 2018***

New classes and a valuable time to meet with other officers

Plan NOW *ARPOC 2018* the DoubleTree Hotel

Sacramento August 15th – 18th
