



The **BACKUP** *Newsletter*

The Official Publication of the California Reserve Peace Officers Association

FALL 2018

Welcome to the Quarterly Newsletter of the California Reserve
Peace Officers Association

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ARPOC 2018

The 41st Annual Reserve Peace Officers Conference in Sacramento at the DoubleTree by Hilton was a success! The conference was attended by over 200 association members who furthered their training and experience while networking with fellow officers.



The conference kicked off with an interesting and informative class detailing the law enforcement response and investigation surrounding the April 15, 2013 Boston Marathon Terror Attack, facilitated by a lead FBI Investigator who was on scene during that tragic event. Other classes offered during the four-day, POST Certified, training conference included:

Vehicle Tactics (Traffic Stops)
Low Light, No Light, Hostage Rescue
Middle Eastern Culture and Law Enforcement
**NARCO Officer Safety, Avoiding the Chemical Bullet*
Off-Duty Safety; Beginning your "Real Day"
Surviving your Attacker: LEOKA
Crime Scene Investigation for First Responders

Active Shooter - Building Search
Apple for Law Enforcement
Reserve Coordinator Introduction & Update
FLSA Update
Marijuana and the changing laws
Below 100
Drones and your Agency

**Voted 2018's Best Class by attendees.*



Mark your calendar now! ARPOC 2019 will be at the Crowne Plaza San Diego, August 21 - 24, 2019. We look forward to welcoming you to the 42nd Annual training conference

2018 Annual Awards Presentations

By Nancy Elam, 2018 Awards Committee Chairperson

An incredible number of nominations for extremely dedicated and praiseworthy individuals were received for the 2018 California Reserve Peace Officers Association Awards. 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. The nominees selected for recognition were honored at the Awards Luncheon on Friday, August 17, 2018, in Sacramento at ARPOC 2018.

2018 AWARD RECIPIENTS

RESERVE COORDINATOR OF THE YEAR

Sergeant Jackson F. Harris Jr., *Solano County Sheriff's Office*

Sergeant Tui Wright, *Los Angeles County Sheriff's Department*

Deputy Kevin Augarten, *Los Angeles County Sheriff's Department*

DISTINGUISHED SERVICE AWARD

Jacob Castroll, *Los Angeles County Sheriff's Department*

Daniel Farrell, *Los Angeles County Sheriff's Department*

DISTINGUISHED SERVICE AWARD FOR LIFESAVING

Mark Stevenson, *Los Angeles County Sheriff's Department*

MERITORIOUS SERVICE AWARD

Michael Phlegar, *Rocklin Police Department*

SEARCH AND RESCUE MEMBER OF THE YEAR

Stephen Marshall, *Los Angeles Sheriff's Department/Malibu Search and Rescue*

RESERVE OFFICER OF THE YEAR

Paul Smith, *Redlands Police Department*

MEDAL OF VALOR

David Katz, Jack Garden and Thad Woodward, *Los Angeles Sheriff's Department/Malibu Search and Rescue*

AWARD OF APPRECIATION

Frank Barnes

Lucy Baddeley

Tom Cantrell

California Reserve Peace Officers Association

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Reserve Coordinator of the Year

Presented to the coordinator(s) 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

Coordinator of the Year

Sergeant Jackson F. Harris Jr.
Solano County Sheriff's Office

Sergeant Jackson F. Harris Jr. joined the Solano County Sheriff's Office in 2006. He has worked in Patrol, Court Security, and as a Detective in the Coroner's Office. He has also served as Public Information Officer, as a member of the Special Weapons and Tactics Team, Emergency Vehicle Instructor and the Bicycle Patrol Team.



Three years ago, Sergeant Harris was assigned to the Office of Emergency Services which is made up of many volunteer teams. In addition to acting as Reserve Coordinator within the OES, he supervises the Search and Rescue Team, Marine Vessel Operators Group, Auxiliary Communications Service, Cadet Program and the Terrorism Liaison Program.

Sergeant Harris re-organized the Reserve Deputy Program, and despite continual budgetary challenges, he has been able to maintain the quality of training and to keep the reserve forces updated with the latest policies, practices and field tactics available.

The California Reserve Peace Officers Association is proud to recognize Sergeant Harris as the Reserve and Search and Rescue Coordinator of the Year.

Reserve Coordinators of the Year
Sergeant Tui Wright and Deputy Kevin Augarten
Los Angeles County Sheriff's Department

Sergeant Tui Wright and Deputy Kevin Augarten of the Los Angeles County Sheriff's Department were nominated as joint recipients for Reserve Coordinator of the Year. Sergeant Wright has served as Reserve Coordinator for 10 years, and Deputy Augarten has been Assistant Reserve Coordinator at the Malibu/Lost Hills Station for 20 years.

As a team, Sergeant Wright and Deputy Augarten are responsible for a total of 160 uniform reserve deputies including mountain reserve deputies, civilian volunteer specialists, disaster communications personnel and Explorers.

Sgt Wright and Deputy Augarten run a smooth, efficient program, attending nearly all meetings and training. And they regularly respond to emergency callouts with their team members. Sgt. Wright and Deputy Augarten are sensitive to their team members needs especially after they are involved in very stressful situations.

Training is a big part of the reserve program. Under the direction of Sergeant Wright and Deputy Augarten, a team of patrol and search and rescue reserve deputies conducted one of the largest active shooter exercises in the United States. Thirty-six different agencies were involved, including the FBI, DEA, U.S. Border Patrol, elite military units and the U.S. Secret Service. About 110 Malibu/Lost Hills Reserve Deputies supported various components of the operation.

Sergeant Wright and Deputy Augarten are very supportive of reserves participating in non-patrol activities including warrant service, detective duties, recruiting, public relations and community events and they keep their department apprised of the selfless activities of their teams.

The California Reserve Peace Officers Association was proud to recognize the team of Sergeant Tui Wright and Deputy Kevin Augarten of the Los Angeles Sheriff's Department as 2018 Reserve Coordinators of the Year. Deputy Augarten was unable to attend the Luncheon so Sergeant Wright accepted the plaque on his behalf.



The Distinguished Service Award recognizes “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

Distinguished Service Award
Jacob Castroll
Los Angeles County Sheriff’s Department

Reserve Deputy Jacob Castroll of the Los Angeles Sheriff’s Department died August 11, 2017, while competing in the 2017 World Police and Fire Games.

Deputy Castroll was an avid cyclist and rode in the Police Unity Tour which was organized with the hope of bringing public awareness of Police Officers who have died in the line of duty, and to honor their sacrifices.

He graduated from the academy at age 60 and joined the Lost Hills Reserve Unit. Jacob was described as a “quiet giant who contributed mightily to everything he touched.” Malibu SAR Operations Leader Reserve Deputy David Katz remembers Deputy Castroll as “a consummate volunteer” who was “very passionate about helping” and “always there for anyone in need.”

The California Reserve Peace Officers Association recognized Deputy Jacob Castroll of the Los Angeles Sheriff’s Department for his service to his department and the community with the Distinguished Service Award. Accepting the award on Jacob’s behalf was his wife Rody Castroll and daughter Lea Rookwood.



Distinguished Service Award
Daniel Farrell
Los Angeles County Sheriff's Department

Reserve Deputy Daniel Farrell has been with the Los Angeles Sheriff's Department for a mere four years but has had a dramatic impact on programs at the Malibu/Lost Hills Station. During the last two years, Daniel has volunteered hundreds of hours developing and building several web applications that have made Reserve operations smoother, more effective and which have improved response time to potentially life-saving events.



To replace the use of manual time cards, Daniel created a system to keep track of calls, training times, scheduled shifts and quarterly weapons qualifications. A second system was designed and programmed by him as a scheduling calendar. With color-coding, there is an obvious distinction between Level I, Level II and Civilian Volunteer scheduling. Being the busiest search and rescue team in the state, having proper staffing at critical times is extremely important. The third system built by Reserve Deputy Farrell is most valuable. During significant events requiring callouts of the Search and Rescue teams, the commercial paging system was ineffective due to lag time for pages being sent. With Daniel's primary background in telecommunications, he was able to work with major cell phone providers along with their pager company, to create code and programming that sends dispatches instantly, simultaneously, and consistently.

For his innovations to provide better services to the reserve unit and community, the California Reserve Peace Officers Association recognized Reserve Deputy Sheriff Daniel Farrell of the Los Angeles Sheriff's Department with the Distinguished Service Award.

Distinguished Service Award for Lifesaving
Mark Stevenson
Los Angeles Sheriff's Department

Civilian Volunteer Specialist Mark Stevenson, a Sheriff Rescue Medic with the Los Angeles Sheriff's Department Malibu Search and Rescue Team, was driving toward the intersection of Reseda Blvd and Victory Blvd in Los Angeles and saw an unconscious and unresponsive female lying in the street.

After directing bystanders to form a safety barrier to protect his patient he retrieved his medical bag and began treatment of the patient. He treated her, alone, for about 20 minutes, and her signs began to improve. He was placed on a speaker phone with the Los Angeles Fire Department while continuing to ventilate the patient.

When the LAFD engine and Rescue Ambulance arrived, Stevenson continued ventilation while assisting the crew in placing the patient on a backboard. Despite the patient being in grave condition initially, she was transported in a critical, but much more stable condition due to Stevenson's life-saving efforts.

The California Reserve Peace Officers Association recognized Mark Stevenson of the Los Angeles County Sheriff's Department for his actions the Distinguished Service Award for Lifesaving.

The Meritorious Service Award honors "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.



Meritorious Service Award
Michael Phlegar
Rocklin Police Department

Michael Phlegar was appointed as a Reserve Officer with the Rocklin Police Department in 1978. Over his 40-year volunteer services career, he has logged a staggering 9,000+ hours on patrol and special events. His participation at parades, sporting events and seasonal programs does not go unnoticed by the community. In addition to working patrol beats, Reserve Officer Phlegar is found on the department's KTM motorcycle patrolling parks and open spaces.



As a Level I Reserve Officer, Michael has continually demonstrated leadership skills and support to the Rocklin Reserve Unit. His knowledge and history of the city and department provides direction to new Reserve Officers.

Reserve Officer Phlegar has received commendations for his volunteer work, most notably for a situation during a fire at a local college. He worked a great number of hours under less than optimal conditions to ensure safety of the nearby roadways and those people affected by the fires.

It was a distinct pleasure for the California Reserve Peace Officers Association to honor Reserve Officer Michael Phlegar of Rocklin Police Department with the Meritorious Service Award.

Reserve Officer/Search and Rescue Member/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.

The Meritorious Service Award honors "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.

Search and Rescue Member of the Year

Stephen Marshall

Los Angeles Sheriff's Department/Malibu Search and Rescue

Reserve Deputy Stephen Marshall has been with the Los Angeles County Sheriff's Department a mere three years but has already made a big impact with his service. He is assigned as Training Leader of the Malibu Search and Rescue at the Malibu/Lost Hills Station. Each month, Stephen is tasked with providing challenging, in-depth training for current and new members for the Search and Rescue team. With the Malibu SAR being the busiest rescue team in the state, Stephen regularly volunteers eighty to one hundred hours a month, responding to calls for service at all hours of the day or night.

In addition to his search and rescue activities, Reserve Deputy Marshall serves on the Malibu Search and Rescue Team's non-profit Board of Directors as Vice President. Since the Los Angeles Sheriff's Department provides no funding for the rescue teams, Stephen has focused on funding. He consistently meets with donors to ensure that the team has the funding needed to operate. He built and manages an online store of search and rescue products which brings in a continuous flow of money. The store is integrated with Facebook, eBay and Amazon for optimum sales exposure.

For the past two years, Stephen Marshall has been actively involved in another form of life saving activity. He became involved with the Pink Patch Project which brings attention to the fight against breast cancer. Stephen was the driving force in getting the Los Angeles County Sheriff's Department and the Malibu Search and Rescue to join in the Pink Patch Project which resulted in the sales of 3,800 Los Angeles Sheriff's Department pink patches, raising over \$38,000 for breast cancer research, treatment and education.



Last year at ARPOC 2017, Stephen was recognized for saving a life.

This year, the California Reserve Peace Officers Association was proud to honor Reserve Deputy Stephen Marshall of the Los Angeles Sheriff's Department as Search and Rescue Member of the Year.

Reserve Officer of the Year
Paul Smith
Redlands Police Department

For over fourteen years, Paul Smith has been a Level 1 Reserve Police Officer with Redlands Police Department volunteering over 500 hours of his time annually. He works solo patrol as a primary unit as well as backup, and is willing to fill in at a moment's notice in emergency situations.



Paul Smith is regularly involved in a variety of events and enforcement details which includes parades, races, marathons, safety events and DUI check points. He also serves as a tactical officer at the San Bernardino County Sheriff's Training Academy and has received several commendations for his work there.

Certified as a background investigator, Reserve Officer Smith conducts backgrounds on new police applicants. He has also found the time to work with the Redlands Police Officers Association to acquire a very large donation to purchase a BBQ trailer to be used by the police officers at community events.

Throughout his years of service, Reserve Officer Paul Smith has received numerous commendations, one which involved an armed barricade situation inside a home where Paul entered a residence and carried two young children out and another for lifesaving measures. He has been recognized as Reserve of the Year several times by Redlands Police Department and by the San Bernardino County Sheriff's Department.

It was an honor for the California Reserve Peace Officers Association to recognize Reserve Officer Paul Smith of the Redlands Police Department as Reserve Officer of the Year.

Medal of Valor

David Katz, Jack Garden and Thad Woodward
Los Angeles County Sheriff's Department

It was a dark and stormy night, literally, when the Malibu Search and Rescue team responded to a call of four stranded hikers in the Malibu Creek State Park. It had been heavily and steadily raining over a three-day period and the Malibu Creek became a treacherous rushing river.



After several hours of walking in rainy weather, the hikers found themselves isolated and surrounded by rushing water in the Rock Pool area of Malibu Creek. They had taken refuge on a small boulder in the middle of the creek while waters continued to rise around them, roaring and slamming into nearby rock walls. Fearing for their safety, they were able to place a call to 9-1-1.

Search and Rescue Team Leader David Katz arrived to evaluate the situation. Making it to the actual Rock Pool area proved to be a challenge since the trail had washed out. It appeared necessary to cross the river, but after an attempt at crossing in a boat, Katz seriously questioned whether that was a wise decision. A rescue by boat to the hikers was ruled out due to the swiftly moving waters. Due to severe weather, a helicopter rescue was also ruled out.

Additional SAR members, Reserve Deputy Jack Garden and Reserve Deputy Thad Woodward joined in the rescue attempt. The three SAR members were joined by a Los Angeles County Fire lifeguard. With the significant amount of equipment necessary for the rescue, the team was forced to enter rushing and rising water, climb deteriorating, muddy hillsides, traverse perilously over slippery boulders all under the darkness of night and in chilling, wet conditions as rain continued to fall. After six hours, the team was within a couple hundred yards of the hikers but were not close enough to affect their rescue. It was determined that proceeding further would put the rescue team at an unreasonable risk. They were left with attempting to reassure the hikers over the roaring of the river.

Finally, a helicopter team agreed to assess the situation and attempt a rescue. They had enough of a break in the weather that they were able to safely hoist all hikers from the rock.

SAR Team Leader David Katz, and Reserve Deputies Garden and Woodward put themselves at great risk to reach and attempt the rescue of the stranded hikers. Their actions under extremely hazardous conditions were above and beyond the call of duty. They performed remarkably well in the face of immediate life-threatening

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peril with the knowledge of the risks involved and displayed professional judgment and determination that ultimately resulted in the safe rescue of the of the hikers.

The California Reserve Peace Officers Association was extremely proud to recognize David Katz, Jack Garden and Thad Woodward of the Los Angeles County Sheriff's Department with the Medal of Valor.

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General Counsel's Report

Legal Potpourri



I am frequently asked a variety of legal questions about reserve officer issues, so I have compiled a list of random and unrelated topics concerning our work as law enforcement officers, both on-duty and off-duty, which may be of interest to you. In no particular order, here we go:

1. DMV Confidentiality: Vehicle Code Section 1808.4(a)(11) protects the confidentiality of your home address and the home address of certain of your relatives (spouse and children). It applies to “active or retired peace officer[s], as defined in Chapter 4.5 (commencing with Section 830 of Title 3 of Part of the Penal Code).” Reserve peace officers are appointed under PC Sections 830.6 and 832.6 and fall within the sections eligible for DMV confidentiality. (Seems pretty clear but we often have to remind folks what a “categorical exemption or definition” looks like that’s an example.) You can process this form through your agency. [Click here](#) for more information.
2. CCW licenses for reserve peace officers may be issued by the employing agency of the reserve peace officer under PC Section 26170 and are valid for 4 years. While a CCW is not required to carry a firearm off-duty due to the availability in most cases of the exemption under federal law (LEOSA), a CCW provides an exemption from the federal Gun Free School Zone Act (GFSZA) in the state in which the CCW is issued. There is no off-duty peace officer exemption under the federal GFSZA! A CCW also is back-up insurance if, for instance, a reserve is not current with his or her agency’s firearms qualification standards (which is one of the requirements of LEOSA). A CCW also gives you reciprocity in many other States, another potential avenue to claim an exemption if you need it assuming the State where you are carrying recognizes a California CCW (many do). If you can get a CCW, get it. But don’t sweat it if you can’t - just be mindful of the requirements of how and where you carry if you are relying on LEOSA to carry.
3. To my point above, an amendment to LEOSA is currently sitting in the U.S. House of Representatives. HR 6105 is entitled the LEOSA Reform Act and would fix the GFSZA problem described above (and expand other areas where off-duty law enforcement officers can carry a firearm) as well as eliminate magazine capacity restrictions which currently apply under LEOSA if you travel out of state. We are tracking its progress. Small editorial note: if the House flips to

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the Dems, my bet is this legislation is DOA. It will have problems getting through Congress in any event due to the current super charged political environment. You can find the text of the bill by [clicking here](#).

4. Keep a training log, including a written record of your firearms practice - live fire, of course, and your dry fire sessions at home (which I frequently do). If you are ever involved in a use of force incident, including off-duty, your training becomes a central point of your defense. Good training logs show discipline, attention to detail, seriousness of purpose, and all the rest.
5. Read the book "Newhall Shooting: A Tactical Analysis" by Michael Wood. It is an incredible analysis of the Newhall incident in which 4 CHP officers were killed by 2 murderous thugs. It is by far the most meticulous and detailed description of what happened there and how it changed the face of law enforcement policy, training and tactics forever. If you do vehicle stops, it is a must read. If you don't do vehicle stops, it is a must read! <http://www.newhallshooting.com/Home.html>
6. For those of you who are retired or are retiring and wonder what a "CCW Endorsement" technically means, it is an ID card you receive upon retirement prescribed by PC Section 25460 and requires the following: "it shall be on a 2x3 inch card, bear the photograph of the retiree, include the retiree's name, date of birth, the date that the retiree retired, and the name and address of the agency from which the retiree retired, and have stamped on it the endorsement "CCW Approved" and the date the endorsement is to be renewed" (5 years per PC Section 25465 but sometimes agencies, without any PC authority whatsoever, shorten that period to one year). Remember that Level 1 reserves who meet the requirements of PC 26300(c)(2) are entitled by law to this card. Incredibly, many agencies still do not grasp that. Contact me for assistance if your agency is one of them.
7. Insurance and Legal Services Plans - In past articles I have recommended that you consider obtaining coverage under plans which provide legal defense insurance and/or legal services (or both) for both on- and off-duty use-of-force incidents. As you can imagine, a use-of-force incident may threaten your financial well-being or, worst case, your freedom. For on-duty incidents, you should either sign up for your POA or union legal plan (if available) or form a reserve association, join PORAC and get signed up for their Legal Defense Fund (LDF) plan. FYI, forming a reserve POA under the PORAC plan is simple and easy. Absent that, you are relying on your city or county to cover you and in many cases your personal interests and the interests of your employer in a critical incident may not be not be aligned. For off-duty incidents, I recommend plans which provide actual insurance for civil judgments (like the USCCA plan - www.uscca.com) and/or pure legal services plans (like the CCW Safe plan - www.ccwsafe.com). There are other providers with all kinds of variants to

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coverage. Do the homework to make sure your assets and your freedom are cared for.

8. LEO Round Table: Available on You Tube, the LEO Round Table does frequent videos and commentary by law enforcement officers and legal experts on all kinds of law enforcement subjects. I highly recommend it as they often de-brief on critical incidents and lessons learned. This particular video, done in mid-September, talks about recent legal proceedings involving use-of-force incidents:<https://www.youtube.com/watch?v=GeDb30bC6OY&feature=youtu.be> I subscribe to this channel and have learned a lot from it.
9. Podcasts: On my drive time or during workouts, I listen to the following podcasts: Law of Self Defense, Modern Self Protection, The American Warrior Society, CCW Safe, and Concealed Carry Podcast. Lots of great content and information which have enhanced my mindset, tools and training. Check them out.

Stay safe everyone.

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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Legislative Update



Before getting into a recap of the bills that were either signed or vetoed by Governor Brown, I wanted to highlight the bill below (AB 931) that was introduced by Assembly member Shirley Weber in the last legislative session. I have extracted the official Bill Text Digest below. The provisions that show as strikethrough were no longer a part of the bill in August 2018. This bill required significant resources from the law enforcement community to stop its movement through the Legislature.

2019 will be the beginning of the next two-year session and Ms. Weber has stated emphatically that we will see this type of bill again. I suspect that the stricken portions will find their way back into the new bill in 2019. CRPOA is committed to stopping this type of legislation and will continue to work with other law enforcement associations to prevent enactment of this or similar legislative initiatives.

AB 931

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified.

Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer.

Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. Existing law does not require an officer to retreat or desist from an attempt to make an arrest because of resistance or threatened resistance of the person being arrested.

This bill would, as of *January 1, 2020*, require peace officers to attempt to control an incident by using time, distance, communications, and available resources to deescalate a situation whenever it is *safe, feasible, and reasonable* to do so.

Under existing law, the use of deadly force resulting in the death of a person is justified when it was necessarily committed in overcoming actual resistance to an arrest, when it was necessarily committed in apprehending a felon who had escaped from custody, or when it was necessarily committed in arresting a person charged with a felony and who was fleeing from justice or resisting arrest.

Existing case law prohibits the use of deadly force by a peace officer unless, among other criteria, there is a reasonable fear of death or serious bodily harm to the officer or another.

This bill would limit the use of deadly force, as defined, by a peace officer to those situations where it is necessary, as defined, to *defend against a threat of imminent and serious bodily injury or death* to the officer or to another person, as specified.

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The bill would prohibit the use of deadly force by a peace officer in a situation where an individual poses a risk only to himself or herself. The bill would also limit the use of deadly force by a peace officer against a person fleeing from arrest or imprisonment to only those situations in which the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving serious bodily injury or death, and there is a *threat of imminent death or serious bodily injury* to the officer or to another person if the subject is not immediately apprehended. *The bill would make these provisions operative as of January 1, 2020.*

~~This bill would make a homicide committed by a peace officer justifiable only if the use of deadly force by a peace officer was consistent with the aforementioned provisions.~~

~~Under existing law, a homicide is justified when a person is acting in self-defense or defense of another, as specified.~~

~~The bill would make this defense unavailable to an officer charged with manslaughter whose actions were such a departure from the expected conduct of an ordinarily prudent or careful officer in the same circumstances as to be incompatible with a proper regard for human life.~~

~~This bill would make legislative declarations regarding its provisions.~~

The following bills were signed by the Governor

SB 10

Current law provides for the procedure of approving and accepting bail and issuing an order for the appearance and release of an arrested person. Current law requires that bail be set in a fixed amount and requires, in setting, reducing, or denying bail, a judge or magistrate to take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or at a hearing of the case. This bill would, as of October 1, 2019, repeal existing laws regarding bail and require that any remaining references to bail refer to the procedures specified in the bill.

AB 748

The California Public Records Act requires that public records, as defined, be available to the public for inspection and made promptly available to any person. Current law makes records of investigations conducted by any state or local police agency exempt from these requirements. Current law requires specified information regarding the investigation of crimes to be disclosed to the public unless disclosure would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation. This bill would, notwithstanding the above provisions, commencing July 1, 2019, allow a video or audio recording that relates to a critical incident, as defined, to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions, as specified.

SB 978

Would, commencing January 1, 2020, require the Commission on Peace Officer Standards and Training and each local law enforcement agency to conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act. By imposing this requirement on local law enforcement agencies, the bill would impose a state-mandated local program.

AB 1192

The current Safety For All Act of 2016, approved as an initiative statute at the November 8, 2016, statewide general election, makes it a crime for a person, commencing July 1, 2017, to possess a large-capacity magazine. Proposition 63 exempts from that prohibition the possession of a large-capacity magazine by honorably retired sworn peace officers. The existing act authorizes the Legislature to amend its provisions by statute approved by a 55% vote of each house if the amendments are consistent with, and further the intent of, the initiative statute. This bill would amend that act by redefining the definition of "honorably retired" to include a retired reserve officer who has met specified length of service requirements.

SB 1355

Would make a person who knowingly and intentionally operates an unmanned aircraft system on or above the grounds of a state prison, a jail, or a juvenile hall, camp, or ranch guilty of an infraction punishable by a fine of \$500. The bill would make these provisions inapplicable to a person employed by the prison, jail, or county department that operates the juvenile hall, camp, or ranch acting within the scope of that employment, or a person who receives prior permission from the Department of Corrections and Rehabilitation, the county sheriff, or department that operates the juvenile hall, camp, or ranch.

SB 1421

Would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records.

SB 1437

Would require a principal in a crime to act with malice aforethought to be convicted of murder except when the person was a participant in the perpetration or attempted perpetration of a specified felony in which a death occurred and the person was the actual killer, was not the actual killer but, with the intent to kill, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted the actual killer in the commission of murder in the first degree, or the person was a

major participant in the underlying felony and acted with reckless indifference to human life.

AB 2176

The current Safety For All Act of 2016, approved as an initiative statute at the November 8, 2016, statewide general election, makes it a crime for a person, commencing July 1, 2017, to possess a large-capacity magazine. Proposition 63 exempts from that prohibition the possession of a large-capacity magazine by honorably retired sworn peace officers. The existing act authorizes the Legislature to amend its provisions by statute approved by a 55% vote of each house if the amendments are consistent with, and further the intent of, the initiative statute. This bill would amend that act by redefining the definition of "honorably retired" to include a retired reserve officer who has met specified length of service requirements.

AB 2783

Would reclassify specified hydrocodone combination products as Schedule II controlled substances. By expanding the scope of the existing crimes that apply to Schedule II controlled substances, this bill would impose a state-mandated local program.

AB 2914

Would prohibit a commercial cannabis licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage, including, but not limited to, an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage.

The following bills were vetoed by the Governor

AB 186

Would, until January 1, 2022, authorize the City and County of San Francisco to approve entities to operate overdose prevention programs for adults that satisfies specified requirements, including, among other things, a hygienic space supervised by health care professionals, as defined, where people who use drugs can consume pre-obtained drugs, sterile consumption supplies, and access to referrals to substance use disorder treatment. The bill would require any entity operating a program under its provisions to provide an annual report to the city and county, as specified.

SB 905

Would, beginning January 1, 2021, and before January 2, 2026, would require the Department of Alcoholic Beverage Control to conduct a pilot program that would authorize the department to issue an additional hours license to an on-sale licensee located in a qualified city which would authorize, with or without conditions, the selling, giving, or purchasing of alcoholic beverages at the licensed premises

between the hours of 2 a.m. and 4 a.m., upon completion of specified requirements by the qualified city in which the licensee is located. The bill would impose specified fees related to the license to be deposited in the Alcohol Beverage Control Fund.

SB 1451

Would impose specific penalties on any licensee who holds an A-type or M-type retailer license or A-type or M-type microbusiness license who sells, furnishes, or causes to be sold or furnished cannabis or cannabis products to any person under the legal age on the licensed retail premises or who permits any person under the legal age to consume cannabis or cannabis products on the licensed retail premises, by subjecting the licensee to a suspension or revocation of its A-type and M-type retailer license and A-type and M-type microbusiness license issued for that retail premises where the violation occurred, as provided. The bill would not preclude any additional disciplinary actions to be taken by a licensing authority against the licensee for these acts or omissions.

AB 2255

Under MAUCRSA, transporting, or arranging for or facilitating the transport of, cannabis or cannabis product in violation of MAUCRSA is grounds for disciplinary action against the licensee. This bill would prohibit a licensed distributor from transporting an amount of cannabis or cannabis products in excess of the amount stated on the shipping manifest.

AB 3131

Would require a law enforcement agency, defined to include specified state and local entities, to publish a military equipment use policy prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also impose similar publishing requirements for the continued use of military equipment acquired prior to January 1, 2019. The bill would require that the governing body of a law enforcement agency consider a proposed military equipment use policy at a regular meeting held pursuant to specified open meeting laws.

Pete Downs is the Vice President of CRPOA and a volunteer in policing for the Sonoma County Sheriff's Office. Pete welcomes your questions and comments. Email him at downs@crpoa.org

You know you're a cop when...

1. You've thrown a recently purchased beverage out the window because you just got a hot call.
2. You're the only person at the party who is introduced to others by your profession.
3. You've had a cold beer after getting home from work, even though it was seven in the morning.
4. You've had pizza delivered to a cordoned-off crime scene.
5. You've eaten a sandwich next to the coroner, while they're examining the body on the slab.
6. You've got a permanent "farmer's tan" on your left arm.
7. You regularly pay the check BEFORE the meal arrives in case you have to leave for a hot call.
8. You've said to a colleague, "Things with me and my ex-wife / ex-husband are awful right now..." and your partner replied quickly back, "Be more specific. Which one?"
9. You've heard more than one person say "You've got to believe me. These aren't my pants."
10. You've heard a parent tell a kid, "You'd better behave or that police officer will take you to jail."
11. You've brought a new gun to work, showed it off to your colleagues, and you didn't get fired.
12. You've knocked on an elderly person's door — doing a welfare check a half-hour before the end of your shift — muttering under your breath, "Don't be dead, don't be dead, don't be dead."
13. You've heard "I only had two beers" from more people than you can count — and every last one of them had way more than just two beers.
14. You've responded to a citizen claiming to have "had only two beers" by saying, "Yes, the first and the last, but how many beers were in between?" and/or "How big were those two beers?"
15. You've added the following line of inquiry to your field sobriety tests: "This question will determine whether you are drunk or not. Was Mickey Mouse a cat or a dog?"

Passing of Reserve Deputy Rex Nance

Contributed by Mike Voorhees

Retired Sonoma County Reserve Deputy Sheriff Rex Nance died October 13th from lung cancer. Rex was 79 and was survived by his wife, Mary, and seven children. At his request no services were held. Rex lived most of his life on the Sonoma County coast and worked for many years for utility companies. He also owned the Cazadero General Store at the time he was wounded. Rex served as a Sonoma County Reserve Deputy from 1969 to 1976.



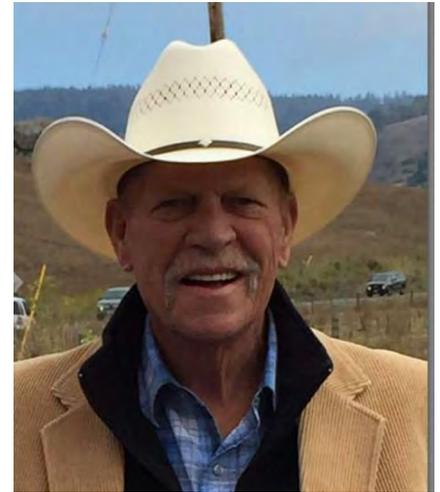
On August 23, 1975, at approximately 2333 hours, Deputy Sheriff Merrit Deeds encountered a suspicious vehicle on State Highway 116, ½ mile east of Highway 1. Unknown to Deeds, one of the vehicle's occupants was involved in an attempted sexual assault on a juvenile and was armed with a 9mm pistol and shotgun. During the encounter, Deeds was told by the juvenile that one of the men had attempted a sex act with him, but the victim had escaped. While investigating the assault, Deeds re-approached the car, was disarmed and a struggle ensued between the two.

Reserve Deputy Sheriff Rex Nance was driving his personal vehicle while off-duty and came upon Deeds and saw the struggle. Nance quickly stopped his pickup and came to the aid of Deeds. Although forewarned by Deeds that the suspect was armed, Nance jumped into the fight and, together with Deeds, attempted to disarm the suspect. The suspect fired Deeds' .357 revolver and then a 9mm pistol at both men. Nance was struck with a round near his right eyebrow, taking the brim of his straw cowboy hat off. He fell to the ground from the blast and attempted to regain his footing. Deeds was struck twice, killing him. Nance was then shot in his right arm near his elbow, as he attempted to draw his off-duty weapon, losing it. He was shot again in his upper chest from the 9mm pistol and again in the abdomen with the stolen revolver. Nance escaped to his pickup truck but the three suspects drove their vehicle alongside the pickup where the murderer fired all the remaining rounds from the pistol into the pickup. One of the rounds fired into the door of the pickup struck Nance in his right arm near his earlier wound.

Despite his many wounds, Nance was able to crawl back to the patrol car and advise Sheriff's Dispatch of the shootings and his injuries. He put out the BOLO info and the suspects were apprehended approximately 45 minutes after the shooting.

Nance underwent more than 40 surgeries to recover from the gunshot wounds but was unable to return to duty due to the severity of his injuries. Nance continued to live in Sonoma County until his death.

At the time of the murder of Deputy Deeds and the wounding of Reserve Deputy Nance, their department had no program for recognizing meritorious service or valor. Research into these crimes for historical and training purposes several years ago led to a drive to honor both men. The portion of State Highway 116 from the intersection of State Highway 1 and Cazadero Highway was dedicated to the memory of Deputy Deeds in 2015. Retired Reserve Deputy Nance was awarded the Medal of Valor from the California Reserve Peace Officers Association. The Sonoma County Sheriff's Department awarded him its Gold Medal of Valor.



Mike Voorhees is a practicing attorney, retired reserve assistant sheriff at Sonoma County S.O. and Chairman of the Board Emeritus of CRPOA. He welcomes your questions and comments! Email him at voorhees@crpoa.org.

“Kern County R.C.I.U. Reserves”

Article by [Kip Williamson](#)

Kern County has a vast agricultural industry along with the third largest oil producing region in the United States. The Kern County Sheriff's office has about 500 deputies to patrol over 8100 square miles of the county.

The main Sheriff's office is in Bakersfield and has nine substations located throughout the county to provide law enforcement services.

Due to the recent changes in California's legislation, more criminals are on the street which have caused thefts in the construction and agriculture industries to rise to record highs in Kern County. Copper wire, oilfield equipment, fuel and agriculture commodity theft are being targeted on a daily basis in Kern County.





Kern County Reserves Assisting Tejon Ranch with a trespasser during hunting season

In an effort to combat these thefts the Kern County Sheriff's Rural Crime Investigation Unit (RCIU) assists the substation deputies with the investigations. The unit is staffed with (1) sergeant (2) senior deputies and (2) deputies. In addition, approximately 5-7 reserve deputies are assigned to the Rural Crime Investigation Unit (RCIU) to assist the investigators.

Level I Reserve Deputies Joe Bariffi and Kip Williamson typically work during weekend hours following leads, locating suspects and vehicles or patrol checking high crime areas. Depending on what time of the year and what crops are being harvested, it is not uncommon to log 200 plus miles during the shift patrolling various locations in the county.

The Rural Crime Reserve Deputies also assist RCIU with ABC operations, search warrants and other duties during the week. During the various hunting season throughout the year, the reserve deputies assist the county substations with trespassing violations and illegal hunting on private property in the county.

Reserve Deputy Bariffi has over thirty years of oil field/petroleum industry experience and Deputy Williamson has thirty-five years' experience in construction industry. Their expertise in their civilian fields are invaluable resources to the RCIU investigations.



Reserve Deputy Williamson patrol checks a truck for stolen hay

Sergeant Robert Winn, RCIU's lead investigator, relies upon reserves to fill vacancies within the unit and says some assignments and tasks cannot be completed without the reserve deputy's assistance. Their expertise and knowledge in their civilian professions are utilized frequently by investigators in the unit.

Besides Bariffi and Williamson, there are five Level II deputies that work with the unit. Deputies Brent Burton, Kevin Wright, Steve Hays, Megan Hudson and Gilbert Gonzales assist with various RCIU operations.

To serve and protect, USC trauma surgeon moonlights as a cop

Kenji Inaba found time in his busy schedule as a USC doctor to become a highly trained reserve officer with the Los Angeles Police Department

Article by Eric Lindberg



USC doctor Kenji Inaba, the LAPD's first and only chief surgeon, advises the department on medical training, health policies and treatment of injured officers. (Photo/ Jake Michaels)

When Kenji Inaba isn't wearing standard-issue hospital scrubs as a trauma surgeon, you might find him sporting a different look — the dark-blue uniform of a Los Angeles police officer.

The Keck Medicine of USC doctor performs complex emergency surgeries and checks on patients for up to 80 hours a week at Los Angeles County + USC Medical Center, one of the nation's busiest hospitals.

But once a week, Inaba trades in his scalpel for a badge and gun as a sworn reserve officer with the Rampart Division of the Los Angeles Police Department.

Like any other uniformed officer, he trained at the police academy and patrols the city's streets. But Inaba also serves as the LAPD's first and only chief surgeon and provides advice to the department on medical training, health policies and treatment of injured officers.

Why would someone with an intense and demanding job as a trauma surgeon spend his valuable free time in a squad car? In a word: service. "It's very important for every person to volunteer. My parents instilled that in me from when I was a little kid," Inaba said. "Becoming a reserve officer seemed like a great way to give what knowledge and skills I have as a surgeon back to the community."

After intensive training, trauma doctor earns a police badge

Most major police departments have a staff physician who provides guidance on medical issues. When the LAPD pitched the idea to Inaba, he was intrigued and eventually found a way to work the grueling training into his schedule.

First, he had to pass psychological and physical tests and an intensive background screening. Investigators contacted his family members, interviewed his neighbors and called references. Then he completed more than 700 hours of training in wide-ranging skills, including how to make an arrest, shoot and clean a gun, handle an unruly crowd and protect himself with basic self-defense moves.



Kenji Inaba, right, with patrol partner Ryan Nguyen (Photo/Courtesy of Kenji Inaba)

“They were extremely thorough in the way they educated me,” Inaba said. Even though he is a highly skilled surgeon, he couldn’t skip the emergency medicine course. “I sat through every hour of that first-aid training. It goes to show you how seriously they take the process.” Inaba still juggles many responsibilities at USC, where he is a professor of surgery, director of the general surgery program and vice chair of the Department of Surgery at the Keck School of Medicine of USC.

He trains medical students, residents and fellows in trauma surgery and critical care. He also conducts research on topics like hemorrhage control and diagnostic imaging, contributing to more than 450 scholarly articles since 2003. And he regularly steps into the operating room to patch up injured patients and deal with other surgical emergencies.

“I feel like I’m a pretty good time manager,” Inaba said. “You kind of have to be to fit all of these things in.”

USC surgeon finds fulfillment as reserve police officer

Inaba became a peace officer in 2016 and completed his 400-hour probationary period. Now he rolls out with his regular partner, Ryan Nguyen, at least a few times every month. He patrols the streets of areas like Silver Lake and Echo Park in uniform, beginning a 12-hour shift at 6:30 a.m.

“You really can’t distinguish me from any other LAPD officer working that day,” he said. “We handle calls just like any other car.” He struggles to pick a single experience or arrest that stands out from his time in the squad car. “Every call is unique,” he said. “And you take every call dead serious, even if you are just giving out a traffic ticket. Every move you make is with the safety of your partner and those around you in mind.”



The responsibility of being in law enforcement has changed his mindset in many ways. Inaba is always aware of his surroundings, on and off duty. He can picture what likely happened in the frantic minutes before a stabbing or gunshot victim rolls through the doors of the LAC+USC emergency room.

He also has a greater appreciation for anyone who completes the rigorous academy training and works a full schedule as a uniformed officer. "It is an extremely dangerous job, and they are some of the most down-to-earth, good people that you will ever meet," he said. "You realize these are people who are committed to making the world and our city a better place. Every day, when they put on that uniform, they acknowledge and accept the fact that they may need to lay their life on the line to help someone they have never met before." Asked whether others should look into becoming a reserve officer, Inaba returned to the lesson his parents taught him as a child: Everyone should volunteer in their community.

For some, being a reserve officer might be a good fit, he added, although he cautioned that it takes a specific mentality to work in law enforcement. Officers must be able to work well with others, function in a high-stress environment and make decisions quickly.

"It's not for everybody, and there's no getting around the fact that there is risk," Inaba said. "But for the right person, it's so satisfying."

Security Industry Licensing Requirements



As an owner of a state licensed private security company and security firearms/baton training facility, I often encounter peace officers that have questions about licensing requirements regarding working in the security industry. If you are considering supplementing your income by working for a private security company, it is important for you to understand the state's licensing requirements and exemptions that apply to you as a peace officer.

First, check your department's General Orders. Some law enforcement agencies prohibit off-duty work in a security officer capacity, while others may require that you seek approval for this type employment while being employed as a peace officer. To work for any private security in the state, you need to obtain a Security Guard Registration (also known as a Guard Card), which is issued by the Department of Consumer Affairs' Bureau of Security and Investigative Services ("BSIS").

As an active Level I or II reserve peace officer, it is easy to obtain a Security Guard Registration. You are exempt from both the fingerprinting background check requirement and from the power to arrest training requirement. To apply for a Security Guard Registration, submit the [Application for Security Guard Registration](#) with a \$55.00 application fee to the BSIS, along with proof of exemption.

Proof of exemption for the Security Guard Registration:

1. A copy of the front and back of your peace officer identification card.
2. Proof of completion of power to arrest training.
 - a. A copy of your Basic or Specialized Basic POST course completion certificate, or;
 - b. A copy of your POST profile detailing completion of Basic or Specialized Basic training, which includes power to arrest training, or;
 - c. A letter from your Commanding Officer attesting to your completion of power to arrest training.

It typically takes the state 2-6 weeks to process the Guard Registration and issue the Guard Card. The registration is valid for two years. More detailed information can be found on the BSIS website by [clicking here](#).

Note: Unfortunately, there are no exemptions to the fingerprinting, training or licensing requirements for Level III reserve officers nor retired peace officers.

In the next issue of The BACKUP, I'll discuss the licensing requirements for working as an armed security officer as it applies to peace officers.

If you have any questions or comments, don't hesitate to contact me by email at lujan@crpoa.org

Matt Lujan is a Director & VP of CRPOA, and a Reserve Police Sergeant and Background Investigator with the Pacifica Police Department. He welcomes your questions and comments! Email him at lujan@crpoa.org

Welcome Steve and Ed to the Board



Steve Marshall

Director

Reserve Deputy Sheriff

Los Angeles County Sheriff's Department

marshall@crpoa.org

855-55-CRPOA (855-552-7762) ext: 107

Steve Marshall comes to the board with 4 years of law enforcement and search and rescue experience with the Los Angeles County Sheriff's Department. He has held the position of assistant team leader of the Malibu Search and Rescue Team since 2017. Steve works in multiple divisions in

the Sheriffs department, including Search and Rescue, Uniform Patrol and runs the #PinkPatchProject for LASD. Steve is an EMT for his department and a POST Certified instructor specializing in First Aid/CPR. Steve also serves as the Vice President of the Malibu Mountain Rescue Team's non-profit board of directors. Steve has been awarded CRPOA's Distinguished Service Award for Lifesaving in 2017 and Search and Rescue team member of the year in 2018.

Professionally, Steve has worked in the Film and Television industry providing support to Fortune 500's, Entertainment and Production companies across the U.S. offering a complete range of post-production editing equipment rentals, software solutions and creative services.



Ed Jones

Director

Reserve Police Officer
Santa Paula Police Department
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Ed is a retired school district administrator. He is widowed with children and grandchildren.

He attended Ventura County Police and Sheriff's Reserve Academy in Spring 1973 and was appointed a Reserve Deputy for Ventura County Sheriff's Office upon academy graduation.

He was assigned to patrol and his first night working as a peace officer was July 3, 1973.

When POST developed Reserve Levels, he was grandfathered as a Level I Reserve. Later he attended Module D at Rio Hondo Community College in 1997.

Ed retired from the Ventura County Sheriff's Office as the ranking reserve deputy with rank of Captain in 2016. During his time with the VCSO he worked patrol (single and two-man reserve cars), Bike Detail, Reserve Academy Staff & Tac Officer, Warrants, Fugitive extraditions, taught First Aid & CPR, worked in the East County station as the pawn detective, and also as a detective in the VCSO CCW Investigative unit.

He was selected as the VCSO Reserve of the Year several times.

Additionally, he worked as the West County Patrol Reserve Training Sergeant, Reserve Lieutenant, and was the VCSO Reserve Administrative Captain when he retired. He worked in every station the VCSO has and was assigned long-term to four.

Upon his retirement from the VCSO, (the Sheriff had offered him a paid position in the CCW Unit - the VCSO does not pay reserves) a job he had been doing as a Reserve 25 hours per week for five years, he lateraled to the Santa Paula Police Department (SPPD).

Ed was named CRPOA Reserve of the Year in 2015.

Currently, Ed is a Level I Reserve Officer for Santa Paula PD. He works in the Detective Bureau as the Missing Persons and minor crimes detective.

WELCOME, NEW CRPOA MEMBERS

Between 7/16/2018 and 10/31/2018

Reid Brekke (Los Angeles Sheriff's Department)	Scott Brewer (Los Angeles Sheriff's Department - Malibu)
Edward Chen (Los Angeles Sheriff's Department)	Alfred Danelian (Los Angeles Sheriff's Department)
Michael Feldman (Los Angeles Sheriff's Department)	Marvin Goldsmith (Los Angeles Sheriff's Department)
Sam Jerry Green (Los Angeles Sheriff's Department - Malibu)	Thomas Henzgen (Los Angeles Sheriff's Department)
Jeremy Littlam (Los Angeles Sheriff's Department - Malibu)	Gary Lowery (Los Angeles Sheriff's Department)
Jose Munoz (Los Angeles Sheriff's Department)	Neil Ornstein (Los Angeles Sheriff's Department Reserve Forces Bureau)
David Pearson (Los Angeles Sheriff's Department)	David Rathbun (Los Angeles Sheriff's Department)
Nicholas Razum (Los Angeles Sheriff's Department - Malibu)	Monika Reinhardt (Los Angeles Sheriff's Department)
Marc Shapiro (Los Angeles Sheriff's Department)	John Stedman (Los Angeles Sheriff's Department Reserve Forces Bureau)
David Stephens (Los Angeles Sheriff's Department - Malibu)	Larry Stern (Los Angeles Sheriff's Department)
Randy Tweedy (Los Angeles Sheriff's Department)	Roman Vaisman (Los Angeles Sheriff's Department)
Richard Vigil (Los Angeles Sheriff's Department)	Frank Wong (Los Angeles Sheriff's Department)
Ricardo Gonzales (Broadmoor Police Department)	Ron Lopez (California City Police Department)
Joshua Moreno (Colma Police Department)	Heather Transue (Contra Costa Sheriff's Office)
Christian Baechli (Escondito Police Department)	Jorge Garcia (Fresno Sheriff's Office)
Ryan Hushaw (Fresno Sheriff's Office)	Chun Kim (Hercules Police Department)
Roberto Leon (Imperial Sheriff's Department)	Carlos Gomez (Kern Desert Search & Rescue)

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Samuel Smith (Kern Desert Search & Rescue)	Matt Wolfe (Kern Desert Search & Rescue)
Brian Chu (Monterey Park Police Department)	Norman McCallson (Orange Sheriff's Office)
Robert Pope (Orange Sheriff's Office)	Joe Blackwell (Plumas Sheriff's Department)
Nicholas Dawson (Plumas Sheriff's Department)	Jeff Babbage (Sacramento Police Department)
Tom Garret (San Francisco Police Department)	Kin Lee (San Francisco Police Department)
John Battaglia (San Jose Police Department)	Todd Cleaver (San Jose Police Department)
Mark Corbett (Santa Barbara Police Department)	Richard Hoar (Solano Sheriff's Department)
Steve Ochinang (Soledad Police Department)	Jim Tseng (Upland Police Department)
Buddy Packman (Supporter)	



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

ONE MINUTE BRIEF

JACKIE LACEY
DISTRICT
ATTORNEY

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1MB@da.lacounty.gov

NUMBER:
2018-19

DATE:
10-23-18

BY: Mark Burnley

TOPIC: Oral Search Warrant Affidavits

ISSUE: What are the procedures for submitting an oral affidavit for a search warrant?

A search warrant is a written order signed by a magistrate, supported by an affidavit containing probable cause, directed to a peace officer, commanding him or her to search a particular location for particular items and to bring those items to the magistrate. PC §§ 1523, 1525. Typically, law enforcement officers prepare the proposed search warrant and all supporting affidavits before meeting with a judge.

- PC §1526(b)(1) sets forth the procedure for submitting a sworn oral affidavit in support of a search warrant. This section allows the affiant to orally state the probable cause for the warrant under oath to the judge. **This statement must be recorded and transcribed.** In the alternative, a certified court reporter can transcribe the affiant's oral statement. Either way, the transcribed statement must be certified by the issuing judge and filed with the clerk. PC § 1526(b)(1).

The procedure outlined above is different than a telephonic warrant. PC §1526(b)(2) sets forth the procedure for an affiant to transmit the already-completed written affidavit and other necessary documents to the judge via fax or email. If the judge decides to issue the search warrant, he or she signs the warrant, notes the date and time on the warrant, and indicates on the warrant that the oath was administered over the telephone. PC § 1526(b)(2).

- Appellate cases have addressed a failure to record an oral affidavit due to mechanical issues with the recording equipment. In *People v. Fortune* (1988) 197 Cal.App.3d 941, the affiant recorded the oral affidavit but subsequently learned the tape recorder malfunctioned. The affiant was able to reconstruct an affidavit from his notes and memory that was certified by the issuing judge. The *Fortune* court observed that federal courts "have not found it necessary to order suppression of evidence seized pursuant to a search warrant when a verbatim transcript of the affidavit is unavailable because of technical noncompliance with the rule." The cases dealing with "technical defects" in the issuance

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of a search warrant revolve around issues “beyond the control of the officer.” Courts can rely on the good faith exception when officers act in reasonable and objective good faith.

However, it’s unclear to what extent a court would be willing to extend the good faith exception to a situation where an officer did not even attempt to comply with the recording requirement in PC § 1526(b)(1).

People v. Lazalde (2004) 120 Cal. App. 4th 858, considered failure to record an oral affidavit due to negligence or willful non-compliance: “Case law holds that trying, but failing, to record a telephonic warrant complies with the Constitution. However, no case has upheld a telephonic warrant where there was no attempt at compliance with their specific procedures. Accordingly, the People concede the warrant was invalid.”

- Unfortunately, some law enforcement officers and even some judges may not be aware of the recording requirement set forth in PC § 1526(b)(1). Instead, detectives have been known to call a judge and either read an already-completed affidavit over the phone or provide an oral description of the probable cause from notes—erroneously failing to record the call. After the search, a written affidavit (either the copy that had already been written or a newly- written affidavit) is provided to the judge. Because a copy of the search warrant and “affidavit” is submitted as part of the filing packet, the filing prosecutor may not realize the search warrant was obtained without compliance with PC § 1526(b)(1).

(The Los Angeles County District Attorney’s Office Command Post (213-974-3607) has the capability to record telephone conversations. A law enforcement officer in Los Angeles County would simply need to contact the Command Post for a recorded conference call between the affiant and the judge.)

BOTTOM LINE: A search warrant may be based on an oral affidavit, so long as the affiant’s sworn statement is either recorded or transcribed by a court reporter.

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.

A Big Thank You...

The California Reserve Peace Officers Association would like to thank the following people and organizations for permission to reprint their articles:

The Los Angeles County District Attorney’s Office and Devallis Rutledge for their monthly edition of the One Minute Brief

Eric Lindberg with USC News and his article “To serve and protect, USC trauma surgeon moonlights as a cop”

Kip Williamson and his article “Kern County R.C.I.U. Reserves”