



# The **BACKUP** Newsletter

# Fall

The Official Publication of the California Reserve Peace Officers Association



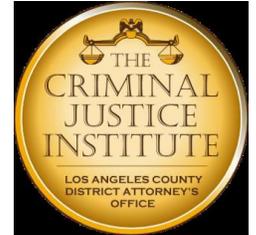
2019 CRPOA Awards Recipients



"If it's in your heart, you got to do it"



ARPOC 2019 Recap



One Minute Brief

## FALL 2019

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



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# ARPOC 2019



In August CRPOA hosted its 42<sup>nd</sup> Annual Reserve Peace Officer Conference in San Diego at the Crown Plaza Mission Valley. The conference was attended by over 250 association members from 73 different agencies. During the four-day, POST Certified training conference, association members completed a total of 4,972 training hours. Attendees included Reserve Peace Officers (active & retired), Search and Rescue Members, Volunteers in Policing and Full-Time Peace Officers. The conference kicked off with a compelling class, “Mentally and Physically Surviving an Officer Involved Shooting” which garnered a high ranking in the Best Class survey. A total of 18 classes were offered at ARPOC 2019 and the Glock Professional Armorer’s Course was voted as Best Class by attendees.



Explosives Familiarization for Patrol



Glock Professional Armorer’s Course



# CRPOA General Counsel

## My First Report

By Ed Obayashi

When I accepted the role of General Counsel for CRPOA in May of this year, I wasn't sure what to really expect as to the specific legal needs of reserve peace officers.

In my role of legal advisor for law enforcement agencies, I rarely, if ever, had to deal with reserve matters. This is a good thing because anything that doesn't require my attention is automatically good.

That said, I have to admit that I have been exposed to a whole new world which I never knew existed. I have learned to appreciate the issues of LEOSA and CCW that confront many reserves. These past several months, I have researched and discussed this matter with many members and I feel very strongly about the legal right (not to mention that it's the right thing) for both active and retired reserves in good standing to be issued both LEOSA and CCW endorsements.

Based on my experience with those departments (including the California DOJ) that I have dealt with so far since becoming General Counsel, I believe that the main controversy arises from an institutional and philosophical bias against "Right to Carry" for the public in general, primarily with police agencies as compared to sheriff agencies. Unfortunately, this bias has infiltrated into enactment of state CCW laws for reserves which run contrary to LEOSA.

I have discussed this matter with a number of sheriffs who agree with this position.

I am in the process of developing a plan which I hope will solve or, at least, alleviate this constant struggle of addressing this issue. I will keep all of you informed of developments.



# Legislative Update

The first year of the current 2-year session is “in the books” with the Legislature going into recess on Friday the 13<sup>th</sup> of September.

Here are some of the pieces of law enforcement legislation that came out of the sausage machine in Sacramento and made it to the Governor’s desk. Of particular interest is AB 392 which received much effort from law enforcement groups to try to limit its impact. Some are (as of Sunday September 15<sup>th</sup> when I am writing this) Enrolled, some are Chaptered and some have been Vetoed. Enrollment means that they are awaiting action by the Governor and he has until October 13<sup>th</sup> to make a decision on the bills, so there will be further action on some of the bills below.



These are not all of the “LE” bills that have been introduced since January but are a selection of bills that I thought might be of interest to the membership. Indeed, there is another set of bills that survived the first year of the session and will become “two-year-bills” that may be considered next year after the legislature reconvenes. Along with these bills we can expect another onslaught of newly introduced bill that we will be watching on behalf of our members.

As always, if you have a particular interest in a bill that is going through the process in Sacramento, just drop me a line at my email address for CRPOA which is “downs@crpoa.org.”

## AB 61 (Ting D) Gun violence restraining orders.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law authorizes a court to issue an ex parte gun violence restraining order prohibiting the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition when it is shown that there is a substantial likelihood that the subject of the petition poses a significant danger of self-harm or harm to another in the near future by having in their custody or control, owning, purchasing, possessing, or receiving a firearm, and that the order is necessary to prevent personal injury to the subject of the petition or another, as specified. Current law authorizes renewal of a gun violence restraining order within 3 months of the order’s expiration. Petitions for ex parte, one-year, and renewed gun violence restraining orders may be made by an immediate family member of the person or by a law enforcement officer. This bill would, commencing September 1, 2020, similarly authorize an employer, a coworker who has substantial and regular interactions with the person and approval of their employer, or an employee or teacher of a secondary or postsecondary school, with approval of a school administrator or a school administration staff member with a supervisory role, that the person has attended in the last 6 months to file a petition for an ex parte, one-year, or renewed gun violence restraining order.

**AB 164 (Cervantes D) Firearms: prohibited persons.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Under current law, a person who purchases or receives a firearm, attempts to purchase or receive a firearm, or owns or possesses a firearm knowing that the person is prohibited from doing so by a temporary restraining order, an injunction, or a protective order, as specified, is guilty of a crime. This bill would expand the scope of this crime to a person who is prohibited from purchasing or possessing a firearm in any jurisdiction by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a temporary restraining order, injunction, or protective order issued in this state, and which includes a prohibition from owning or possessing a firearm.

**AB 332 (Lackey R) Peace officers: training.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
1st House				2nd House							

**Summary:** Would require the Commission on Peace Officer Standards and Training, on or before April 1, 2021, to submit a report to the Legislature and Governor with specified data relating to students' completion of training at academies for peace officers and the availability of remedial training, including, among other things, the number of students who received one or more opportunities for remedial training for a learning domain. The bill would also require the report to include, among other things, a review of academies' practices regarding remedial training and a discussion of whether the commission finds that minimum standards for an appropriate level of remedial training should be established. The bill would repeal these provisions on January 1, 2024.

**AB 392 (Weber D) Peace officers: deadly force.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
1st House				2nd House							

**Summary:** Would redefine the circumstances under which a homicide by a peace officer is deemed justifiable to include when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended.

**AB 597 (Levine D) Probation and mandatory supervision: flash incarceration.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
1st House				2nd House							

**Summary:** Current law authorizes probation and mandatory supervision, which in each case is a period of time when a person is released from incarceration and is subject to specified conditions and supervision by county probation authorities. Current law, until January 1, 2021, allows a court to authorize the use of flash incarceration, as defined, to detain a person in county jail for not more than 10 days for a violation of the conditions of that person’s probation or mandatory supervision, as specified. This bill would extend the authorization to use flash incarceration until January 1, 2023.

**AB 603 (Melendez R) Firearms: retired peace officers.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	<b>Vetoed</b>	Chaptered
1st House				2nd House							

**Summary:** 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. The current act 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 honorably retired to include a member of the University of California Police Department who has qualified for and accepted Duty Disability Income or an equivalent status pursuant to the University of California Retirement Plan.

**AB 645 (Irwin D) Firearms: warning statements.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law requires the packaging of any firearm and any descriptive materials that accompany any firearm sold or transferred in this state, or delivered for sale in this state, by any licensed manufacturer or licensed dealer of firearms, to bear a label containing a warning statement, as specified. This bill would require, as of June 1, 2020, a specified statement regarding suicide prevention to be included on the firearm warning label, and to be posted on the premises of each licensed firearm dealer.

**AB 879 (Gipson D) Firearms.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Would, commencing July 1, 2024, require the sale of firearm precursor parts, as defined, to be conducted by or processed through a licensed firearm precursor part vendor. Commencing July 1, 2024, the bill would require a person or business to have a valid firearm precursor part vendor license to sell more than one firearm precursor part in any 30-day

period, except as exempt.

**AB 1009 (Gabriel D) Firearms: reports to the Department of Justice.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law generally requires firearms transactions to be processed through a licensed firearms dealer. Current law generally requires firearms transactions that are exempt from the dealer requirement to be reported to the Department of Justice, either by mail or in person, or in a format prescribed by the department. This bill would, for various firearm transactions, as specified, instead allow the report to be made only by mail or via the California Firearms Application Reporting System (CFARS), and would, for reports submitted by mail, allow the Department of Justice to charge the person making the report a surcharge, not to exceed \$20, for the reasonable cost of receiving and processing the report.

**AB 1292 (Bauer-Kahan D) Firearms.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law prohibits a resident of this state from importing, bringing, or transporting into this state, a firearm purchased or otherwise obtained from outside of this state unless the firearm is first delivered to a dealer in this state for delivery to the resident. Current law excepts executors and administrators of estates from that prohibition if certain criteria are met. Existing law generally requires a person to possess a firearm safety certificate in order to possess a firearm. Current law excepts executors and administrators of estates from that requirement. This bill would specify that the transfer by operation of law provisions and the exceptions described above apply to a decedent’s personal representative, a person acting pursuant to the person’s power of attorney, a trustee, a conservator, a guardian or guardian ad litem, or a special administrator, as specified.

**AB 1297 (McCarty D) Firearms: concealed carry license.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law authorizes specified local law enforcement agencies to issue to an applicant a license to carry a concealed firearm if certain requirements are met, including, among others, that the applicant has good cause for the license. Existing law requires an applicant for a license or a renewal of a license to pay a fee to the Department of Justice, as specified, to cover costs associated with background reports. Current law allows the licensing authority of any city, city and county, or county to charge an additional fee for a new license in an amount equal to the actual costs for processing the application for a new license.

Under existing law, that additional fee may not exceed \$100. This bill would require, rather than authorize, the local licensing authority to charge the fee and would require the fee to be in an amount equal to the reasonable costs for processing the application, issuing the license, and enforcing the license, as specified.

**AB 1407 (Friedman D) Reckless driving: speed contests: vehicle impoundment.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Would, with respect to a conviction for reckless driving, or a conviction for engaging in a speed contest, if the person convicted is the registered owner of the vehicle, allow the vehicle to be impounded for 30 days for a first offense and require the vehicle to be impounded for 30 days for a 2nd or subsequent offense, at the registered owner’s expense. The bill would allow the impoundment period to be reduced by the number of days, if any, that the vehicle was previously impounded, and would authorize the court to decline to impound the vehicle if it would cause undue hardship for the defendant’s family, as specified.

**AB 1421 (Bauer-Kahan D) Supervised release: revocation.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
1st House				2nd House							

**Summary:** Current law prohibits the revocation of supervision for failure of a person to make restitution imposed as a condition of supervision, unless the court determines that the defendant has willfully failed to pay and has the ability to pay. This bill would also prohibit the revocation of supervision for failure of a person to pay fines, fees, or assessments, unless the court makes the same determinations.

**AB 1493 (Ting D) Gun violence restraining order: petition.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law authorizes an immediate family member of a person or a law enforcement officer to request that a court, after notice and a hearing, issue a gun violence restraining order against that person. Under current law, the petitioner has the burden of proving, by clear and convincing evidence, that the subject of the petition poses a significant danger of causing personal injury and that the order is necessary to prevent personal injury, as specified. This bill would, commencing September 1, 2020, authorize the subject of the petition to file a form with the court relinquishing the subject’s firearm rights and stating that the subject is not contesting the petition. If the subject files that form, the bill would require the court to issue a gun violence restraining order, as specified, and to provide notice of the order to all parties. The bill would make conforming changes.

**AB 1638 (Obernolte R) Search warrants: vehicle recording devices.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law allows a search warrant to be issued upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. This bill would authorize a search warrant to be issued on the grounds that the property or things to be seized are data, from a recording device, as defined, installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury, as defined, to any person.

**SB 94 (Committee on Budget and Fiscal Review) Public Safety: omnibus.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law generally makes records of investigations conducted by any state or local police agency exempt from specified requirements of the California Public Records Act, except that a video or audio recording that relates to a critical incident, as defined, may only be withheld temporarily under specified circumstances. If disclosure of a recording would violate the reasonable expectation of privacy of a subject of the recording that cannot be adequately protected through redaction, current law requires the recording to be disclosed, upon request, to the subject of the recording whose privacy is to be protected. If disclosure to the person whose privacy is to be protected would substantially interfere with a criminal or administrative investigation, current law requires the agency to provide the requester with the specific basis for making that determination. Under these circumstances, current law purports to require the agency to provide the video or audio recording and allows the agency to withhold the recording for 45 days, subject to extensions. This bill would instead require the agency to provide the estimated date for the disclosure of the video or audio recording under these circumstances and would allow the agency to withhold the recording for the 45-day period, subject to extensions, as provided by existing law.

**SB 192 (Hertzberg D) Posse comitatus.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law makes an able-bodied person 18 years of age or older who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist, as described, in making an arrest, retaking into custody a person who has escaped from arrest or imprisonment, or preventing a breach of the peace or the commission of any criminal offense, after being lawfully required by a uniformed peace officer or a judge,

guilty of a misdemeanor and subject to punishment by a fine of not less than \$50 nor more than \$1,000. This bill would repeal that provision and make conforming changes.

**SB 385** (**Jones R**) Private Investigator Act.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** The Private Investigator Act prohibits a person from engaging in the business of a private investigator, acting or assuming to act as a private investigator, or representing that the person is licensed as a private investigator unless that person is licensed by the Department of Consumer Affairs, and makes a violation of this provision punishable as an infraction, as specified. This bill would instead make a violation of that prohibition punishable as a misdemeanor.

**SB 390** (**Umberg D**) School safety: school security officers and security guards.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Would require school security officers employed by a school district, charter school, county office of education, or community college district, commencing July 1, 2021, and security guards working on the property of a school district, charter school, county office of education, or community college district, to complete that training course regardless of the number of hours worked per week. The bill would require school districts, charter schools, county offices of education, and community college districts to provide the training required for their school security officer employees during regular work hours, except as specified. By imposing additional duties on school districts, charter schools, county offices of education, and community college districts, the bill would impose a state-mandated local program.

**SB 393** (**Stone R**) Vessels: impoundment.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Would authorize a court to order the impoundment of a vessel, as defined, for a period of not less than one nor more than 30 days, if the registered owner is convicted of a specified crime involving the operation of a vessel while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug and the conduct resulted in the unlawful killing of a person. The bill would authorize a court to consider certain factors in the interest of justice when determining whether a vessel used in the commission of such a crime shall be impounded pursuant to those provisions.

**SB 439 (Umberg D) Criminal procedure: wiretapping: authorization and disclosure.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law prohibits a peace officer or federal law enforcement officer from disclosing or using the contents of intercepted wire or electronic communications relating to crimes other than certain enumerated crimes, such as murder, human trafficking, and violent felonies, and those specified in the order of authorization, except to prevent the commission of a public offense. This bill would authorize a peace officer or federal law enforcement officer to disclose those contents if they relate to grand theft involving a firearm or maliciously exploding or igniting a destructive device or any explosive causing bodily injury, mayhem or great bodily injury, or death.

**SB 701 (Jones R) Firearms: prohibited persons.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	<b>Vetoed</b>	Chaptered
1st House				2nd House							

**Summary:** Current law prohibits a person convicted of, or who has an outstanding warrant for, a felony, or one of several specified misdemeanors within the past 10 years, to own or possess a firearm or ammunition. Current law makes violation of this prohibition punishable as a felony or misdemeanor. This bill would instead make it a misdemeanor for a person with an outstanding warrant, as specified, to own or possess a firearm or ammunition.

**SB 781 (Committee on Public Safety) Public Safety Omnibus.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	<b>Chaptered</b>
1st House				2nd House							

**Summary:** Current law requires an employer to disclose employment information, as defined, about an applicant not currently employed as a peace officer or an applicant for a position other than sworn peace officer within a law enforcement agency. Current law requires the employment information to be kept confidential but authorizes disclosure between the initial requesting law enforcement agency and another authorized law enforcement agency that is also conducting a peace officer background investigation. This bill would authorize disclosure of employment information by the initial requesting law enforcement agency and another authorized law enforcement agency conducting a background investigation on a law enforcement agency applicant that is not a peace officer.

**SB 787 (Committee on Agriculture) Animal welfare.**

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	<b>Enrolled</b>	Vetoed	Chaptered
1st House				2nd House							

**Summary:** Current law governs the seizure, rescue, adopting out, and euthanasia of abandoned and surrendered animals by animal control officers, law enforcement officers,

animal shelters, and rescue organizations, and uses various terms, including “pound. This bill would replace a reference to “pound” with “animal shelter.” The bill also would make non-substantive changes.

*Pete Downs is our Vice President for Legislative Affairs. He welcomes your questions. Please email him at [downs@crpoa.org](mailto:downs@crpoa.org).*

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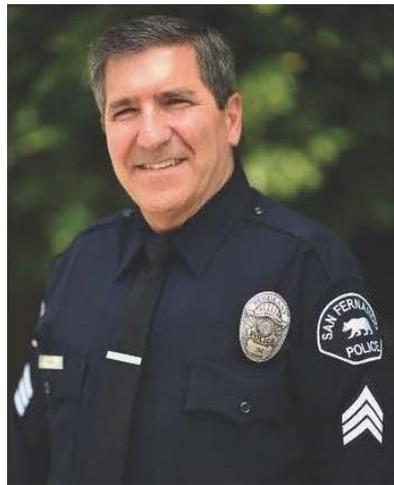
## The 2019 CRPOA Awards Presentations

Submitted by Nancy Elam and Mike Voorhees  
Photo Credit to James Gardner, Santa Clara Police Department



*The Friday Awards Luncheon at ARPOC is when we usually present awards, but five people were honored with Awards of Appreciation during the General Meeting on Thursday, August 22, 2019. The Award of Appreciation was established to recognize distinguished service to the Association in a single act or over time; or for substantial assistance or contribution to the Association. These awards are not given every year, and each is distinct.*

### Jim Rene General Counsel



Jim Rene became CRPOA's general counsel in 2012. From the beginning it was clear that we had selected a shining star to be our association's third general counsel.

A keen eye for details, a sharp legal mind and a tremendous work ethic marked Jim's service to us. He authored a definitive treatise on the Law Enforcement Officers Safety Act and Assembly Bill 703, which was published in October 2013, and which remains authoritative six years later. Patient with members' problems, and firm and tenacious with those causing the problems were Jim's hallmarks during his seven-years of service. Increasing demands of his practice and recently becoming a grandfather made it clear to Jim that his service to CRPOA needed to end in the early part of 2019. The citation on Jim's award reads:

"In recognition of your dedication to the legal rights of our Association, our members and for the betterment of Reserve Officers statewide. 2012 to 2019".

Thank you and congratulations Jim.

**Kevin Bernzott  
CEO and Director**



Kevin Bernzott joined our board of directors in 2014. Elected CEO in 2016 he quickly took charge and led us authoritatively and decisively to aggressively and proactively establish and defend the rights granted to reserve peace officers. Kevin is also someone who doesn't hesitate to put his money where his mouth is. When litigation was necessary to enforce the rights of our members, Kevin advanced very substantial amounts of money to fund the necessary litigation. Late in 2018, Kevin discovered that he had medical problems, which required his complete attention and so he regretfully resigned as a director and officer in December. Kevin's illness has been treated and his prognosis is excellent. Kevin's award reads:

"In recognition of your outstanding leadership, insightful direction and dedication to the Association, 2014 to 2018."

Thank you and congratulations, Kevin.

**The Adams Family  
Chuck Adams, Janet Adams and Teri Adams-Laboranti**



It is common for members of a family to tolerate it when one of us becomes a reserve peace officer, search & rescue member or volunteer in policing. And, if one of us should be elected to the board and be diverted from more family activities, more tolerance is called for. The Adams family of San Jose figured out a different way: the family members became involved too!

Chuck Adams served with the Los Gatos Police Department for decades and he's served CRPOA for more than 40 years, as a director and officer, mainly as CFO. Chuck was also CRPOA's Reserve Officer of the Year in 1992. A mainstay at all the conferences, Chuck assisted with registration and kept the books straight in the process.

Janet Adams became the manager of our San Jose office in 1980. About 10 years ago, at her suggestion, she became Training Manager, taking on the additional responsibilities of finding and qualifying instructors and obtaining POST certification for the classes, both very demanding tasks.

Daughter Teri started coming to the conferences as a college student, volunteering initially behind the scenes and then regularly working registration. During the past several years, Teri has been a member of our IT committee, our liaison with our webmaster and a guiding presence during the recent overhaul of our website. Teri has never been affiliated in any way with a law enforcement agency, yet you'd never know it when you see her genuine and ready smile at registration. The Awards for these dedicated people read:

To Teri Adams-Laboranti, with special thanks for your contributions and continued support of our Association throughout the years.

To Janet Adams, with deepest gratitude for your unwavering dedication and superior service to the Association since 1980.

To Chuck Adams, to honor your generous dedication, loyalty and incomparable service to the Association since 1977.

*The Awards Luncheon held Friday during ARPOC 2019 honored a number of incredibly deserving individuals.*

**Chief Michael Sellers  
Santa Clara Police Department  
Reserve Coordinator of the Year**



Having started his law enforcement career as a cadet in 1978 with the Santa Clara Police Department, he was appointed as a Reserve Officer in 1982. Then in 1985, Michael was hired as a full-time officer with the same agency. Even though he worked a variety of assignments within the department, he found that his duty as Reserve Coordinator to be most rewarding, having cemented his dedication to law enforcement while serving as a reserve officer. As the Reserve Coordinator, Michael was instrumental in providing regular training to the Reserve Unit and finding ways to use Reserves in non-traditional roles.

Even when he left the Reserve Coordinator position and advanced through the ranks, eventually becoming Chief of Police, Michael Sellers remained committed to the Reserve Program. He mentored incoming reserve coordinators and continued to offer new opportunities for Reserves.

A paid park patrol unit and a special university patrol unit were created. When the San Francisco 49ers relocated their stadium to Santa Clara, more opportunities were made available to Reserves. They are utilized for the neighborhood protection patrol unit, interior and exterior stadium patrols, booking and detention, bicycle patrol and Rapid Response Units.

Training for Reserve Officers has always been a priority for Chief Sellers, and he has regularly attended classes with his Reserves. Throughout his career, he has expanded training for his Reserves by sending them to ARPOC. And each year, Chief Sellers supports his Reserve Officers by joining them at the conference.

Chief Sellers has always remembered his start as a reserve officer and he never forgot where he came from. He has ensured that his department's Reserve Officers were well-trained and provided with a multitude of opportunities.

For his past contributions as a reserve coordinator and his present continued involvement with his reserves as chief, it is a distinct honor for the California Reserve Peace Officers Association to recognize Chief Michael Sellers of the Santa Clara Police Department as Reserve Coordinator of the Year.

**Lawrence Heiskell  
Palm Springs Police Department  
Distinguished Service Award**

Lawrence Heiskell is a medical doctor and has served as a Level II reserve for 30 years with both the Riverside Sheriff's Department and the Palm Springs Police Department. He is an active member of their SWAT teams, providing on-scene medical care to law enforcement officers, victims and suspects.

In addition to regular monthly training, Reserve Officer Heiskell has provided invaluable training to SWAT team and department members in first aid and combat trauma care. Throughout his 30 years of volunteer service, he has been available for scheduled events as well as for emergency callouts.

Under POST guidelines, Reserve Officer Heiskell teaches up to 30 Tactical Lifesaver courses annually to Police and Sheriff Departments throughout the State of California.

He has dedicated his career to officer safety and health in this dangerous and difficult profession. The California Reserve Peace Officers Association is pleased to recognize Reserve Officer Lawrence Heiskell, MD, of the Palm Springs Police Department with the Distinguished Service Award.

Lawrence Heiskell had a previous commitment and was unable to attend the awards presentations.

**Roxanna Morton  
Los Angeles County Sheriff's Department  
Distinguished Service Award**



For 29 years, Roxanna Morton has served as a Reserve Deputy with the Los Angeles County Sheriff's Department at the Malibu/Lost Hills Station, volunteering more than 25,000 hours. She is a member of the Malibu Mountain Rescue Team, has participated in the search and rescue of over 300 lost hikers and assisted with aiding 175 plus off-road accident victims.

Reserve Deputy Morton has been certified in 32 areas of advanced rescue work with the Malibu Search and Rescue. In addition to her Search and Rescue duties, she is active in the Los Angeles Sheriff's Department Pink Patch Breast Cancer Awareness Program and the Los Angeles Sheriff's Department Mini Horse Therapy Program.

For her efforts, she has been recognized with the 2016 Lions Safety Service Awards and the 2017 Malibu Station Service Award. It is with pleasure that the California Reserve Peace Officers Association honors Reserve Deputy Roxanna Morton from the Los Angeles Sheriffs' Department, Malibu/Lost Hills Station with the Distinguished Service Award.

**Carl Devlin  
San Bernardino Police Department  
Meritorious Service Award**



For 21 years, Carl Devlin has been a reserve officer with the San Bernardino Police Department. Early in his reserve career, he displayed leadership qualities and was promoted to reserve sergeant. In addition to supervising a squad of reserve officers, he is involved in monthly meetings, making decisions on unit activities, quarterly firearms qualifications and patrol.

As a POST-certified firearms instructor and department range master, Carl often conducts qualification courses for both full-time and reserve officers. He is also a certified Glock armorer, servicing weapons for most of the department, saving it thousands of dollars annually. Carl provides firearms safety training for citizen volunteers and trains full-time officers, satisfying the POST-certified perishable skills requirement.

With a decrease in budget for the Reserve Unit, Carl began weekly clean-ups of the range which include the collection of spent lead rounds, which he recycles, yielding funds for the reserve unit. Reserve Sergeant Devlin is known for his responsiveness and dedication to provide service to the Reserve Unit, his Department and the community. He has donated thousands of hours of his time to police services and has received many accolades and awards for his efforts.

CRPOA is proud to recognize Reserve Sergeant Carl Devlin of the San Bernardino Police Department with the Meritorious Service Award.

**Vito Scattaglia**  
**San Fernando Police Department**  
**Meritorious Service Award**



Reserve captain Vito Scataglia gave 46 years of dedicated and unwavering service to the San Fernando Police Department. Having attended the Los Angeles County Sheriff's Academy and being employed full-time as a deputy chief for the Department of Motor Vehicles Investigations, he was well trained, holding basic, intermediate, supervisory and management POST certificates. As a leader and mentor, he was greatly respected for his command of the reserve unit.

Vito always represented the best of the best and the spirit of volunteerism whether performing jail custody duties, patrolling the streets of the city or working a special event.

Throughout the years, Vito received many letters of commendation from his Department as well as numerous letters of appreciation from the community. He was presented with several awards during his career acknowledging his devotion and commitment to his law enforcement endeavors.

It is a special honor for the California Reserve Peace Officers Association to acknowledge Reserve Captain Vito Scattaglia and his years of service with the Meritorious Service Award.

Sadly, Vito passed away in May of this year after a long battle with cancer. Accepting the award on his behalf, is the chief of police, Anthony Vairo, accompanied by Vito's son, Tony and daughter, Kari.

**Coleman Garside**  
**Los Angeles Sheriff's Department**  
**Volunteer in Policing of the Year**



Civilian Volunteer Coleman Garside has been an extremely effective asset of the Los Angeles Sheriff's Department, Malibu/Lost Hills Station during the short three and a half years he has been volunteering. With experience in radio communications, he has successfully managed communications for the Baker to Vegas Run command post, ensuring proper radio connections. Having a background in emergency medical training and disaster service, Coleman attends the Community Relations Disaster Preparedness Fairs where he educates members of the community on how to plan and organize for a catastrophic event.

During the 2018 Woolsey Fire, Coleman provided services on many days, often working 18-hour days. He assisted with the operation of the Emergency Operations Center by identifying and assigning missions and completing related documentation of those events. He was even involved with the rescue of animals affected by the fire and subsequent flooding.

Though a volunteer, Coleman Garside spends about 40 hours a week assisting station detectives with gathering and reviewing video evidence. Without hesitation, he willingly takes on tasks assigned to him. His dedication to duty on a consistent basis has made him a valuable member of the Department.

The California Reserve Peace Officers Association is pleased to recognize Civilian Volunteer Coleman Garside from the Los Angeles County Sheriff's Department, Malibu/Lost Hills Station as Volunteer in Policing of the Year.

**David Katz**  
**Los Angeles Sheriff's Department - Malibu Search and Rescue**  
**Search and Rescue Member of the Year**



In his 29 years with the Los Angeles County Sheriff's Department, Malibu Search and Rescue Team, Reserve Deputy David Katz has taken on many roles. In addition to his Search and Rescue duties, he spent ten years in patrol. For the past six years, David has served as Reserve Team Leader and, having shown strong leadership skills, was re-elected to the position making him the longest serving Team Leader in Malibu SAR's history.

Under Reserve Deputy Katz' guidance, his team achieved its highest rescue call activity over the last five years, and with optimal performance.

David developed and maintains an excellent working relationship with the twelve local fire departments in the Malibu/Lost Hills area. He works with Fire Battalion Chiefs and Captains to coordinate large scale, multi-casualty training and drills along with Malibu Search and Rescue. These training scenarios have helped develop strong working relationships among the various agencies.

Often, during search and rescue events, David is tasked as Public Information Officer when news media is present, and he regularly communicates with TV and print media.

Bringing the Search and Rescue up to date in social media, he created accounts with Facebook, Twitter and Instagram, and developed a team website. Posting information and photos of rescues has led to high numbers of followers and favorable interaction with the community.

Reserve Deputy Katz has been instrumental in creating many other programs with a positive impact on the Search and Rescue program and the community.

The California Reserve Peace Officers Association is proud to present Reserve Deputy David Katz of the Los Angeles County Sheriff's Department, Malibu Station Search and Rescue with the Search and Rescue Member of the Year Award.

**Billy Owens  
Bakersfield Police Department  
Reserve Officer of the Year**



Billy Owens has been a reserve police officer with the Bakersfield Police Department for more than 28 years and currently holds the rank of Lieutenant. Being the most tenured reserve officer, he is described as being at the epicenter of and the go-to-guy for the Reserve Unit. Billy responds to unit emails, handles phone calls and deals with special event requests. Along with maintaining the Reserve Unit budget, he is tasked with procuring equipment for the unit. In addition to coordinating all training for the Reserve Unit, he serves as the unit's Range Master.

Reserve Officer Owens volunteers up to 500 hours annually and, in his 28 years, has worked in excess of 18,000 hours. That is equivalent to nine years of full-time service!

In 2007, the 999 Foundation in Kern County was formed, and Billy Owens was one of its original directors and currently serves as its chief financial officer. It is designed to assist the families of Kern County Peace Officers killed in the line for duty. To date, the foundation, whose motto is "Honor the fallen and support the survivors," has raised more than \$259K.

Billy has displayed his dedication to law enforcement and interest in serving his community through his actions within and outside of his department. The California Reserve Peace Officers Association is honored to recognize Reserve Lieutenant Billy Owens of the Bakersfield Police Department as Reserve Officer of the Year.

**Thomas Henzgen  
Michael Rogers  
Los Angeles County Sheriff's Department  
Award for Valor**



On November 9, 2018, reserve deputies Thomas Henzgen and Michael Rogers, assigned to the Malibu Search and Rescue Team, were performing evacuations in the early stages of the Woolsey fire when they noticed that the fire was gaining momentum and heading into heavily populated areas. Concerned that the fire might take residents by surprise, they headed to the Seminole Springs Mobile Home Park. Using their sirens and public address system, they announced the imminent approach of the fire and ordered residents to evacuate. Deputy Henzgen, who is also a fire captain, determined that they had less than 15 minutes to safely evacuate, and concluded there was no safe local area for refuge.

After evacuating most residents, they saw a man still loading boxes into his vehicle and advised him to leave immediately as they could see flames approaching just outside the park. While contacting the man, they also noticed a nearby mobile home with the lights on and the windows open. Deputy Henzgen assisted the man in leaving the area as Deputy Rogers approached the apparently occupied mobile home. He yelled out to the resident and banged on the mobile home as he approached the front door which he found locked. A dog was barking inside, and Deputy Rogers could see an elderly female inside who apparently could not hear well. He gained access to the home and evacuated her. The dog, confused by the commotion, ran off down the road but Deputy Rogers pursued and captured the dog. The elderly woman and her dog were quickly loaded into a vehicle with a neighbor and promptly left the area. Within minutes, the fire incinerated the woman's mobile home along with many others in the park.

Had it not been for Deputies Henzgen and Rogers discovering and assessing the imminent fire danger, and their bravery and tenacity in evacuating numbers of people while placing themselves in immediate peril, lives would most likely have been lost. It is a distinct honor for the California Reserve Peace Officers Association to recognize Deputy Henzgen and Deputy Rogers of the Los Angeles Sheriff's Department, Malibu/Lost Hills station with the Award of Valor.

# 'If it's in your heart, you got to do it': LA deputy reserves risk life and limb in free time

By ALEX STONE

Sep 1, 2019, 3:52 AM ET

It was the day before Thanksgiving in 1991 when Cindy Moyneur England, known at the time as Moyneur, faced what felt like certain death.

She went with her friend's family on a hike that was expected to last the day. The weather forecast was good, and Moyneur was wearing clothes for warm weather. Most of the group decided to head back down the mountain after having lunch, but Moyneur and her friend's 11-year-old nephew decided to keep hiking toward the top of Southern California's Mt. Baldy, she said. At more than 10,000 feet high, the peak of Mt. Baldy is the highest point in Los Angeles County.

But the weather forecast proved wrong. At the summit, winds whipped up to 100 miles per hour, snow was falling and the windchill neared 40 degrees below zero. Trying to retreat, Moyneur and the boy took a wrong turn and found themselves lost, she said.

Hours went by and they couldn't be found. Eventually, the sun set.

"We had 8 inches of snow that first night," Moyneur said. "They couldn't locate us."

*This report is part of a three-hour ABC Radio special, "America Works."*

With their bodies freezing and little food or water left, the two built a shelter and expected to be rescued any moment. But the hours dragged on.

The conditions were so bad that rescue teams looking for the pair thought they'd only find their bodies, Moyneur recalled.

Moyneur said she heard noises about 43 hours later. It was a Los Angeles County Sheriff's search and rescue team, composed of volunteer deputies.

"At the point they found us, I was no longer walking," Moyneur said. "So, we were very weak."

Both had severe frostbite that required surgery, and a long and painful recovery followed.

The rescue had stuck in Moyneur's mind. Her rescuers were reserve deputies for the Los Angeles County Sheriff's Department. Along with their counterparts at the Los Angeles Police Department, these volunteers, who often have full-time jobs outside of law enforcement, donate their free time to serving in uniform. Some are doctors, teachers or electricians, but they're police officers during their spare time.

They volunteer their time to attend the police academy -- on nights and weekends -- and then after years of training they're given a badge, a gun and the same uniform worn by their full-time, paid colleagues.

Moyneur herself has now been a sworn deputy of the sheriff's department's Montrose Search and Rescue team for 26 years.

### Responding to the call

The Los Angeles County Sheriff's Department has 570 reserve deputies who do search and rescue, patrol the streets and perform a long list of other duties such as working in the Homicide Bureau. The LAPD has around 400 reserve officers. By appearance only, citizens have no way of knowing who's a volunteer deputy or a full-time, paid officer. Their uniforms, training and duties are identical to full-time law enforcement officers. When someone dials 911 for help, the person who responds may be a volunteer.

On a beautiful Sunday morning in August, ABC News rode along with Moyneur. She and her law enforcement partner, Deputy Robert Sheedy, patrol the mountains above La Crescenta, northeast of Los Angeles.

For their day jobs, Moyneur works as a physical therapist while Sheedy is in the biotech industry, where he develops pet foods infused with omega supplements. During their off hours, both put on the uniform and respond to search and rescue calls.



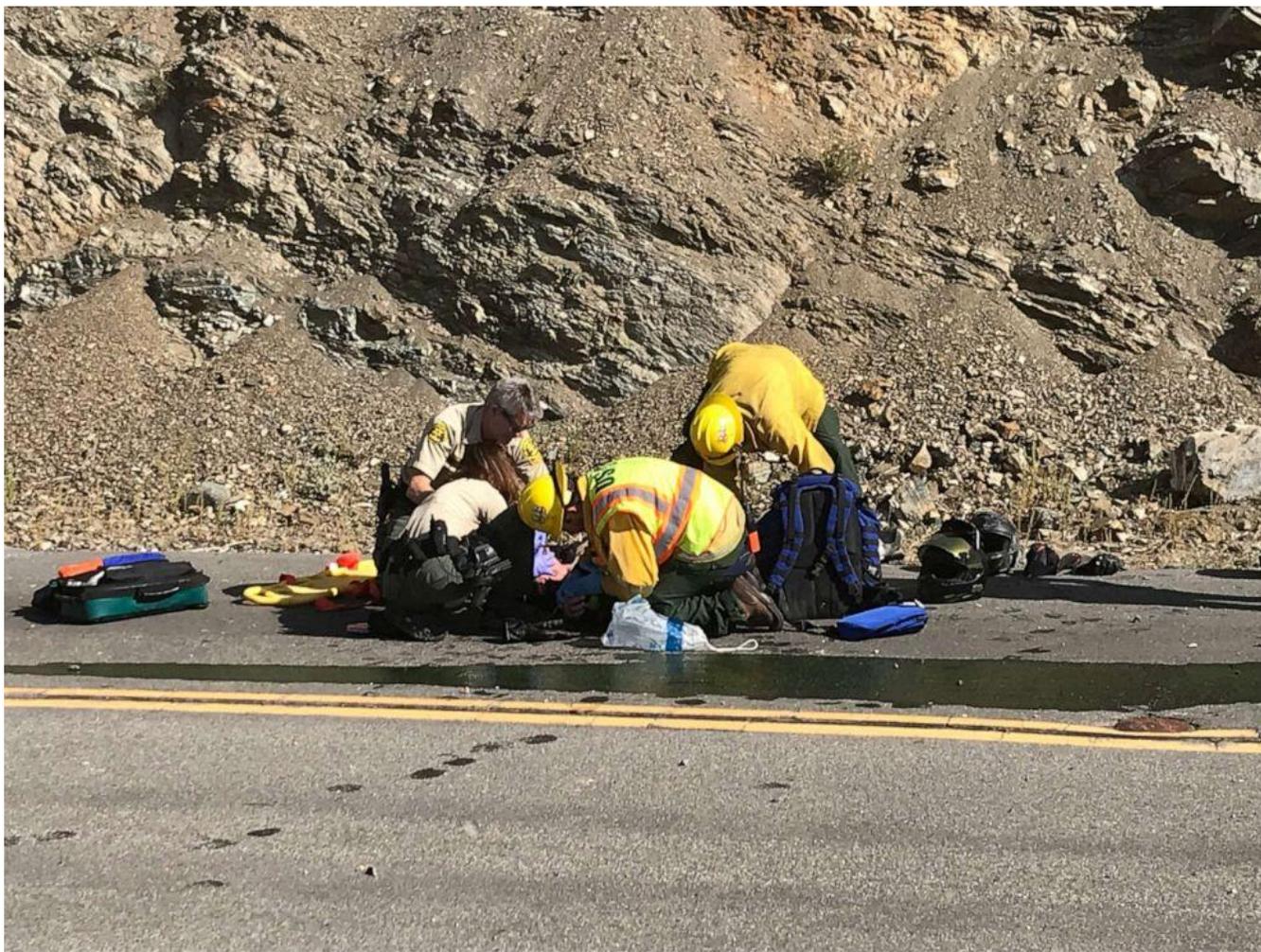
Los Angeles County reserves respond to a motorcyclist down on a windy mountain

La Crescenta is in the shadow of Angeles National Forest. On summer weekends, Southern Californians go to the mountains to recreate and escape the heat.

After a completing a brief check of their truck to make sure they had their supplies, the two set out, ready to respond to anyone who's lost or needs medical attention.

It didn't take long for the first call to come in. A motorcyclist had gone down and needed help on one of the park's windy mountain roads. The pair rolled what's called a Code 3 in California and turned on their emergency lights and siren, the sound of which bounced off the mountainsides as they sped toward the victim.

On scene, Moyneur and Sheedy were a welcome sight for highway patrol officers and firefighters already there. The two deputies were the first Emergency Medical Technicians EMT to arrive. EMT training is in addition to what they've learned at the academy, and it's critical for search and rescue deputies.



Los Angeles County reserves respond to a motorcyclist down on a windy mountain road.

Moyneur and Sheedy immediately took over medical care as the motorcyclist laid on the pavement screaming in pain. They managed to stabilize him and prepared him for transport in a helicopter.

"You're going to do fine," Moyneur assured the motorcyclist, who told her he had gotten knocked out in the crash. As he complained of severe pain, the years in which Moyneur and Sheedy had worked together began to show as they worked in unison, putting their EMT skills to use.

Hours later, the pair would respond to a much more severe motorcycle crash. The driver was unconscious and not breathing very well, and again, Moyneur and Sheedy were the first EMT's on the scene. Their presence was again a clear relief to the other responders on scene. They calmly and deliberately worked to save the man's life, orchestrating the process that would give him a chance at survival.

"I just need to know; do we need to do compressions? Do we have a pulse," Moyneur asked Sheedy?

The man had a pulse, but he wasn't breathing very well.

Sheedy helped clear the man's airway and helped him breathe using a resuscitator bag. Then they loaded the crash victim onto a backboard on a Forest Service truck and raced him to a waiting helicopter.

The pair of reserve deputies don't usually find out if their patients go on to live or die, and this was one of those cases. The man flew off aboard a chopper, and they never saw him again.

### **It's about the passion**

Reserve deputies and police officers often say they do it for one reason: passion. LA Sheriff's reserves are paid just \$1 per year. LAPD reserves are paid nothing.

Mike Sellars, who's spent his life in film financing, has been an LAPD reserve officer for 26 years, spending his off hours donning the iconic blue LAPD uniform and patrolling the streets of Hollywood.

"If it's in your heart, you got to do it. You really got to do it," Sellars said of anyone considering reserve duties.

Reserves have to be accepted into and pass the academy on their own time. Then once on board, they must promise to work at least 20 hours a month, often on Saturdays and Sundays. Many reserves do more than 20 hours a month.

"It's a gigantic commitment. You just can't do it without being the best of the best," Sellars said. "The statistics are for every person who graduates from the academy, about a hundred [have gone] through."

At the academy, LAPD Officer Johnny Gil is one of the drill instructors, and he said he doesn't go easy on reserve recruits.

"It's a lot of work on the candidate side that, at the end of the day, is very rewarding," Gil said. "They get a unique experience that they never even knew. All they have is the heart and soul to come in and do this -- the volunteering spirit that they have, and they come into it with two feet."

Sellars said he's seen life and death in the 26 years that he's been an LAPD reserve officer. On the same day he met with ABC News, he had just turned in his retirement paperwork.

"It's bittersweet," he said.

Sellars said he will now focus his time on a foundation that advocates for LAPD reserve officers.

### **Family pressures**

Across town, reserve deputy Hector Montenegro of the LA County Sheriff's Department, is also on patrol.

Like all patrol deputies, Montenegro roams the streets of Pico Rivera, a city east of downtown LA, where he searches for crimes, responds to 911 calls and pulls over vehicles.

On the day ABC News rode with Montenegro, he received a call of gunshots fired at a mourner in a cemetery. Units raced to the cemetery to find shell casings but no suspect and no victim. After a short search for a suspect, Montenegro went back on patrol responding to routine calls, such as a complaint of transients hanging out behind a business.

On weekdays, Montenegro works as a manager at a utility company. During his evenings and weekends, he's in a sheriff's department tan and green uniform, riding in a black and white patrol car, working for no money.

"I think it's the best of both worlds. You are still able to give back to the community, do your part in law enforcement," Montenegro said. "Giving back to the community, serving, volunteering. But I also have full-time employment to provide for my family."

Because Montenegro is on patrol many evenings after his day job, he has missed life events at home, he said, adding that he and his wife have to work together on their calendars.

"She's very understanding so as long as we schedule everything on the calendar with the kids' schedules. Communication is good in a happy relationship," he said.

Beyond family, it takes an understanding workplace. Montenegro sometimes has to modify his work schedule to appear in court for drivers who contest tickets he writes or to testify in cases.



LA County Sheriff's Department reserve Deputy Hector Montenegro on patrol with ABC News' Alex Stone.

Montenegro has been a reserve in law enforcement for 23 years. Most of his coworkers at the utility company have no idea he's also a cop. He keeps it mostly to himself.

"I think it's exciting. You get different calls. You get to meet different people," he said.

### **Always Looking For Recruits**

Reserve recruiters in Los Angeles are always on the lookout for professionals who might want to moonlight as law enforcement for free, often holding recruiting events. But it's not as hard as you might think to find people willing to give up relaxing weekends to instead put their lives on the line.

"Some do it for the excitement," said Lieutenant David Buckner who leads the reserve program at the LA County Sheriff's Department. "Being a police officer and facing what the citizenry will throw at you is very exciting. They get to do everything that regular deputies do. They drive

patrol cars. They wear the badge, the uniform, carry a gun, get involved in shooting, weapons training, self-defense.”

With strict requirements for passing the academy, subpar candidates are often weeded out long before they're given a badge. Those who end up completing the process are usually prime candidates for both departments.

"I don't know if we find them or they find us," said Lieutenant Curtis McIntyre, who runs the LAPD's Reserve Corps. "I think they almost find us. Then we have that relationship and a discussion and try to make the path easier for them to be hired."

The LAPD and LA County Sheriff's Department are enthusiastic about their reserve programs because they boost officer and deputy numbers in the field. Both agencies have long fought for funding to hire more sworn personnel and reserve programs allow them to add officers without paying them salaries. An added benefit is the programs also work as outreach into Los Angeles communities that might not have close connections to law enforcement.

"For someone to don this uniform and go out there and protect and serve," McIntyre said, "it's a commendable thing."

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JACKIE LACEY  
DISTRICT ATTORNEY

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

# ONE MINUTE BRIEF

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NUMBER: 2019-21 DATE: 09-26-19 BY: Devallis Rutledge TOPIC: The *Corpus Delicti* Rule

**ISSUE:** How does the “*corpus delicti* rule” affect the requirements for convicting an accused defendant?

In cases where the defendant’s self-incriminating extrajudicial statements are admitted in evidence, “*the jury must be instructed that conviction requires some additional proof the crime occurred.*” *People v. Alvarez* (2002) 27 Cal.4<sup>th</sup> 1161, 1165; CALCRIM 359. To avoid convicting an innocent person for a non-existent crime based on a false confession, the prosecution must also present **independent proof** of the “body of the crime”—the *corpus delicti*. *Ibid.*

- Once upon a time, the *corpus delicti* rule barred the **admissibility** of a defendant’s statements until the *corpus* had been established. **That rule changed** with adoption of the “Truth-in-Evidence” amendment to the California Constitution. Art. I, § 28(f)(2). That provision “**did abrogate the corpus delicti basis for excluding the defendant’s extrajudicial statements from evidence ... [but] did not abrogate the corpus delicti rule insofar as it provides that every conviction must be supported by some proof of the corpus delicti aside from and in addition to such statements....**” *Alvarez, supra*, at 1165.
- Once upon a time, it was widely thought that the *corpus delicti* of a crime included **every element** of the **offense**. This may be because some appellate decisions spoke of the “elements of the *corpus*” without stressing that this **does not mean** the “elements of the crime.” But the courts long ago clarified that the **two “elements”** of a *corpus delicti* are **always** (1) **injury, loss or harm** and (2) **some criminal agency** as the cause. **This is not the same thing as the “elements” of the particular crime charged** (which vary from crime to crime).

“*The corpus delicti consists of two elements, namely, (1) the injury or loss or harm; and (2) a criminal agency causing them....*” *People v. Wong* (1973) 35 Cal.App.3d 812, 839.

“Once prima facie proof of the corpus delicti is made, the extrajudicial statements, admissions and confessions of a defendant may be considered in determining whether **all the elements of the crime** have been established.” *People v. Duncan* (1959) 51 Cal.2d 523, 528.

“[O]nce prima facie proof of the corpus delicti has been offered, and a defendant’s confessions or admissions have been admitted, those **statements** may be considered in determining **all of the elements of the charged offenses** that have been established.” *People v. Mattson* (1990) 50 Cal.3d 826, 874.

To establish corpus delicti, “There is **no requirement** of independent evidence of **every physical act constituting an element of the offense**, so long as there is some **slight** or prima facie showing of injury, loss or harm by a criminal agency.” *People v. Alvarez* (2002) 27 Cal.4<sup>th</sup> 1161, 1171.

- The corpus rule applies to **preliminary hearings**, *People v. Powers-Monachello* (2010) 189 Cal.App.4<sup>th</sup> 400, 409, and to **special circumstance allegations** requiring proof of a crime **other than the murder**, *People v. Hamilton* (1989) 48 Cal.3d 1142, 1175; however, the corpus rule does not apply to **special circumstances** enumerated in PC § 190.2(a)(17) or **sentence enhancements** not requiring proof of another crime. PC § 190.41; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 297-98 (special circumstances); *People v. Shoemake* (1993) 16 Cal.App.4<sup>th</sup> 243, 256 (PC § 12022.85 enhancement).

- **Corpus delicti does not include** such facts as **venue**, *Casey v. Superior Court* (1989) 207 Cal.App.3d 837, 842, fn. 5; **motive**, *People v. Daly* (1992) 8 Cal.App.4<sup>th</sup> 47, 59; or **identity** of the perpetrator or **degree** of the crime, *People v. Capers* (2019) 7 Cal.5<sup>th</sup> 989, all of which may be proven by the defendant’s admissible statements.

**BOTTOM LINE:** A defendant’s out-of-court statements are not sufficient for conviction unless at least slight proof of injury/loss/harm by criminal agency is shown by other evidence. (Emphases added and citations omitted in quoted material.)

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



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**NUMBER: 2019-22 DATE: 10-08-19 BY: Devallis Rutledge TOPIC: Vehicle Inventory**

**ISSUE: When and where may law enforcement officers seize contraband or the fruits, instrumentalities or evidence of crime discovered during a vehicle inventory?**

Police may sometimes remove a vehicle to a storage yard when, for example, it is obstructing traffic, illegally parked, or damaged and inoperable following a crash. This is a lawful seizure of the vehicle, for a valid “community-caretaking” purpose. *South Dakota v. Opperman* (1976) 428 US 364, 368; VC § 22651.

Also, police sometimes impound a vehicle when, for example, it was used as the instrumentality of a crime (such as hit-and-run or drive-by shooting) or is being unlawfully operated. Such investigative and regulatory impounds are also lawful seizures. *Benis v. Michigan* (1996) 516 US 442, 453; VC §§ 14602, 14607, 22655.5.

*In either case—removal or impoundment—police generally inventory the contents of the vehicle for “the protection of the owner’s property while it remains in police custody, the protection of the police against claims or disputes over lost or stolen property, and the protection of the police from potential danger.” Opperman, supra, 428 US at 369. Any contraband or evidence discovered during a lawful inventory can be lawfully seized under the “plain view” doctrine. Harris v. US (1968) 390 US 234, 236.*

- Because an inventory is an administrative procedure rather than an investigative search, neither probable cause nor a search warrant is required. *Opperman, supra, 428 US at 370, fn.5.* However, an officer’s subjective motive for removing/impounding and inventorying a vehicle is relevant to establishing that neither the removal/impound nor the inventory was a pretext for investigative search. *People v. Torres* (2010) 188 Cal.App.4th 775, 787-88.
- As an administrative procedure, the inventory cannot be at the sole discretion of individual officers but must be conducted according to standard procedures adopted by the department, specifying the circumstances under which vehicles are to be removed or impounded and inventoried. *Colorado v. Bertine* (1987) 479 US 367, 374. If closed or locked compartments and

containers are to be opened and inventoried, that procedure must also be specified in the standard policy. *Florida v. Wells* (1990) 495 US 1, 4.

- An inventory can be conducted at the tow yard, or in the field while awaiting a tow truck. *People v. Burch* (1986) 188 Cal.App.3d 172, 189.
- The reasonable scope of an inventory does not include removing automotive parts. *People v. Zabala* (2018) 19 Cal.App.5th 335, 341 (dashboard console).
- Importantly, officers must follow through with their inventory, even if they come upon contraband or evidence of criminality in the course of the inventory. Departmental policy must be “designed to produce an inventory.” *Ibid*; emphasis added. Suppression of evidence has been affirmed where officers began an inventory and then abandoned it once evidence was found. *People v. Williams* (1999) 20 Cal.4th 119, 138. (After officers found drugs, “why did they fail to complete the inventory? ... [D]id their need to inventory defendant’s truck mysteriously evaporate?”) Officers following a standardized procedure should complete a CHP 180 or similar form.
- During a suppression hearing, prosecutors justifying a plain-view seizure during a vehicle inventory (or arguing for “inevitable discovery” during an inevitable inventory) should ensure that the officer’s testimony establishes (1) the officer’s justifiable reasons for removing/impounding/inventorying the defendant’s vehicle; (2) that this was done according to the department’s standard policy; (3) that the standard policy specifies (if it does) that all compartments and containers will be opened and inventoried, whether open or closed, locked or unlocked; and (4) that an inventory was in fact completed.

**BOTTOM LINE: To justify plain-view seizures of contraband or evidence discovered during a vehicle inventory, police reports and testimony must show that the inventory was conducted and completed according to the agency’s standard procedures.**

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.

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# *A Big Thank you...*

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

Abcnews.com - If it's in your heart, you got to do it': Deputy reserves risk life and limb  
By Alex Stone