

# CALIFORNIA Sheriff

CALIFORNIA STATE SHERIFFS' ASSOCIATION

Volume 36 ■ Number 2 ■ April 2021

## *Remembering Retired Butte County Sheriff Jerry W. Smith*

Page 15

## *Madera County's 'Wild-West' Sheriff Celebrated His 95th Birthday on Election Day*

Page 12

## *2021 Honored Officers*

Page 16

## *National Crime Victims' Rights Week*

Page 18





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Supporting Law Enforcement

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### Editorial Creed

**California Sheriff** is the official publication of California State Sheriffs' Association Foundation (CSSAF). Articles or statements of individual authors do not necessarily reflect the views of California State Sheriffs' Association Foundation (CSSAF). Published quarterly, the magazine is designed to keep sheriffs and members informed and aware regarding the association and California law enforcement.

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## In every issue

- 4 President's Message**  
*Sheriff David Robinson, Kings County*
- 6 Executive Director's Perspective**  
*M. Carmen Green, Executive Director*
- 8 Legislative Update**  
*Cory Salzillo, Legislative Director*
- 10 Legal Update**  
*James R. Touchstone, General Counsel*
- 21 CSSAF Membership Program**
- 23 CSSA Merchandise**

**Association Mission Statement:** To support the role of Sheriff as the Chief Law Enforcement Officer in each county and to speak as a collective statewide voice on matters of public safety.

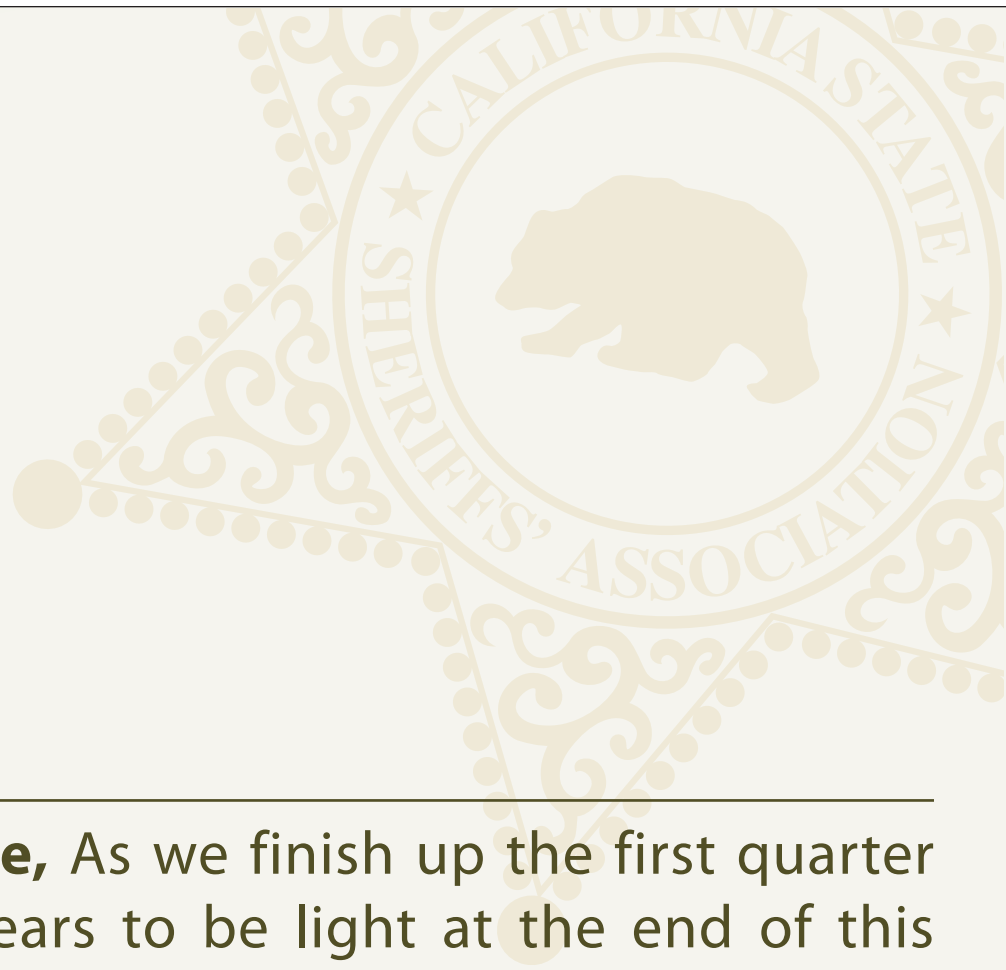
**Foundation Mission Statement:** To provide education and training services to the 58 Elected Sheriffs of California, their departmental employees and other members of the California State Sheriffs' Association.

## Features

- 5 2021 Big Day of Giving**
- 12 Madera County's 'Wild-West' Sheriff celebrated his 95th birthday on election day**
- 15 Remembering Retired Butte County Sheriff Jerry W. Smith**
- 16 2021 Honored Officers**
- 17 LEW Donation Form**
- 18 National Crime Victims Rights' Week**



■ SHERIFF DAVID ROBINSON  
■ KINGS COUNTY



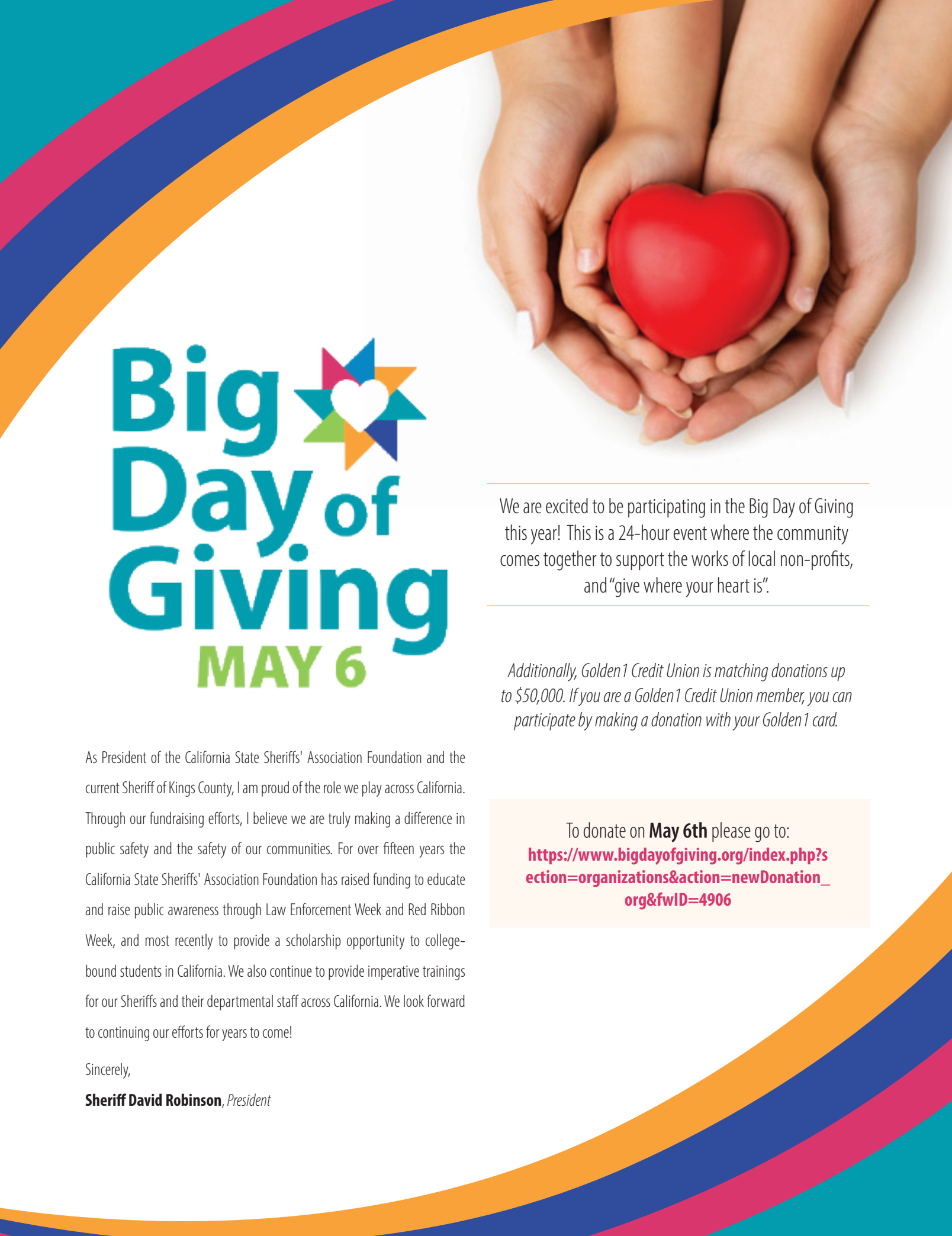
**Greetings everyone,** As we finish up the first quarter of 2021, there appears to be light at the end of this COVID-19 tunnel. Covid-19 has had a major impact on all of our lives, regardless if you ended up infected by it or not. We have all had friends, family, co-workers who have been hit hard by the virus and some did not survive.

Our deepest condolences to the men and women in law enforcement who died with COVID. In my personal COVID experience back in December 2020, I had mild symptoms. When I took the vaccine earlier this year, I had a sore arm as my only side effect. The personal choice to take the vaccine was easy for me, since wearing a mask in this line of work is a big challenge and more important, I have family members who I wanted to be around for family functions. The California State Sheriffs' Association has participated in dozens upon dozens of calls and meetings on the virus, which included topics such as enforcement, testing, and the vaccine. I want to personally thank our state partners, such as CalOES, CDCR, the California Department of Public Health, and the Governor's Office. They have all communicated with us regularly and shared information to help us make informed decisions in each of our respective jurisdictions. Across the state, one of the biggest challenges Sheriffs faced was dealing with the local jail populations and housing state inmates locally, due to CDCR shutting down intake for several months.

Thankfully, intakes have resumed and we are seeing a small amount of inmates being accepted again. Shuffling inmates and protecting the public from releasing the worst offenders has had its challenges and I applaud Sheriffs up and down the state for meeting those challenges. Looking forward, as I wind down my term as CSSA President, it will be a year I never forget. The upcoming challenges are only getting tougher. We have pending legislation that could erode the Office of Sheriff and our legislative and legal team will have a tough fight on their hands to push back against those who are trying to silence our collective voice. God bless the men and women in law enforcement; it's a tough job and very few folks are up to the challenges we all face. Stay safe out there!

Respectfully,

Sheriff David Robinson, Kings County  
CSSA President ☆



# Big Day of Giving

## MAY 6

As President of the California State Sheriffs' Association Foundation and the current Sheriff of Kings County, I am proud of the role we play across California. Through our fundraising efforts, I believe we are truly making a difference in public safety and the safety of our communities. For over fifteen years the California State Sheriffs' Association Foundation has raised funding to educate and raise public awareness through Law Enforcement Week and Red Ribbon Week, and most recently to provide a scholarship opportunity to college-bound students in California. We also continue to provide imperative trainings for our Sheriffs and their departmental staff across California. We look forward to continuing our efforts for years to come!

Sincerely,

**Sheriff David Robinson**, *President*

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We are excited to be participating in the Big Day of Giving this year! This is a 24-hour event where the community comes together to support the works of local non-profits, and "give where your heart is".

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*Additionally, Golden1 Credit Union is matching donations up to \$50,000. If you are a Golden1 Credit Union member, you can participate by making a donation with your Golden1 card.*

To donate on **May 6th** please go to:  
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▪ **M. CARMEN GREEN**  
▪ **EXECUTIVE DIRECTOR**

# The Victim Information Notification Everyday Program

In 2007, CSSA was awarded a Statewide Automated Victim Information and Notification Grant from the Bureau of Justice Assistance to implement the **Victim Information and Notification Everyday (VINE) Program**. CSSA has continued to maintain the VINE Program through various grants. Currently, there are 56 California Counties that participate in the program.

VINE is a free and anonymous online portal ([www.vinelink.com](http://www.vinelink.com)) and telephone service (877.411.5588) that provides immediate automated notification to victims of crime, and other concerned citizens. VINE provides up-to-date information on the change in custody status or case status of offenders incarcerated in California's jail facilities 24 hours a day 7 days a week. VINE is also available in 5 languages, English, Spanish, Mandarin, Vietnamese and Cantonese.

VINE has recently been improved. In addition to continuing to be able to call the toll-free number or visit their website, the enhanced version of VINE will give the victim complete control of their information and is also very user friendly. Enhanced VINE will allow the following:

- Create a Confidential Account, secured by password.
- Search to access offender's information and save information in your confidential profile.
- Register to be notified against your offender from apprehension to release, as well as, any/all transfer, relocations, escape etc.
- Search for a Service Provider such as; Basic Needs, Children's Services, Counseling, Crisis Support, Financial Assistance, Healthcare (Physical), Information About Offender, Legal Assistance, or Victim Assistance. Save service provider information in your confidential profile.

One can also access VINE on their mobile phone by downloading the VINE app. The VINE mobile app allows people to use their smartphone or tablet to easily check the status of their offender and register to be notified about changes in that status via phone or email simply by accessing VINE on their smartphone or tablet. The app is available for both iPhone and Android devices or by scanning the QR code below with your smart phone.

**Do not rely solely on VINE for your safety. If you feel that you may be at risk, take precautions as if the offender has already been released.** ✨



For more information:

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## Staff Profiles



### ALEXANDRIA JONES

Program Assistant

Alexandria Jones recently joined the CSSA team in March as our new Program Assistant. In addition to assisting with meetings and trainings, she will oversee membership outreach, renewals, recruitment, member benefits, Law Enforcement Week and Red Ribbon Week donation campaigns, merchandise orders, and she will also be responsible for our quarterly publication of *California Sheriff*. Alexandria graduated from San Diego State University with a BS in Hospitality and Tourism Management.

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▪ **CORY SALZILLO**  
▪ **LEGISLATIVE DIRECTOR**

**T**he 2021-22 legislative session is now well underway with the Legislature's policy committee hearings being held on a weekly basis to consider the thousands of bills that have been introduced. Several hundred of these proposals will likely shape the criminal justice conversation in the Capitol and they will impact how law enforcement protects the public safety. Over the next few months, as we head into committee and budget deadlines, the California State Sheriffs' Association will continue to work on these bills. We also remain actively engaged in discussions and negotiations regarding policies on policing reform, bail, sentencing, and other criminal justice matters.

One such proposal is Senate Bill 271 by Senator Scott Wiener (D – San Francisco), which seeks to repeal current law that requires a candidate for sheriff to have an advanced POST certificate or specified law enforcement and education qualifications.

Existing law requires a person who runs for sheriff to have law enforcement experience and some level of certification or education. It is not clear how erasing current standards would create more accountability as purported by the bill's proponents. Allowing any registered voter to run will likely reduce accountability, because they will not have gone through a rigorous law enforcement background check, including a psychological exam.

It is important to note that other elected county offices have experience and education requirements. For example, the county auditor must have experience or be a certificated accountant, the district attorney must be a lawyer, and the county treasurer-tax collector generally must have experience, a certificate, or relevant education.

Elected Sheriffs have many different responsibilities including often directing or serving as the Coroner, Public Administrator, Emergency Operations Coordinator, Mutual Aid Coordinator, Animal Services, Court Services, Search and Rescue, and Riot/Crowd control, and any agency head is responsible and liable for the actions of their employees. An unqualified elected sheriff will increase the likelihood of poor directives and increase the counties' liability.

In a court case regarding the law that would be repealed by SB 271 (*Rawls v. Zamora* (2003)), the Sixth District Court of Appeals said, "There can be no doubt that the state has a strong interest in assuring that a person with aspirations to hold office is qualified to administer the complexities of that office." Further clarifying in *Rawls*, the Court said Section 24004.3

"does not significantly impair access to the ballot - there are five broad qualifications, which embrace people of varying experience. The section does not stifle speech or dictate electoral outcome in any sense."

In another case (*Boyer v. Ventura County* (2019)), the Second District Court of Appeals noted, "There is a good reason why the Legislature has imposed an experience requirement. To get a 'feel' for law enforcement, i.e., coming to a true understanding of it, you must learn about it in the field by doing it. The people of California have been well served by personnel who have worked their way up the chain of command to leadership. Such personnel have years of practical experience."

Ultimately, elected Sheriffs have been at the forefront of vital policy issues related to mental health/illness and de-escalation in California. We do not support further politicizing the Office of the Sheriff, but rather we must bolster professionalism and foster accountability. SB 271 fails by all those accounts.

### 2021 CSSA LEGISLATIVE PLATFORM AND PRIORITY ISSUES

#### Community Engagement and Trust/Enhanced Funding for Peace Officer Training

We strive to always maintain high levels of community trust, support, and engagement by ensuring the integrity, ethics, and professionalism of Sheriffs and their employees. As public servants charged with protecting our communities, we strive to accomplish that goal while maintaining accountability to those we protect and serve. Sheriffs will seek additional and sustainable funding for peace officer training through the Commission on Peace Officer Standards and Training (POST) to help continue these efforts and ensure the best training is available, delivered, and utilized to safeguard and protect all individuals.



## Public Safety Resources

We strive to enhance and protect all funding for local public safety protection programs, including those that pay for deputy sheriffs on the street, keep correctional officers in our custodial facilities, support victims, and assist critical investigations. So that we may ensure we are able to fund necessary programs, we will continue to pursue full reimbursement of the costs of state and federal mandates and oppose unfunded state mandates on sheriffs.

## Inmate Rehabilitation, Care, and Re-Entry

Appropriate adult criminal justice facilities that meet inmates' needs relative to space for programming, education, treatment, and medical and mental health care must remain a priority to support the mission and needs of our state and local criminal justice system, especially post-realignment. We must continue efforts to maximize funding for inmate medical and mental health care services, as well as assisting with continuity of care post-release and pursuing funding for increased needs resulting from realignment. We will continue to mitigate liabilities in areas such as health, mental health, Americans with Disabilities Act (ADA), and other areas of legal concern. We will pursue and support additional opportunities for participation in regional and jail-based competency restoration programs.

## Homelessness / Mental Illness

The issues of homelessness and mental illness squarely intersect with the criminal justice space, specifically and especially in terms of law enforcement's interactions with these populations on the street and in county jails. When coupled together, and especially when exacerbated

by co-occurring substance use disorder, these issues greatly affect public safety and sheriffs' resources. Examples include challenges around providing appropriate mental health care and competency restoration services, strains on available custodial programming, rampant overdose deaths, and churning jail populations. Stakeholders should pursue a multi-element approach to address these issues with not only resources but also a reckoning of how prior and current policies and actions (e.g., Proposition 47, reduced accountability, etc.) have led or contributed to this multi-part problem. However, due to their complexities, it may also be time to consider these two issues separately, to focus fuller attention on each in terms of achieving successful outcomes.

## Court Security Funding

Costs to provide vital court security continue to rise and outpace state funding. Judges, litigants, attorneys, court officers, and employees expect and deserve safe levels of security and sheriffs are caught between a desire and obligation to provide court security and the challenge of doing so with resources that no longer cover costs. Sheriffs seek adequate and sustainable funding for not only the provision of base court security services but also that resulting from new courthouses coming online. ✨

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*Cory Salzillo, CSSA's Legislative Director, is a partner of the firm WPSS Group, a pre-eminent team of advisors on matters involving state and local government. The firm effectively influences public policy in a broad spectrum of public sector issues.*

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## CSSA 2021 SPONSORED LEGISLATION

MEASURE	TOPIC	STATUS	SUMMARY
<b>AB 216</b> <b>Ramos</b> <i>Democrat</i>	Peace officers: firearms: establishment serving the public.	Pending in Assembly Public Safety Committee	Would preclude off-duty peace officers from being prohibited from carrying a concealed firearm into establishments open to the public.
<b>AB 228</b> <b>Rodriguez</b> <i>Democrat</i>	Theft: receiving stolen property: firearms.	Pending in Assembly Public Safety Committee	Restores the wobbler for receiving a stolen firearm valued at less than \$950.
<b>AB 253</b> <b>Patterson</b> <i>Republican</i>	Animal welfare.	On the Assembly Floor	Updates the publication notice requirements of the seizure and destruction of roosters used for cockfighting.
<b>AB 591</b> <b>Villapudua</b> <i>Democrat</i>	Vessels: arrests.	Pending in Assembly Appropriations Committee	Allows certain Harbors and Navigation Code violations to be dismissed with proof of correction
<b>AB 785</b> <b>Rivas, Robert</b> <i>Democrat</i>	Mental health.	Pending in Assembly Public Safety Committee	Establishes the Mental Health Response and Treatment Challenge Grant pilot program
<b>AB 1193</b> <b>Rubio, Blanca</b> <i>Democrat</i>	Solicitation of prostitution from a minor.	Pending in Assembly Public Safety Committee	Increases the penalty for soliciting a minor under the age of 18 for prostitution to a wobbler.

As we head into a very hectic time in the legislative process, CSSA would like to especially thank all the new legislators who took the time to meet with Sheriffs and CSSA legislative staff. We look forward to continued collaboration in 2021, as we continue discussions on policing reform and other vital matters.



▪ JIM TOUCHSTONE  
▪ GENERAL COUNSEL

# “Qualified Immunity in the Context of K-9s”

It is no secret to law enforcement that the defense of qualified immunity is crucial in today’s litigious environment. This is particularly true in the context of K-9 deployments. The Ninth Circuit recently decided a case of qualified immunity involving the use of a police service dog. Specifically, in the case entitled *Hernandez v. Town of Gilbert*,<sup>1</sup> the Court of Appeals held that no clearly established law prevented the deployment of a K-9 in an incident where the suspect continued to resist police and refused to surrender throughout the encounter. Accordingly, the officer deploying the K-9 was entitled to qualified immunity. The *Hernandez* decision is important in several respects.

## FACTS OF THE CASE

Police officers’ body cameras recorded events leading up to the use of the K-9 in this case.

In May 2016, Scott Hernandez drank with some friends one evening before driving home. Town of Gilbert Police Department Officer Robinson noticed Hernandez’s car swerving and activated his police vehicle’s lights. Hernandez saw the emergency lights flashing behind him but kept driving, even after the officer’s subsequent use of the vehicle’s siren. Hernandez continued driving to his nearby driveway, opened his garage door with his remote-controlled garage door opener, pulled into his garage, and shut off his car. Staying in his car, Hernandez tried to close his garage door remotely, but Officer Robinson stopped the door from closing. Officer Leach and K-9 Officer Gilbert, with K-9 “Murphy,” responded to assist after Officer Robinson called for backup.

For two and a half minutes, Officer Robinson gave thirteen or more verbal orders for Hernandez to step out of the vehicle and warned Hernandez that he would be arrested for failing to obey a police officer if he did not. Hernandez repeatedly refused. Officer Robinson tried to force Hernandez to get out of the car by using control holds, but Hernandez resisted these holds by tucking his arms close to his body. Officer Robinson observed that Hernandez’s eyes were bloodshot, his speech was slurred, and his breath smelled of alcohol. Officer Robinson then deployed pepper spray without effect. He warned Hernandez eight more times that he was under arrest and needed to get out of the car. He also warned Hernandez at least five times that a K-9 would bite him if he did not step out of the car. Hernandez responded with refusals and denials.

Approximately eight minutes after Officer Robinson first activated his vehicle’s emergency lights, Officer Gilbert commanded PSD Murphy to bite Hernandez. Officer Gilbert warned Hernandez that the dog would bite him if he did not step out of the car. Murphy entered the vehicle and

bite Hernandez’s arm for fifty seconds in total. While Murphy was holding onto Hernandez, Officer Gilbert yelled at Hernandez to get out of the car. Although Hernandez repeatedly yelled “alright,” he did not move. Thirty-six seconds into the bite, Officer Gilbert commanded Murphy to release the hold. Fourteen seconds later, Murphy obeyed and released his bite on Hernandez’s arm. Murphy, however, held onto Hernandez’s shirt for another twenty-two seconds before completely releasing the hold. While Murphy hung onto Hernandez’s shirt, Hernandez held onto the front passenger headrest and told the officers that they were on his property. K-9 Murphy was engaged with Hernandez for one minute and twelve seconds in total.

After Murphy released Hernandez, Hernandez continued to resist by holding onto the headrest despite the officers’ repeated orders to get out of the car. When Hernandez refused to comply, Officer Robinson asked, “should we let the dog go again?” Officers Robinson and Leach again instructed Hernandez to step out of the car. Although Hernandez replied “alright,” he nonetheless continued to hang onto the headrest, protesting “wait, wait, wait.” Roughly nine and a half minutes after Officer Robinson first activated his vehicle’s emergency lights, the officers finally pulled Hernandez from his car.

During the encounter, Hernandez had a BAC of 0.146 when his blood was tested later at the hospital under authority of a search warrant. The officers booked Hernandez on one felony charge for resisting arrest and two misdemeanor charges for a DUI and failure to comply with a police officer. Hernandez ultimately pled guilty to a misdemeanor charge.

Hernandez subsequently sued for alleged use of excessive force. Officer Gilbert, the K-9 handler, moved for partial summary judgment on the excessive force claim. The District Court entered summary judgment in favor of Officer Gilbert, granting him qualified immunity. Hernandez appealed.



## THE NINTH CIRCUIT OPINION

The Ninth Circuit Court of Appeals explained that qualified immunity shields government officials under Section 1983 unless “(1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was ‘clearly established at the time.’” *District of Columbia v. Wesby*, 138 S. Ct. 577, 589 (2018) (quoting *Reichle v. Howards*, 566 U.S. 658, 664 (2012)). “A clearly established right is one that is ‘sufficiently clear that every reasonable official would have understood that what he is doing violates that right.’” *Mullenix v. Luna*, 577 U.S. 7, 11 (2015) (per curiam) (quoting *Reichle*, *supra*, at p. 664). Hernandez argued on appeal that both the initial deployment of the canine and the duration of the bite violated clearly established law.

The Court explained that, to defeat qualified immunity, Hernandez was required to demonstrate that the state of the law as of the day of the May 2016 incident gave a reasonable officer “fair warning” that using a K-9 on a noncompliant suspect, who had resisted lesser methods of force to complete his arrest, was unconstitutional. The Court first considered prior precedent in the case of *Mendoza v. Block*, 27 F.3d 1357 (9th Cir. 1994), relied upon by Hernandez. In that case, the Court had affirmed the dismissal on qualified immunity grounds of a Section 1983 claim by Mendoza, who was severely bitten by a K-9 while trying to escape arrest for bank robbery by hiding for several hours in bushes on private property that was not his own. Deputies had been warned that Mendoza was armed. Mendoza did not surrender even after being warned that a K-9 would be deployed, and he would be bitten. However, the Court found that *Mendoza* did not place “beyond debate”<sup>2</sup> whether Officer Gilbert’s decision to deploy K-9 Murphy to facilitate Hernandez’s arrest under the circumstances of this case violated the Fourth Amendment.

Critically, *Mendoza* did not clearly establish that Officer Gilbert’s conduct violated Hernandez’s Fourth Amendment rights because *Mendoza* did not address the specific context of this case: officers using minimal force at the beginning of an encounter and escalating the level of force employed, ultimately deciding to use a K-9 when other less-intrusive methods were unsuccessful.<sup>3</sup> Here, the Court noted, the officers initially gave verbal commands, repeatedly, to surrender to their authority. When Hernandez refused to obey, the officers tried control holds. They then used pepper spray, which still did not result in Hernandez’s compliance. They then warned Hernandez about the impending release of the K-9 if he refused to yield. Finally, and only after all of these methods failed to overcome Hernandez’s resistance, Officer Gilbert deployed Murphy.

The Court of Appeals observed that *Mendoza* “says little about how a reasonable officer should escalate the use of force on a noncompliant suspect.” Accordingly, the Court granted qualified immunity on the claim associated with the initial deployment of the K-9. The Court next analyzed Hernandez’ excessive force claim associated with the duration of the bite.

Hernandez contended that the duration of Murphy’s bite was unreasonable because he had “surrendered.” The Court explained that while courts view the facts in the light most favorable to the non-moving party at the summary judgment stage, “we do not accept a non-movant’s version of events when it is ‘clearly contradict[ed]’ by a video in the record. *Scott v. Harris*, 550 U.S. 372, 378-80 (2007).” Here, Hernandez stipulated to the bodycam footage, and the Court found that at the time Officer Gilbert directed Murphy to bite Hernandez, the videos established that Hernandez had not in fact surrendered. Despite his occasional verbal utterances of “alright” and the like, his body language on the recording showed only non-compliance.

The Court concluded that, based on Hernandez’s continuing resistance as depicted in the video footage, a reasonable officer in the position of Officer Gilbert would not view Hernandez’s conduct as an act of surrender. The continued use of the K-9 to obtain compliance was therefore appropriate.

## KEY TAKEAWAYS FROM THE HERNANDEZ OPINION

1. Body-worn camera footage demonstrated through objective evidence that the suspect did not in fact surrender to their authority, despite verbal statements to the contrary.
2. The officers had the ability to utilize time to attempt to resolve this incident utilizing less-intrusive force alternatives first. When time is available, deputies should take advantage to attempt to de-escalate a situation if it will not impair officer safety.
3. The K-9 was deployed only after other lesser methods proved unsuccessful in achieving compliance. Moreover, this decision is significant in that the Ninth Circuit determined that the K-9 officer was entitled to qualified immunity for the excessive force claim, despite the length of time that the K-9 was “on bite” for 50 seconds.
4. Critical to the Court’s ruling were the multiple K-9 warnings to the suspect that the K-9 would be deployed if he failed to surrender. If time permits in any given incident, and it will not jeopardize officer safety, additional warnings will assist in defense of any civil liability claim.

Of significant note, the United States House of Representatives recently passed H.R. 1280. This bill seeks to eliminate the defense of qualified immunity to federal liability claims. The National Sheriffs’ Association recently expressed significant concerns regarding this bill, noting that, “[e]liminating qualified immunity will keep law enforcement officers from making crucial, split-second, life or death decisions to stop a lethal threat.” In addition, the National Sheriffs’ Association observed that, “qualified immunity not only protects officers from liability for unknowingly violating constitutional rights, it protects all government actors from liability to allow them to function in uncertain situations where immediate action is needed for the public good.” I echo these concerns.

The bill is now before the Senate for consideration. Only time will tell the ultimate effects of H.R. 1280 with respect to qualified immunity. However, the bill’s final language could be one of the most significant federal legislative acts affecting law enforcement. ★

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*Information contained in this article is for general use and does not constitute legal advice. This article is not intended to create, and receipt and review of it does not constitute, an attorney-client-relationship with the author.*

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*James R. Touchstone is a partner with the public sector law firm of Jones & Mayer. He serves as General Counsel to CSSA. Information on [www.jones-mayer.com](http://www.jones-mayer.com) and in this article is for general use and does not constitute legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship.*

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## SOURCES

1. 2021 U.S. App. LEXIS 6305 (9th Cir. Mar. 4, 2021).
2. See *al-Kidd*, 563 U.S. at 741.
3. See *Hamby v. Hammond*, 821 F.3d 1085, 1091 (9th Cir. 2016).





## *Madera County's 'Wild-West' Sheriff* **CELEBRATED HIS 95<sup>TH</sup> BIRTHDAY ON ELECTION DAY**

A dozen pay phones lined the combination firehouse/police station in Chowchilla on that July afternoon in 1976. Twenty-six school children and their bus driver had been kidnapped, and newspaper reporters fought for space at the makeshift phone bank.

Suddenly a man with a lean, hard torso and a jutting jaw came through the door and strode across the room. With a .45 pistol on his side and wearing a western hat and boots, he walked with purpose.

Everybody knew this man was important—even those who had never seen him before. There was no doubt that Sheriff Ed Bates was on the scene, and he was there to take charge and get those kids back home.

No one wanted to get in Sheriff Bates' way, not when he was focused on solving such a crime and putting these criminals behind bars. On the day they brought the three kidnappers to Chowchilla for arraignment, Bates was approached by a couple of area farmers who asked, "Ed, what would you do if we took these guys away from you and hanged them?"

"I'd kill you," the sheriff replied.

"You mean you would actually shoot us?" asked the local man.

"That's exactly what I would do," said Bates.

That was almost 44 years ago, and Bates was then 51-years-old. On election day, Nov. 3, 2020, Madera County's "Wild-West" Sheriff celebrated his 95th birthday. Over those nine and a half decades, fate

has put Bates in the center of so many real-life crises, that he could easily be made the subject of a movie.

It was the Chowchilla kidnapping that put his picture on the front pages of newspapers all over the world and made his name a household word in California. In Madera County, however, the kidnapping case was just the tip of the iceberg. By the time Bates came to Madera, he had been involved in a murder at sea, a witness at a gas chamber execution in San Quentin, the sleuth who caught a nervous cop trying to hide his crime, and a dozen other episodes that gave Bates his reputation of being the most unorthodox lawmen of his time—and maybe of all time.

Edward Bryant Bates was born on Nov. 3, 1925, in Modesto, CA, where he spent his early school years. In Sept. 1937, at the age of 12, he was sent to live with relatives in Hawaii. He returned to Modesto in 1940 and finished school. Then came Pearl Harbor, and Ed Bates prepared to go to war.

At the age of 16, he went to San Francisco to join the Marines. He took a Bible along with him and filled out the family data section, giving himself a birthdate that showed him to be 18-years-old. At the Marine recruiter's station, the Sgt. detected his ruse, so Bates proceeded to go down the street to the offices of the Merchant Marines. In a short time, he was at sea.

In 1943, Bates' merchant ship docked at Tampa, Florida, and while there, he turned 17. At that point, he jumped ship and joined the





From left to right: Madera County Sheriffs: Sheriff Ed Bates (Retired), Sheriff Jay Varney (Retired), and Sheriff Tyson Pogue (Current)

U.S. Navy where he was assigned to Naval Intelligence. Towards the end of his hitch, Bates met someone who would be his companion forever, Freda June Ball.

Freda was a Corporal in the U.S. Marines, working in Washington D.C. while Bates was in the Far East performing intelligence duty. After the defeat of Japan, he returned to Washington and Freda, and they decided to get married. On March 9, 1946, the recently discharged Marine and Sailor became husband and wife in a ceremony in Modesto.

Freda became Bates' lifetime companion in every sense of the word. Not only were they married, she was his professional partner. When Ed became sheriff, he made Freda his personal assistant at no cost to the county. Freda worked side by side with her husband throughout his two terms as Madera County Sheriff. She rode with him on patrol; she went with him on investigations; she tended to important paperwork duties, and she never received a penny for her years of service.

With the Cold War looming on the horizon, Bates was called back into Naval Intelligence and remained on active duty until 1950. In 1952 he was hired by the Sheriff of Stanislaus County as a deputy and soon worked his way to the rank of sergeant where he became the department's expert polygraph operator. By 1960, such was his reputation as an investigator that the National Board of Fire Underwriters hired him to investigate cases of arson, primarily in the San Joaquin Valley. It was while employed by the Underwriters Board that he was assigned to investigate the famous Harlow Fire in the foothills of Madera County and obtained a confession from the youth who set the blaze.

For ten years, Bates performed arson investigations and never gave any thought of leaving that profession until the Madera County sheriff's office opened up in 1970. Sheriff Marlin Young had resigned and was temporarily replaced by Acting Sheriff James Haney, who decided not to make a run of his own. Three Maderans announced their

intentions to replace Young; Bates made it four.

Running against E.H. (Bud) Daulton, J. Woody Hefner, and William (Bill) Welton, Bates offered his experience as a deputy sheriff, special investigator, polygraph operator, and police science instructor for the people to consider.

On November 3, the people spoke. Bates celebrated his 45th birthday by being elected sheriff! He defeated Daulton, his runoff opponent 7,059 to 4,652. Bates was the majority choice in 80 of the county's 86 voting precincts.

On his first day in office, after being sworn in by the County Clerk, the new Sheriff and Freda stopped in for lunch at the Madera Drug Store. The waitress invited the couple over to meet the Chairman of the Board of Supervisors. Bates stuck out his hand in friendly greeting and held it there while the supervisor responded by saying, "I didn't like the other sheriff, and I don't like you." Bates stood there with his hand extended while the politician walked away.

This first meeting with a member of the Madera County Board of Supervisors set much of the tone for Bates' dialogue with the Board, which erupted into considerable disharmony between the county's top cop and the politicians who held the public's purse strings. For the next decade Bates had a running battle on two fronts—fighting criminals and politicians.

Bates' fight with criminals took him all over the county. Many of Madera County's residents remember the 22-Mile House murder, the serial killer in Chowchilla, and the annual struggle with the Hells Angels at Bass Lake. Every one of these episodes made headlines, but it was the Chowchilla Kidnapping that riveted the world's attention on Madera County and its Sheriff. When the final book on Sheriff Ed Bates is written it will include this ordeal and many more.

Just as gripping, however, were Bates' tug-o-wars with the politicians—one in particular, the chairman of the Board of Supervisors. Two confrontations between the top lawman and the county supervisors, all elected by the people, emerge to shed light on the character of all those involved. The first is the take-over of the jail by the Board in a disagreement with Bates. The second centered around the refusal of the Board to give the Sheriff's Office additional funding for vehicle fuel. That was settled when Bates parked most of the sheriff's patrol cars. For a few hours, the only vehicle patrolling Madera County for the Sheriff's office was the Sheriff himself, in his own vehicle and accompanied by his wife.

Perhaps the most telling criminal case in which Bates was involved was the shooting of Danny Dark. It happened when Bates was a deputy sheriff in Stanislaus County assigned to investigating major crimes. It reveals his investigative skills and his belief that cops are not above the law.

The action began in Stanislaus County Sheriff Dan Kelsay's office. He had just given Sgt. Bates an order to investigate the shooting of Danny Dark, a resident of Patterson, California.

As Bates tells the story, the Darks were having trouble with a Peeping Tom. Dark complained to the Patterson Police Department, and they devised a trap. Mrs. Dark would leave the blinds open that night while she was dressing for bed. Her husband and a Patterson policeman would be on hand to capture the voyeur.

Bedtime, became show time, and Mrs. Dark began her performance. In a few minutes the dim figure of someone was seen outside. Dark and the Patterson officer ran out to the back yard but saw no one. Then they decided to check the shed at the back of the property. With the officer right behind him, Dark opened the shed door, and a shot rang out. Danny Dark yelled, "He shot me," and the intruder ran out and down the alley. Dark was taken to the hospital with a .38 caliber wound in his chest. The next day, Sgt. Bates went to interview Dark in the hospital. After talking with him for a while and examining the wound, Bates asked to see the x-rays. Something was wrong here. The wound in the front was larger than the wound in the back. If the intruder had shot Dark like the policeman said, the larger wound—the exit wound—would have been in the victim's back while the smaller wound—the entrance wound—would have been in the front.

That night Bates went to the Dark's home to examine the shed. As he ran his light along the inside wall, he saw evidence that a bullet had grazed it. This led Bates to examine the fence behind the shed, and that's where he found a .38 caliber bullet.

At that point, Bates' suspicions were confirmed. The bullet had entered Dark's back, slid along some wood, exited the shed,

and stuck in the fence. With that, Bates went directly to the home of the policeman who had accompanied Dark when he was shot.

Sgt. Bates found the officer in bed. When aroused and informed of what Bates had discovered, the Patterson cop gave a full confession. He had followed Danny Dark to the shed, and when they opened the door, the intruder jumped out. In haste, the officer pulled his gun and fired, the bullet entering Dark's back and exiting his chest, leaving the tell-tale wound. The policeman let the shooting stand, allowing everyone to assume that Dark had been shot by the intruder.

Bates took the officer's badge, ID, and gun and took him back to Modesto where he recorded the man's confession.

And that's the way Edward Bryant Bates did business, thoroughly, logically, and honestly. He began his law enforcement that way and ended it in the same manner.

The people elected Sheriff Bates three times. While he was sheriff he attended the FBI Academy in Quantico, Virginia twice, once in 1974 for the regular session and again in 1976 for advanced criminology training. After retiring from law enforcement he taught criminology at Fresno State, until his retirement in 1990.

As was written above, Sheriff Bates' life is the stuff of which movies are made. He lives in Oakhurst, California, and told this reporter he is enjoying life and is looking forward to the time he can join his wife, Freda, his partner for 57 years. ★

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# Jerry W. Smith★ 1957-2021

It is with great sadness that we announce the passing of retired Butte County Sheriff Jerry W. Smith. Sheriff Smith was a part of the BCSO family for 36 years, and served as our Sheriff for four years, until he retired in May, 2014.

Sheriff Smith began his career as a sworn Deputy Marshal in October, 1977, before being hired by Sheriff Larry Gillick as a full-time Deputy Sheriff at just 20-years-old in 1978. Sheriff Smith quickly moved up the ranks here at BCSO, being promoted to Sheriff's Sergeant in 1986, Sheriff's Lieutenant in 1991 and Sheriff's Captain in 2003. Sheriff Smith oversaw patrol, investigations, special enforcement, dispatch and aviation, just to name a few. Sheriff Smith served as the Chief Pilot for BCSO and was instrumental in developing the Sheriff's Aviation Program, and held commercial ratings for both helicopter and fixed-wing aircraft.

Sheriff Smith became our 30th Sheriff in 2010, and through his exemplary leadership skills, earned recognition on several occasions by the California Peace Officers Standards and Training (POST). Sheriff

Smith led by example and worked tirelessly serving our community for more than three decades. His dedication to the Butte County Sheriff's Office and to the Citizens of Butte County played an enormous role in shaping this department into what it is today.

When Sheriff Smith was not working, he could be found at the horse arena practicing his roping skills, as he was an avid roper. Sheriff Smith was a devoted father, husband, brother, friend and leader. His dedication to BCSO cannot be outmatched to his dedication to his family. He is survived by his wife Karen, his three stepsons Chad, Marcus and Brett, his mother Sharon and step-father Larry Baumgardner, and brother Ron Smith.

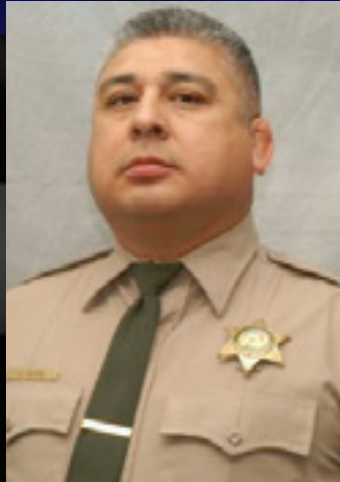
*We were all lucky to work with him and to know him.* ★

*"A leader is one who knows the way, goes the way, and shows the way."-John Maxwell*

# ★ ★ ★ 2021 ★ ★ ★ HONORED OFFICERS



**Deputy Terrell D. Young**  
Riverside County  
Sheriff's Department  
EOW: Apr 02, 2020



**Detective Jose Cruz Mora**  
Fresno County Sheriff's Office  
EOW: Sep 07, 2020



**Detective Marylou Hernandez Armer**  
Santa Rosa Police Department  
EOW: Mar 31, 2020



**Officer Andy Ornelas**  
CHP - Antelope Valley  
EOW: Dec 02, 2020



**Sergeant Harry Cohen**  
Riverside County  
Sheriff's Department  
EOW: Oct 18, 2020



**Sergeant Damon  
Christopher Gutzwiller**  
Santa Cruz County Sheriff's Office  
EOW: Jun 06, 2020



**Officer Angel DeLaFuente**  
Fresno Police Department  
EOW: Dec 28, 2020



# CALIFORNIA STATE SHERIFFS' ASSOCIATION FOUNDATION

## Law Enforcement Appreciation Week May 2-8, 2021

*Respect • Honor • Remember*



The California State Sheriffs' Association Foundation (CSSAF) calls upon the people of California to salute and remember the heroic men and women of law enforcement during California's Law Enforcement Appreciation Week, May 2-8, 2021.

We are extremely honored to have this opportunity to pay homage to the valiant officers who lost their lives in the line of duty this past year. Generally during this particular week, thousands will come together at the State's Capitol to support the family and friends of those who have passed. Unfortunately, due to state and local COVID-19 restrictions the Memorial Ceremonies have been cancelled this year. The fallen officers will be formally honored and enrolled during the 2022 Ceremony.

We salute our fallen heroes, and celebrate all of the men and women who continue to protect our communities. We urge you to stand with us in supporting those who have sacrificed it all in the name of public safety.

We can never repay our debt to these officers and their families, but we can honor their memory.



Please note that this is a separate donation from your membership dues.

We never solicit by telephone, and do not share your personal information with other organizations.

## LAW ENFORCEMENT WEEK DONATION FORM

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# National Crime Victims' Rights Week

*April 18–24, 2021*

Every year in April, California joins the nation in honoring our victim and survivor community during National Crime Victims Rights' Week (NCVRW). This year, NCVRW is scheduled during the week of April 18 – 24, 2021 with the theme “**Support Victims. Build Trust. Engage Communities**”. In honor of the victim community and the families tragically impacted by crime, the Department of Corrections & Rehabilitation, Office of Victim & Survivor Rights & Services, will host a webinar which will focus on Victim Rights after the post-conviction process.

Over the last several decades, the Department of Corrections and Rehabilitation (CDCR) has taken steps to proactively change the perceived reputation of strictly a state prison system to –one that is an agency of transparency working with the entire community including law enforcement, victims, offenders and the families of both. Also, through strong advocacy efforts, working in concert with all public safety entities and community and legislative partners, substantial progress has been made in the creation of constitutional and statutory rights for victims. These efforts have led to the expansion of integral services and programs for victims of crime and making the information about these services more readily available for victims.

In light of the COVID-19 virus, CDCR has made many changes to ensure victims are still afforded their constitutional rights during a time of uncertainty. While CDCR prisons were forced to suspend victims attending parole board hearings on-site, OVSRS worked quickly with the Board of Parole Hearings (BPH) to ensure victims would be able to continue their participation in the hearing process “virtually”. Victims are easily able to coordinate their appearance through their smart phone or computer. The BPH shift to conduct hearings in a virtual setting meant that victims and their family members could participate by video or phone connection and ensured that victim's voices continued to be heard at hearings. From the feedback OVSRS has received, we report that “virtual” attendance is convenient for

victims and their families to participate in the comfort of their own home. Additionally, victims who previously were unable to travel to parole board hearings due to the stress, strain and costs are now having their voices heard when it may have not been possible for them before. If the COVID-19 virus has taught us anything, it is that we are always changing and CDCR continues to ensure that the victims of California are involved in the criminal justice process during these changing times.

CDCR continues to enhance and update the main webpage to include a vast number of services including resource pages for victims and the public. Victims and certain family members of offenders can register for services easily with a click of a button. The online portal gives victims and their families the ability to complete the CDCR 1707 form requesting services at any time and from anywhere. Those services allow for victims, next-of-kin, witnesses, family members of offenders (certain crimes apply) to request special conditions of parole, notification of death or escape, general release notification, notification of hearings and collection of restitution. The e1707 portal also allows for easy updates of contact information such as address, email or phone numbers. To access this link please visit: [https://www.cdcr.ca.gov/victim\\_services/application.html](https://www.cdcr.ca.gov/victim_services/application.html)

In keeping with the theme *Support Victims. Build Trust. Engage Communities* and with the new era of CDCR rehabilitation and change, OVSRS has developed and finalized Departmental Operational Guidelines which will allow for a victim or a victim's family member to request to meet with their offender through the Victim Offender Dialogue (VOD) program. The dialogue allows victims who wish to participate to begin to obtain closure and healing from the trauma they endured. Prior to the actual dialogue, both parties have on-going meetings with a volunteer facilitator and work towards preparing for a meaningful, healing dialogue which can have lifelong effects for both.





While a VOD may not be for every victim or their family, the ability for some victims to have that option as a choice is invaluable to their healing. The process can create wholeness for the victim, make the offender truly aware of the impact of his/her actions, as well as, create a safer environment for our communities once the offender is released.

CDCR also finalized the Apology Letter Program (ALP) which will allow for an offender who is working with a facilitator to go through the therapeutic and restorative steps of putting their accountability/apology into written form. The offender will work with a trained facilitator at the prison to look deep within themselves to find the words and courage to take ownership of the harm they have caused and to accept accountability. Once the facilitator approves the document, OVSRS will process the letter and scan it into the offender's central file. If at any time the victim requests to receive the letter, OVSRS can send them the letter, as well as, coordinate resources if they need them.

We understand and respect the unique and complex issues faced by victims of violent crimes and will continue to strive to improve services and ideas to address the needs of victims, survivors and families throughout California. ✨

**If you are a victim of an offender who is under the jurisdiction of CDCR, whether incarcerated or paroled, please contact the OVSRS at (877) 256-6877 or [victimservices@cdcr.ca.gov](mailto:victimservices@cdcr.ca.gov) for assistance with any of the above services.**



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For more information, please contact  
Executive Director M. Carmen Green at  
[cgreen@calsheriffs.org](mailto:cgreen@calsheriffs.org) or at 916-375-8000.



# California State Sheriffs' Association Foundation Membership Program

Individuals and Businesses who want to take a proactive approach to support public safety in their communities may join the California State Sheriffs' Association Foundation (CSSAF). CSSAF is entirely funded by the generous contributions and support from our members. We are a qualified, non-profit organization under 501(c)(3) of the Internal Revenue Service Code, which means that your donations qualify as tax deductions. The sheriffs of California have full control and direction of all association operations and activities.

## MEMBERSHIP LEVELS

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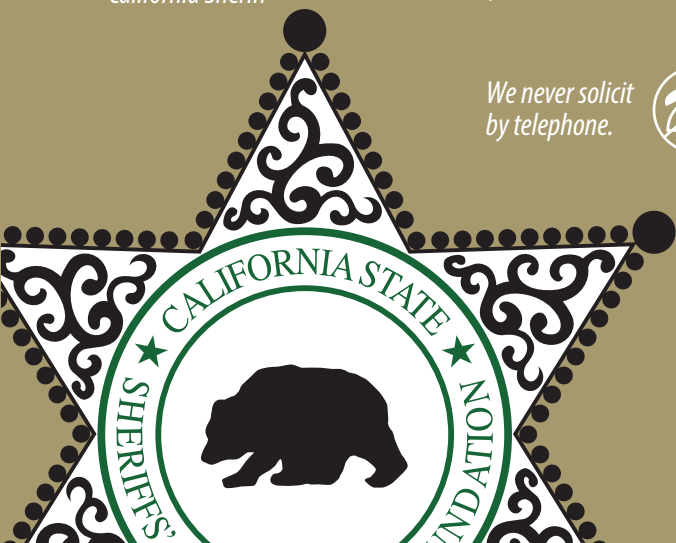
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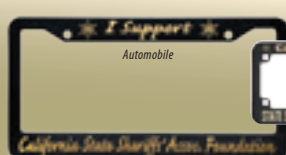
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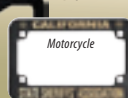
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City/State/Zip \_\_\_\_\_

Member Number \_\_\_\_\_ Email \_\_\_\_\_

Phone Number \_\_\_\_\_

ITEM	COLOR/SIZE/DESCRIPTION	QTY	UNIT PRICE	SUB TOTAL
A	Baseball Cap		\$15	
B	Lapel Pin		\$6	
C	Challenge Coin **		\$10	
D	License Plate Frame		\$8	
E	Lifetime Member Flashlight		\$25	
F	Lifetime Member Hat		\$20	
G	Lifetime Member Metal License Plate Frame		\$15	
H	Thin Blue Line Performance T-shirt		\$25	
I	Men's Cotton Polo Shirt—Short Sleeve**		\$25	
J	Men's Long Sleeve Shirt		\$60	
K	Tow Hitch Cover		\$45	
L	Star Lapel Pin		\$5	
M	Sweatshirt**		\$35	
N	Men's Camp Shirts**		\$45	
O	Business Card Holder		\$15	
P	Women's Cotton Polo Shirt**		\$25	
Q	Wireless NFC Bluetooth Speaker		\$40	
S	Black Soft-Shell Jacket		\$50	
T	Mesh Shorts		\$20	
U	Jacket		\$40	
W	20 oz. Graphite Tumbler		\$10	
X	RFID Blocker		\$6	
Y	Challenge Coin		\$5	
Z	Belt Buckle <b>NEW</b>		\$40	
ZZ	Challenge Coin <b>NEW</b>		\$10	

PRICES GOOD FOR APRIL, MAY, JUNE, 2021

\*\* Limited Quantities Available

TOTAL FOR MERCHANDISE:

PLUS 8.75% TAX:

SHIPPING & HANDLING:  
(SEE S&H CHART BELOW)

CONTRIBUTION:

ORDER TOTAL:

**CHECK ENCLOSED:** Please make all checks payable to **California State Sheriffs' Association Foundation (CSSAF)**.

Send order form to the address found on bottom right of page.

**CREDIT CARD:** If you wish to pay by credit card, please log on to our website [www.calsheriffs.org](http://www.calsheriffs.org), or pay by phone by calling the toll-free member line. MC, Visa, AmEx and Discover cards are accepted.

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Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Name on Card \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Security Code \_\_\_\_\_

SHIPPING & HANDLING CHART	Under \$20	\$4.99	\$40.01—\$60.00	\$8.99	\$80.01—\$100.00	\$11.99
	\$20.01—\$40.00	\$6.99	\$60.01—\$80.00	\$10.99	Over \$100.00	\$12.99

**California State Sheriffs' Association**  
1231 I Street, Suite 200,  
Sacramento, CA 95814  
1-800-761-CSSA (2772)  
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