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Top Gun



FRANCIS E. GILLINGS
Gun on hip, he talks about tyranny

Posse Riding In the Valley

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Tracy, San Joaquin county

A fledgling right-wing posse of nearly 50 armed men, with a disdain for law enforcement and judges, has been formed here to protect, as they put it, their "God-given and Constitutional rights."

The group calls itself the "Posse Comitatus," a centuries-old name for citizens' posses that were deputized by the local sheriff in case of riots and disasters.

But local peace officers in this Central Valley county are taking a dim view of the posse—even though it hasn't yet done anything militant—and are worried, as one official said, about "a bunch of people running around the countryside with guns on their hips."

According to several of its members, including the posse leader, Francis E. Gillings, each member of the group belongs to the National Association to Keep and Bear Arms. Each member, Gillings said, also has at least one hand gun.

Some of the posse members have equipped their cars with citizens band radios to talk with each other, "and we are encouraging the other members" to follow suit, said member Harold Graves.

Although they do not have any routine patrols, the posse meets twice a month to discuss

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"our objectives and make plans for the future."

"The primary reason for this posse," Gillings said in an interview the other day, "is to keep officials from taking away our only means to resist tyranny in government — our guns."

But the posse has gone beyond this narrow aspect to include these other goals:

- Protecting its members "and any other private citizen" from the service of liens by federal tax agents for delinquent tax matters. (The posse opposes the income tax. Gillings, known as the "Tracy Tax Rebel," claims he refuses to pay income taxes.)

- Keeping local police and sheriff's officers away from property that is about to be slapped with eviction notices.

- Making citizens' arrests of any suspected law-breakers the posse members come across in their daily travels:

- Campaigning to replace the local sheriff if he doesn't come up to the posse's rigidly fundamental interpretation of the U.S. Constitution.

Gillings has already tried the more conventional way of unseating the local sheriff — one year ago, he ran against incumbent Michael N. Canlis.

Canlis won in a landslide — and Gillings went back to his job as a service station manager by day and a posse manager by night.

Historically, the posse comitatus was designed as a loose form of auxiliary deputies, called up at the request of the local sheriff only when absolutely necessary.

Sheriff Canlis, who has 284 full-time deputies and 100 trained reserves at his disposal — not to mention the 300-odd other policemen he can use through a county-wide mutual aid pact — pre-

fers not to discuss the posse at any length. Largely because Gillings baits him and he knows it.

"Why should I engage in this kind of dialogue with him?" Canlis asks rhetorically. "It's not conducive to upholding my mandate."

"Of course," he adds, "I'm old-fashioned enough to think that the traditional elements of the law will endure."

Other observers, however, said Canlis "sometimes worries about Gillings and what Gillings could do if he really put his posse into action."

Closer to Gillings' home in Tracy, Police Chief Bud McHale notes that Gillings doesn't have a permit to carry a concealed weapon and adds, "sure it scares me to know there's a bunch of people running around with guns. I would prefer to have guns in the hands of professionals."

None of the posse members has taken any law enforcement training required by law of police officers and conducted by the California Commission on Peace Officers Standards and Training.

As for gun permits, Harold Graves, one of the original seven members of the posse, simply scoffs, "a legal law enforcement body can carry weapons without a permit. Does the Stockton police department have permits for their weapons?"

The difference, as chief McHale points out, is that the Stockton, Tracy and other police departments are "recognized law enforcement bodies. They have been trained and they are acting under state laws."

This kind of reasoning simply doesn't faze the posse leadership because the members honestly believe the posse comitatus is as legal and authorized as say,

the San Joaquin Sheriff's Department.

"We are a legal enforcement body," Graves insists.

"We are legal under the ancient common law and we will help the sheriff if he asks us. Of course, we know he's not wild about us, but he just has no say in it. He can't stop us."

"And if anything comes up; the posse will act in a situation where it needs to."

At the office of the state attorney general, a senior lawyer shrugged and said, "look if no laws have been broken then there's nothing illegal about this group. After all, if you just sit around and call yourself a 'posse comitatus,' then it doesn't really matter. It's when you take some action — then the situation changes."

Right now, the situation is that the posse is intent on staving off gun control and keeping the taxman from their doors.

Using their posse manual put out by the Citizens Law Enforcement and Research Committee as a guide, they threaten to arrest "any official of government, including judges of the courts," who enforce federal income tax laws.

On a meatier level, however, Gillings points to the last paragraph in the manual — a piece of history that reads:

"In some instances of record the law provides for the following prosecution of officials of government who commit criminal acts or who violate their oath of office:

"He shall be removed by the Posse to the most populated intersection of streets in the township and at high noon be hung by the neck, the body remaining until sundown as an example to those who would subvert the law."