



# California Fair Political Practices Commission

October 10, 1989

Stephen D. Schuett  
Assistant County Counsel  
County of Kern  
Administration and Courts Building  
1415 Truxtun Avenue, 5th Floor  
Bakersfield, CA 93301

Re: Your Request for Advice  
Our File No. A-89-545

Dear Mr. Schuett:

This is in response to your letter requesting advice on behalf of Kern County Sheriff John R. Smith concerning the application of the mass mailing provisions of the Political Reform Act (the "Act") to the "Crime Prevention News," a newsletter produced and distributed by the Kern County Sheriff's Department.<sup>1/</sup>

Please note that the Commission is in the process of revising Regulation 18901, which implements the statutory mass mailing restrictions. We anticipate noticing amendments to the regulation in October 1989, and adopting those amendments at the December 13, 1989 Commission meeting. A draft of the proposed amendments is enclosed. Nevertheless, until these amendments are formally adopted by the Commission, the current version of Regulation 18901 remains in force. Our analysis in this letter is based upon the current version of this regulation.

## QUESTIONS

1. Is a newsletter produced by the Kern County Sheriff's Department which contains a message from the elected sheriff a prohibited mass mailing under the Act?

2. Are copies of the Kern County Sheriff's Department newsletter distributed at neighborhood watch meetings or the

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<sup>1/</sup> Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

county fair, or mailed out to persons that sign up at these locations, distributed in response to unsolicited specific requests?

#### CONCLUSIONS

1. Where the sheriff authors a column in the newsletter, exercises direction and control over the content of the column, and is designated as the author in the byline of the column, there is sufficient direction and control over the newsletter to make it a prohibited mass mailing under the Act.

2. The Kern County Sheriff's Department newsletter may be placed at the sheriff's department's neighborhood watch meetings and in booths at the local county fair. Such mailings are distributed in response to an unsolicited specific request and are exempted from the mass mailing restrictions of the Act provided the request for the materials is not induced by sheriff's department personnel. Similarly, copies mailed to persons that sign-up for the Sheriff's Department's mailing list at these locations are also exempted if the request for the materials is not induced by department personnel.

#### FACTS

The Kern County Sheriff's Department (the "department") produces a newsletter titled the "Crime Prevention News." Each month more than 200 copies of the newsletter are distributed, primarily to persons on the department's mailing list. Persons interested in receiving the newsletter and other department mailings may sign up on the mailing list at the department's neighborhood watch meetings. Printed at the top of the mailing list sign-up sheets is the following: "I request the Kern County Sheriff's Dept. send me information regarding Crime Prevention and other areas of law enforcement," or similar language.

In addition, copies of the newsletter are distributed at the department's neighborhood watch meetings. The department personnel that conduct the meetings set out copies of the newsletter, along with the mailing list sign-up sheet. Department personnel will normally make reference to the sign-up sheet and the availability of the newsletters in their presentations.

The department is also planning to distribute newsletters and other material in the same manner from a booth at the local county fair. They will also provide a sign-up sheet at the booth for those who wish to be added to the mailing list and, additionally, to those persons interested in becoming deputies.

#### ANALYSIS

##### Prohibited Mass Mailings

Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. Section 82041.5 defines a

"mass mailing" as more than 200 substantially similar pieces of mail sent in a calendar month. Regulation 18901(c) (copy enclosed) provides that a newsletter or other mass mailing may not be sent within the meaning of Section 89001 if:

(1) The name of the elected officer or his or her photograph appears on the document; and

(A) The elected officer exercises direction or control over the content, production, or distribution of the document, or

(B) The document is sent at the request or suggestion of the elected officer or his or her agent; or

(C) The document is signed by, or is designated as being from, the elected officer or his or her office...

Thus, where an elected official initiates the mailing, exercises direction or control over the content, production, or distribution of the document, or signs or takes credit for the document and the name of the elected officer or photograph appears in the document, it is prohibited under Section 89001. Since the sheriff authors a column in the newsletter, exercises direction and control over the content, and will be designated as the author in the byline of the column, the newsletter is a prohibited mass mailing as defined in Regulation 18901. (Gilbert Advice Letter, No. A-89-429, copy enclosed.) Consequently, unless exempted from the restrictions of Regulation 18901 by one of the enumerated exceptions, the sheriff's department may not distribute over 200 copies of the newsletter in a calendar month unless the name of the sheriff and all references to the sheriff are excised from the newsletter.

#### Unsolicited Requests

Regulation 18901(b) provides that an otherwise prohibited newsletter or mass mailing is exempted from the restrictions of Section 89001 and Regulation 18901 if it contains only information or material sent in response to an unsolicited specific request. As used in this regulation, a request is unsolicited if it is not requested or induced by the elected officeholder or any third person acting at his or her behest. (Regulation 18901(h).) Thus, where materials are actively distributed or where individuals are asked to take the materials by the elected officer or any other person acting at the officer's behest, they are not sent in

response to an "unsolicited" request. (Alquist Advice Letter, No. I-89-109, copy enclosed.)<sup>2/</sup>

Moreover, a specific request for the mailing may be oral, written (such as a mailing list sign-up sheet at the neighborhood watch meetings), or by conduct. For example, where members of the public come to a meeting or to an agency's offices and pick up materials for themselves, they will have made an unsolicited specific request for those materials. (Regulation 18901(h).) "Public agency's offices" has been interpreted to include local county fairgrounds. (Leidigh Advice Letter, No. A-89-381, copy enclosed.)

Generally, specific requests are for a single mailing. (Regulation 18901(h).) However, those persons that sign up for the mailing list on the sheets you have provided with your advice request will be making a request for continuing information on a subject which shall be considered a request for multiple responses directly related to that subject. In addition, if the list specifically states that those that sign the list will get the regularly published sheriff's department newsletter, the request shall be deemed to be a "specific request" for each issue of that newsletter. (Regulation 18901(h).)

Consequently, the department newsletter and the mailing list sign-up sheet may be placed at the sheriff department's meetings and in booths at the local county fair. Individuals that pick up the newsletters for themselves or sign-up for the mailing list at these locations will have made unsolicited specific requests for the mailings. However, references by department personnel to the sign-up sheet or newsletters available at neighborhood watch meetings or county fair would be a solicitation for a request for the materials.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

  
By: John W. Wallace  
Counsel, Legal Division

KED:JWW:plh  
Enclosures

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<sup>2/</sup> Department personnel may signify that materials are available by displaying a sign that says "you may take one." (Connelly Advice Letter, No. A-89-198, copy enclosed.)

**Bernard C. Barmann**  
County Counsel

**Stephen D. Schuett**  
Assistant County Counsel

**CHIEF DEPUTIES**

Tom Clow  
Public Services

Philip E. Dunn, Jr.  
Health & Human Services

John M. Gallagher  
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Robert D. Woods  
Litigation



**COUNTY COUNSEL**

ADMINISTRATION AND COURTS BUILDING  
1415 TRUXTUN AVENUE, 5th FLOOR  
BAKERSFIELD, CALIFORNIA 93301

TELEPHONE (805) 861-2326  
TELECOPIER (805) 322-8653

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Kirk B. Perkins  
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Margo A. Raison  
Steven L. Sanders  
James R. Kula  
Charles F. Collins  
James H. Thebeau  
Tax Specialist

September 6, 1989

Fair Political Practices Commission  
428 J Street, Suite 800  
P.O. Box 807  
Sacramento, CA 95804

Re: Request for Formal Written Advice

Gentlemen:

Pursuant to the provisions of Government Code section 83114(b) and Section 18329 of Title 2 of the California Code of Regulations we are requesting, on behalf of Sheriff John R. Smith, formal written advice concerning his duties as Sheriff with respect to the provisions of Government Code section 89001 and the regulations of the Fair Political Practices Commission relating to mass mailings. Sheriff Smith's written authorization for this request is attached. Sheriff Smith's mailing address is 1350 Norris Road, Bakersfield, California 93308.

The Kern County Sheriff's Department has prepared a newsletter "Crime Prevention News" to be utilized by the Department as part of its neighborhood watch program. A copy of that newsletter is attached. It is expected that each issue of this newsletter would have more than 200 copies distributed each month. The issue on which we are requesting advice involves whether the methods by which the Department proposes to distribute the newsletter, as well as other information, comply with the current regulations on mass mailings.

The Sheriff's Department periodically holds Neighborhood Watch meetings with local residents. The Department would have the newsletter available at these meetings for individuals attending and those interested in picking up a copy. There would also be at the table on which the newsletters were placed a sign-up sheet for anyone interested in being on a mailing list for the newsletter and other crime prevention information. A copy of the proposed

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Fair Political Practices Commission  
September 5, 1989  
Page 2

sign-up sheet is enclosed and marked as "Form 1." There would be no specific attempt by Department personnel to induce attendees of these meetings to take the newsletter or to sign up on the mailing list, only an announcement that the materials were present for those interested.

The Sheriff's Department also intends to have a booth at the local county fair. Copies of the newsletter and other information would be available at the booth for anyone interested in picking it up. A sign-up sheet would also be available for those interested in being on the mailing list for the newsletter. A copy of that proposed sign-up sheet is also enclosed as "Form 2."

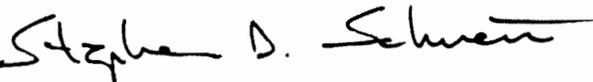
The Sheriff's Department also has various recruitment brochures and informational letters it wishes to distribute to individuals who may be interested in becoming deputies. The Department hopes to utilize a similar means of distribution through the use of sign-up sheets at recruiting programs and at the county fair. Copies of the proposed sign-up sheets are attached and marked as "Forms 3 and 3A."

We are requesting formal advice on whether the distribution of the Department's newsletter and recruiting brochures as described above will be consistent with the definition in Section 18901 of Title 2 of the Code of Regulations of an unsolicited, specific request for information and not prohibited by Government Code section 89001.

Please do not hesitate to contact our office if you need any further information or have any questions.

Yours very truly,

B.C. BARMANN, County Counsel

By   
Stephen D. Schuett  
Assistant County Counsel

SDS:w1  
89.2200/2210

Encl.

cc: Sheriff John Smith

**Bernard C. Barmann**  
County Counsel

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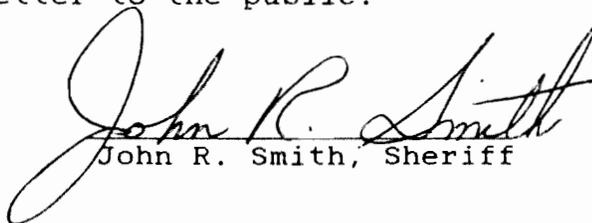
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Charles F. Collins  
James H. Thebeau  
\*Cert. Tax Specialist

September 5, 1989

TO: The Fair Political Practices Commission

I hereby authorize the Office of the County Counsel for Kern County to seek formal written advice from the Commission with respect to my duties as Sheriff in the distribution of the crime prevention newsletter to the public.

  
John R. Smith, Sheriff

# KERN COUNTY SHERIFF'S DEPARTMENT CRIME PREVENTION UNIT

I request the Kern County Sheriff's Dept. send me information regarding Crime Prevention and other areas of law enforcement.

NAME	ADDRESS	ZIP	HOME PHONE	BUS. PHONE
1.				
2.	#1 VOLUNTARY SIGN UP SHEET TO BE AT FAIR FOR THOSE INTERESTED.			
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4.				
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26.				

## KERN COUNTY SHERIFF'S DEPARTMENT CRIME PREVENTION UNIT

CRIME REPORT AREA CODE: _____  TARGET AREA: _____  MEETING DATE: __/__/__  MEETING TIME: _____ MEETING PLACE: _____	BLOCK CAPTAIN: _____  ADDRESS: _____  PHONE: (HOME) _____ (BUS.) _____	CO- CAPTAIN: _____  ADDRESS: _____  PHONE: (HOME) _____ (BUS.) _____
<b>NEIGHBORHOOD WATCH</b>		

I request the Kern County Sheriff's Dept. send me information regarding Crime Prevention and other areas of law enforcement.

NAME	ADDRESS	ZIP	HOME PHONE	BUS. PHONE
1. ②	<i>THIS FORM IS USED AT NEIGHBORHOOD</i>			
2.	<i>WATCH MEETINGS</i>			
3.				
4.				
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16.				
17.				
18.				

MEETING PRESENTED BY: \_\_\_\_\_ STAFF  RESERVE  VOLUNTEER

HOURS: \_\_\_\_\_ MILEAGE: \_\_\_\_\_ NUMBER IN ATTENDANCE: \_\_\_\_\_

## KERN COUNTY SHERIFF'S DEPARTMENT PERSONNEL DIVISION

I request the Kern County Sheriff's Dept. send me information regarding opportunities as a reserve deputy sheriff. I am also interested in receiving information by mail about law enforcement activities in my community from the Kern County Sheriff's Department.

NAME	ADDRESS	ZIP	PHONE	
			HOME	BUSINESS
1.                    ③	RESERVES			
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## KERN COUNTY SHERIFF'S DEPARTMENT PERSONNEL DIVISION

I request the Kern County Sheriff's Dept. send me information regarding career opportunities with the Sheriff's Department and to mail me information about law enforcement activities in my community.

PHONE \_\_\_\_\_

NAME	ADDRESS	ZIP	HOME	BUSINESS
1.				
2.	③ A THIS WILL BE USED AT FAIR FOR RECRUIT & <del>RECRUIT</del> INQUIRIES -			
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25.				



## Crime Prevention News

SUMMER 1989

VOLUME 1 / ISSUE 1

### INTRODUCING "Crime Prevention News"

July brings the first issue of the Kern County Sheriff's Department Crime Prevention newsletter. We were looking for a way to keep our Neighborhood Watch groups up to date on happenings within the department, and also an avenue for watch groups within the county to communicate with each other. *Crime Prevention News* will be issued quarterly with all kinds of crime prevention tips, and information on Neighborhood Watch programs. Anyone interested in volunteering some time to assist with the next issue of *Crime Prevention News*, contact the Sheriff's Crime Prevention Unit at 861-7559.

### CAN WE FIND YOU??

Is your address readily visible day and night for emergency service personnel? Check it today...tomorrow may be too late!

### MESSAGE FROM SHERIFF SMITH

Sheriff John R. Smith is a strong believer in the use of volunteer services as a complement to the paid staff of the Sheriff's Department. When asked to comment about the use of volunteers in the area of Crime Prevention he said, "Volunteers are a very important part of our Crime Prevention Unit. The dedication and generosity of those donating their time has increased the effectiveness and improved the image of the Kern County Sheriff's Department. Never has this volunteer spirit been more important to the community than in these times of severe fiscal constraint. I would like to thank each and every one of you for your support in our fight against crime."

### NEIGHBORHOOD WATCH WORKS!

Neighborhood Watch is a well known crime prevention technique involving citizen participation. Neighborhood Watch was instituted in 1972 by the National Sheriff's Association to combat the explosive rise in burglaries that this country was experiencing.

The Neighborhood Watch Program operates on the concept that effective crime prevention requires citizen cooperation with law enforcement. Residential crime can be reduced when individuals, instructed by law enforcement agencies, take positive steps to make their property more secure. Neighborhood security can be improved when a majority of the citizens become more vigilant and concerned about illegal activities in the community. "Law enforcement officers cannot significantly impact crimes of opportunity such as residential burglary and vandalism, without help from citizens," says the Executive Director of the National Sheriff's Association (NSA). "By taking steps to protect their persons, homes and property, watching over that or their neighbors and reporting suspicious activity, citizens can help their law enforcement agencies reduce neighborhood crime. This is what Neighborhood Watch is all about."

The thrust of NSA's crime prevention activities, which date back to 1972, is citizen involvement.

Beyond the satisfaction with crime reduction, however, lies an important story of positive change in the quality of life which accompanies a vital, involved Neighborhood Watch program. Realtors report that homeowners frequently prefer to buy a home in an area participating in Neighborhood Watch. Citizens speak of a renewal of com.

(See NEIGHBORHOOD WATCH, page 4)

### "WATCHERS"

An important responsibility of "Watchers" is to report anything suspicious to the Sheriff's Department. Some of the most obvious things to watch for and report are:

- Slow moving vehicles without lights
- Parked, occupied vehicles that have been at a location for a long time
- Vehicles being loaded with property
- Abandoned vehicles, may be stolen cars that have been dumped
- Vehicles containing weapons
- Anyone removing parts off of a vehicle
- Anyone looking into parked cars, might be thinking about breaking in
- Offers of merchandise at ridiculously low prices, could be stolen
- Strangers entering unoccupied homes
- Anyoneselling door-to-door in a residential neighborhood
- A person running, especially if something valuable is being carried
- Persons loitering around schools, parks, secluded areas, or in the neighborhood
- A scream heard anywhere may mean a robbery or rape
- The sound of breaking glass or other loud noises
- Persons exhibiting unusual mental or physical symptoms, such persons may be injured, under the influence of drugs, or need medical aid
- Continuous human traffic to and from a certain residence on a daily or regular basis, especially during late or unusual hours
- Open or broken windows

Remember, if the situation changes while you are watching it, call the Sheriff's Department back and let them know of the changes, this may change the priority level of the call. The non emergency phone number for the Communications Center is 861-3110. To report suspicious activity, or any time a police officer or emergency equipment is needed, dial 911.

### McGRUFF SEZ...

"Leave a light on when leaving for an evening. Don't pull shades or leave notes indicating when you will return..."

**Bernard C. Barmann**  
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September 6, 1989

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Page 2

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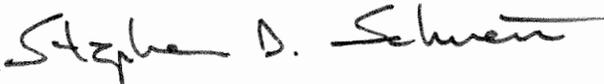
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Please do not hesitate to contact our office if you need any further information or have any questions.

Yours very truly,

B.C. BARMANN, County Counsel

By 

Stephen D. Schuett  
Assistant County Counsel

SDS:w1  
89.2200/2210

Encl.

cc: Sheriff John Smith

**Bernard C. Barmann**  
County Counsel

**Stephen D. Schuett**  
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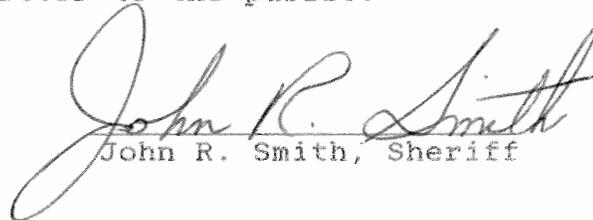
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September 5, 1989

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John R. Smith, Sheriff



# Crime Prevention News

SUMMER 1989

VOLUME 1 / ISSUE 1

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"Leave a light on when leaving for an evening. Don't pull shades or leave notes indicating when you will return..."

# KERN COUNTY SHERIFF'S DEPARTMENT PERSONNEL DIVISION

I request the Kern County Sheriff's Dept. send me information regarding career opportunities with the Sheriff's Department and to mail me information about law enforcement activities in my community.

PHONE \_\_\_\_\_

NAME	ADDRESS	ZIP	HOME	BUSINESS
1.				
2.	(3) A THIS WILL BE USED AT FALL FOR RECRUIT & <del>RETIRED</del> <sup>DEPUTY</sup> INQUIRIES -			
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## KERN COUNTY SHERIFF'S DEPARTMENT PERSONNEL DIVISION

I request the Kern County Sheriff's Dept. send me information regarding opportunities as a reserve deputy sheriff. I am also interested in receiving information by mail about law enforcement activities in my community from the Kern County Sheriff's Department.

NAME	ADDRESS	ZIP	PHONE	
			HOME	BUSINESS
1.                    ③	RESERVES			
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# KERN COUNTY SHERIFF'S DEPARTMENT CRIME PREVENTION UNIT

CRIME REPORT AREA CODE: _____	BLOCK CAPTAIN: _____	CO- CAPTAIN: _____
TARGET AREA: _____	ADDRESS: _____	ADDRESS: _____
MEETING DATE: __/__/__	PHONE: (HOME) _____	PHONE: (HOME) _____
MEETING TIME: _____	(BUS.) _____	(BUS.) _____
MEETING PLACE: _____	<b>NEIGHBORHOOD WATCH</b>	

I request the Kern County Sheriff's Dept. send me information regarding Crime Prevention and other areas of law enforcement.

NAME	ADDRESS	ZIP	HOME PHONE	BUS. PHONE
1. ②	<i>THIS FORM IS USED AT NEIGHBORHOOD WATCH MEETINGS</i>			
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MEETING PRESENTED BY: \_\_\_\_\_ STAFF  RESERVE  VOLUNTEER

HOURS: \_\_\_\_\_ MILEAGE: \_\_\_\_\_ NUMBER IN ATTENDANCE: \_\_\_\_\_

# KERN COUNTY SHERIFF'S DEPARTMENT CRIME PREVENTION UNIT

I request the Kern County Sheriff's Dept. send me information regarding Crime Prevention and other areas of law enforcement.

NAME	ADDRESS	ZIP	HOME PHONE	BUS. PHONE
1.				
2.	<i>#1 VOLUNTARY SIGN UP SHEET TO BE</i>			
3.	<i>AT FAIR FOR THOSE INTERESTED.</i>			
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# California Fair Political Practices Commission

September 25, 1989

Stephen D. Schuett  
Assistant County Counsel  
County of Kern  
1415 Trustun Avenue, 15th Floor  
Bakersfield, CA 93301

Re: Letter No. 89-545

Dear Mr. Schuett:

Your letter requesting advice under the Political Reform Act was received on September 20, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John Wallace an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Kathryn E. Donovan  
General Counsel

KED:plh