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ORIGINAL FILED

MAY 21 1999

LOS ANGELES
SUPERIOR COURT

5 Attorneys for Plaintiffs/Petitioners

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11	ANTHONY MARIO ASSENZA,	)	CASE NO. BC 115813
12	et al.,)	
13	Plaintiffs/Petitioners,	)	MEMORANDUM OF POINTS AND
14	vs.	)	AUTHORITIES IN SUPPORT OF
15	CITY OF LOS ANGELES, et al.,	)	ORDER TO SHOW CAUSE RE
16	Defendants/Respondents,	)	CONTEMPT
17	_____	)	[Filed concurrently with
18		)	Declaration Re Contempt; Order
19		)	to Show Cause Re Contempt;
20		)	Further Declarations Re
21		)	Contempt; and Exhibits in
22		)	Support of Order to Show Cause
23		)	Re Contempt]

Date:
Time: 8:30 a.m.
Dept: 15

21 Additional Attorneys for Plaintiffs:

22 Don B. Kates, Jr.
920 Arlene Way
23 Novato, CA 94947
(415)883-5323

25 COMES NOW, Plaintiffs/Petitioners who submit the following
26 Memorandum of Points and Authorities in support of the Order to
27 Show Cause Re Contempt.

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1 been altered. The Policy Statement itself has been repealed and
2 will be replaced by the provisions of items E and F of this
3 judgment, provided that the Los Angeles defendants reserve the
4 right to add further specifications to their rules, regulations
5 and guidelines, so long as such amendments are not inconsistent
6 with the provisions of this judgment." (Emphasis added).
7 Defendants have not adopted provision F which, among other things,
8 contains the criteria for licensure as well as the favorable
9 factors for issuance. In other words, provision "F" spells out
10 how provision "E" is to be interpreted and applied.

11
12 2. BACKGROUND CHECKS REQUIRED BY LAW

13 All persons seeking concealed carry permits must, prior to
14 issuance, fulfill the requirements of Penal Code Section 12052(a)
15 which states as follows:

16
17 "Fingerprinting of applicants. (a) The fingerprints of
18 each applicant shall be taken and two copies on forms
19 prescribed by the Department of Justice shall be forwarded to
20 the department. Upon receipt of the fingerprints and the fee
21 as prescribed in Section 12054, the department shall promptly
22 furnish the licensing authority a report of all data and
23 information pertaining to any applicant of which there is a
24 record in its office including information as to whether the
25 person is prohibited under Section 12021 or 12021.1 of this
26 code or Section 8100 or 8103 of the Welfare and Institutions
27 Code from possessing, receiving, owning, or purchasing a
28 firearm. No license shall be issued by any licensing

1 authority until after receipt of the report from the
2 department."

3 California Penal Code, Section 12052(a)

4
5 No applicant may be issued a concealed carry permit unless
6 the Department of Justice first responds with a background check
7 report as mandated by the above code section. In addition
8 thereto, each applicant must answer "No" to all the questions
9 contained in Exhibit "9" of the Exhibits in Support of the Order
10 to Show Cause Re Contempt which bear upon facts determinative of
11 whether the applicant possesses good character and may legally
12 possess concealable, as well as other, firearms. Said Exhibit "9"
13 is incorporated by reference as though fully set forth herein.

14 In other words, prior to being considered for issuance for a
15 concealed carry permit, an applicant must have a spotless record
16 and, therefore, be of good moral character according to Penal Code
17 12052(a), as set forth above; which requires a clearance report by
18 the Department of Justice. One fingerprint card goes to the
19 F.B.I. to be run through their computers (NCIC); the other
20 fingerprint card is separately run by the Department of Justice
21 for the State of California.

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23 The defendants are in contempt of this Court's Amended
24 Judgment and Orders in the following particulars:

25 COUNT ONE: Defendants, and each of them, are guilty of a
26 contempt of court by not providing a copy of
27 the guidelines contained in this Court's
28 Amended Judgment (Exhibit 3, Page 8, Paragraph

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6) along with the application when asked for such by William A. Crawford, on or about February 10, 1998. See Declaration of William Arthur Crawford (Declaration 2 of the Further Declarations Re Contempt) filed concurrently herewith; and Exhibit 6 of the Exhibits filed in Support of Order to Show Cause Re Contempt filed concurrently herewith.

COUNT TWO:

Defendants, and each of them, gave false and misleading guidelines which were contrary to this Court's Amended Judgment (Exhibit 3, commencing at page 5, paragraph 2 and ending on page 6, line 7) to William A. Crawford on or about February 10, 1998 (See Dec. 2 of the Further Declarations Re Contempt filed concurrently herewith and Exhibit 6 of the Exhibits in Support of Order to Show Cause Re Contempt filed concurrently herewith).

COUNT THREE:

Defendants, and each of them, are guilty of a contempt of court by not providing a copy of the guidelines contained in this Court's Amended Judgment (Exhibit 3, Page 8, Paragraph 6) along with the application, when asked for such by Hilary Laddin, on or about, March 5, 1998. See Declaration of Hilary Laddin (#18 of Further Declarations Re Contempt filed

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concurrently herewith) and Exhibit 7 of the Exhibits in Support of Order to Show Cause Re Contempt filed concurrently herewith.

COUNT FOUR:

Defendants, and each of them, gave false and misleading guidelines which were contrary to this Court's Amended Judgment (Exhibit 3, commencing at page 5, paragraph 2 and ending on page 6, line 7) to Hilary Laddin on or about, March 5, 1998. See Declaration of Hilary Laddin (#18 of Further Declarations Re Contempt) filed concurrently herewith and Exhibit 7 of the Exhibits in Support of Order to Show Cause Re Contempt filed concurrently herewith.

COUNT FIVE:

Defendants, and each of them, are guilty of a contempt of court by not providing a copy of the guidelines contained in this Court's Amended Judgment (Exhibit 3, Page 8, Paragraph 6) along with the application, when asked for such by Robert J. Bryant, on or about, May 18, 1998. See Declaration of Robert J. Bryant (#19 of Further Declarations Re Contempt filed concurrently herewith) and Exhibit 10 of the Exhibits in Support of Order to Show Cause Re Contempt filed concurrently herewith.

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1 COUNT SIX: Defendants, and each of them, gave false and
2 misleading guidelines which were contrary to
3 this Court's Amended Judgment (Exhibit 3,
4 commencing at page 5, paragraph 2 and ending
5 on page 6, line 7) to Robert J. Bryant, on or
6 about, May 18, 1998. See Declaration of
7 Robert J. Bryant (#19 of Further Declarations
8 Re Contempt) filed concurrently herewith and
9 Exhibit 10 of the Exhibits in Support of Order
10 to Show Cause Re Contempt filed concurrently
11 herewith.
12

13 COUNT SEVEN: Failure to renew the Concealed Carry Permit of
14 Plaintiff, Burton C. Jacobson, on or before
15 April 18, 1998 (the lapse date), see
16 Declaration of Burton C. Jacobson (Dec. #1),
17 contrary to this Court's Amended Judgment
18 (Exhibit 3, Page 7, Paragraph 5).
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20 COUNT EIGHT: Failure to renew the Concealed Carry Permit of
21 Plaintiff, William Arthur Crawford, on or
22 before April 18, 1998 (the lapse date), (Dec.
23 #2) contrary to this Court's Amended Judgment
24 (Exhibit 3, Page 7, Paragraph 5).
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26 COUNT NINE: Failure to renew the Concealed Carry Permit of
27 Plaintiff, David Yochelson, on or before April
28 18, 1998 (the lapse date), (Dec. #3), contrary

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to this Court's Amended Judgment (Exhibit 3, Page 7, Paragraph 5).

COUNT TEN: Failure to renew the Concealed Carry Permit of Plaintiff, Daryl L. Asplund, on or before March 19, 1998 (the lapse date) (Dec. #4), contrary to this Court's Amended Judgment (Exhibit 3, Page 7, Paragraph 5).

COUNT ELEVEN: Failure to renew the Concealed Carry Permit of Plaintiff, John R. Martin, on or before April 24, 1997 (the lapse date) (Dec. #5), contrary to this Court's Amended Judgment (Exhibit 3, Page 7, Paragraph 5).

COUNT TWELVE: Failure to renew the Concealed Carry Permit of Plaintiff, Michael S. Ontiveros, on or before May 19, 1998 (the lapse date), (Dec. #6), contrary to this Court's Amended Judgment (Exhibit 3, Page 7, Paragraph 5).

COUNT THIRTEEN: Failure to renew the Concealed Carry Permit of Petitioner, Anthony Rescigno, on or before August 26, 1997 (the lapse date), (Dec. #7), contrary to this Court's Amended Judgment (Exhibit 3, Page 7, Paragraph 5).

COUNT FOURTEEN: Failure to renew the Concealed Carry Permit of Petitioner, Mariquit Rescigno, on or before August 26, 1997 (the lapse date), (Dec. #8),

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contrary to this Court's Amended Judgment
(Exhibit 3, Page 7, Paragraph 5).

COUNT FIFTEEN:

Failure to renew the Concealed Carry Permit of
Petitioner, Michael Rescigno, on or before
August 26, 1997 (the lapse date), (Dec. #9),
contrary to this Court's Amended Judgment
(Exhibit 3, Page 7, Paragraph 5).

COUNT SIXTEEN:

Failure to renew the Concealed Carry Permit of
Petitioner, Robert Ringler, on or before
March 14, 1998 (the lapse date), (Dec. #10),
contrary to this Court's Amended Judgment
(Exhibit 3, Page 7, Paragraph 5).

COUNT SEVENTEEN:

Failure to renew the Concealed Carry Permit of
Petitioner, Donald Rose, Jr., on or before
October 17, 1997 (the lapse date), (Dec. #11),
contrary to this Court's Amended Judgment
(Exhibit 3, Page 7,
Paragraph 5).

COUNT EIGHTEEN:

Failure to renew the Concealed Carry Permit of
Petitioner, Jeffrey Rosen, on or before
September 9, 1997 (the lapse date), (Dec.
#12), contrary to this Court's Amended
Judgment (Exhibit 3, Page 7, Paragraph 5).

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1 COUNT NINETEEN: Failure to renew the Concealed Carry Permit of
2 Petitioner, Jan Rubini, on or before March 13,
3 1998 (the lapse date), (Dec. #13), contrary to
4 this Court's Amended Judgment (Exhibit 3, Page
5 7, Paragraph 5).

7 COUNT TWENTY: Failure to renew the Concealed Carry Permit of
8 Petitioner, Blanka Simonson, on or before
9 October 17, 1997 (the lapse date), (Dec. #14),
10 contrary to this Court's Amended Judgment
11 (Exhibit 3, Page 7, Paragraph 5).

13 COUNT TWENTY ONE: Failure to renew the Concealed Carry Permit of
14 Petitioner, Dennis Simonson, on or before
15 October 17, 1997 (the lapse date), (Dec. #15),
16 contrary to this Court's Amended Judgment
17 (Exhibit 3, Page 7, Paragraph 5).

19 COUNT TWENTY TWO: Failure to renew the Concealed Carry Permit of
20 Petitioner, George Toney, on or before
21 September 10, 1997 (the lapse date), (Dec.
22 #16), contrary to this Court's Amended
23 Judgment (Exhibit 3, Page 7, Paragraph 5).

25 COUNT TWENTY THREE: Failure to renew the Concealed Carry Permit of
26 Petitioner, Barron Yanaga, on or before
27 September 10, 1997 (the lapse date), (Dec.
28 17), contrary to this Court's Amended Judgment

1 (Exhibit 3, Page 7, Paragraph 5).

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3 COUNT TWENTY FOUR: Refusing to amend the Concealed Carry Permit
4 of Burton C. Jacobson (Dec. #1) on, or about,
5 October 2, 1997 (Exhibit 8) as required by
6 this Court's Amended Judgment (Exhibit 3, Page
7 9, Paragraph 9).

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9 3. THE ACTS OF THE DEFENDANTS CITED IN THE DECLARATIONS RE
10 CONTEMPT ARE CONTEMPT OF COURT AND ARE PUNISHABLE AS SUCH BY THIS
11 HONORABLE COURT

12 California Code of Civil Procedure, Section 1209(a)5 states
13 as follows:

14 "Section 1209. Acts or omissions
15 constituting; . . .

16 (a) The following acts or omissions in
17 respect to a court of justice, or
18 proceedings therein, are contempt of the
19 authority of the court:

20 . . .

21 5. Disobedience of any lawful judgment,
22 order, or process of the court;"

23 California Code of Civil Procedure, Section 1209(a)5.

24 California Code of Civil Procedure, Section 1218(a) states as
25 follows:

26 "Determination of guilt;"

27 Punishment. (a) Upon the answer and
28 evidence taken, the court or judge

1 shall determine whether the person
2 proceeded against is guilty of the
3 contempt charged, and if it be
4 adjudged that he or she is guilty of
5 the contempt, a fine may be imposed
6 on him or her not exceeding one
7 thousand dollars (\$1,000), or he or
8 she may be imprisoned not exceeding
9 five days, or both. In addition, a
10 person who is subject to a court
11 order as a party to the action, or
12 any agent of this person, who is
13 adjudged guilty of contempt for
14 violating that court order may be
15 ordered to pay to the party
16 initiating the contempt proceeding
17 the reasonable attorney's fees and
18 costs incurred by this party in
19 connection with the contempt
20 proceeding."

21 California Code of Civil Procedure §1218(a).

22
23 Willful failure to comply with an order of the court
24 constitutes contempt. In re Graysen (1997) 15 Cal 4th 792; see
25 also In re Young (1995) 9 Cal 4th 1052.

26
27 Disobedience of a lawful court order of the Superior Court is
28 contempt. Ketscher v. Superior Court of Fresno County (1970) 9

1 Cal.App.3d 601.

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4 Persons who act through an intermediary may be personally
5 charged with contempt although no part of the physical act
6 constituting the contempt is committed by them. Bridges v.
7 Superior Court of Los Angeles County (1939) 14 Cal.2d 464 reversed
8 on other grounds 314 U.S. 252. See also, Ex Parte Ewell 71
9 Cal.App. 744.

10 The Chief of Police has no immunity from the contempt powers
11 of the Court. People v. Superior Court (1972) 28 C.A. 3d 600.

12 4. ARGUMENT

13 All of the documents filed contemporaneously with the Order
14 to Show Cause make it crystal clear that the defendants, and
15 especially Chief Bernard Parks, Chief of Police of the Los Angeles
16 Police Department, were fully aware of this Court's Amended
17 Judgment of February 4, 1998 by being served with it. Chief Parks
18 was served personally, in addition to service upon his attorney.
19 There is no doubt that the Defendants, and especially Chief Parks,
20 had the ability to comply with this Court's Orders and that they
21 still have the ability to do so, but apparently choose not to.

22 Defendants' actions, and especially Chief Parks, have
23 demonstrated that they feel that they are above the law and that
24 this Court's Orders do not apply to them. This Court's Orders do
25 apply to them and they, especially Chief Parks, are not above the
26 law. Defendants, and especially Chief Parks, have exhibited a
27 reckless disregard for this Court's proceedings and have, in
28 effect, thumbed their collective noses at this Honorable Court.


1 A plain reading of the Amended Judgment indicates that it is
2 to serve all persons who wish to apply for concealed carry permits
3 in addition to plaintiffs/petitioners herein. Defendants, and
4 especially Chief Parks, are plainly violating the spirit, as well
5 as the letter, of the Amended Judgment and are deliberately
6 misleading the public at large by the erroneous Statement of
7 Policy attached to every application for a Concealed Carry Permit.

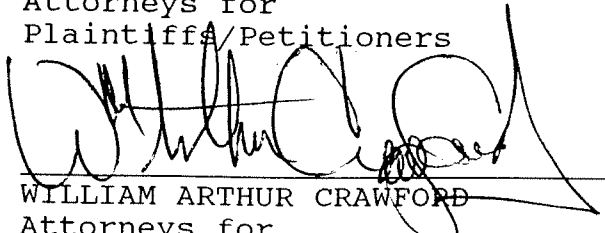
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9 5. CONCLUSION

10 It is respectfully submitted that based upon the overwhelming
11 evidence submitted with this Order to Show Cause that Defendants
12 are guilty of a minimum of 21 separate contempts of court.
13 Certainly future filings will produce more. This contemptuous
14 conduct by Defendants must be stopped immediately with all the
15 power that the court possesses to punish contempt.

16 Dated: May 20, 1998

BURTON C. JACOBSON and
WILLIAM ARTHUR CRAWFORD

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18
19 By: 
20 BURTON C. JACOBSON
21 Attorneys for
22 Plaintiffs/Petitioners

23 By: 
24 WILLIAM ARTHUR CRAWFORD
25 Attorneys for
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