

1 JONATHAN W. BIRDT – SBN 183908
 2 18252 Bermuda Street
 3 Porter Ranch, CA 91326
 4 Telephone: (818) 400-4485
 5 Facsimile: (818) 428-1384
 6 jon@jonbirdt.com
 7 Plaintiff

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 JONATHAN BIRDT,
 11 Plaintiff,

12 v.

13 CHARLIE BECK, LEE BACA, THE
 14 LOS ANGELES POLICE
 15 DEPARTMENT and THE LOS
 16 ANGELES COUNTY SHERIFF'S
 17 DEPARTMENT, and DOES 1 through
 18 50,
 19 Defendants.

CASE NO. CV 10-08377 RGK (JEMx)

**PLAINTIFF'S RESPONSE TO
 DEFENDANTS LOS ANGELES
 COUNTY SHERIFF'S
 DEPARTMENT & LEE BACA'S
 AMENDED SEPARATE
 STATEMENT OF UNDISPUTED
 FACTS**

MSJ Date: **May 16, 2011**
 Time: 9:00 a.m.
 Dept. 850

Action Filed: November 4, 2010
 Trial Date: **October 4, 2011**

20 **PLAINTIFF'S RESPONSE TO LASD UNDISPUTED FACTS AND**
 21 **EVIDENCE**

| Undisputed Facts | Plaintiff's Response |
|---|--|
| 1. The Gun Unit is responsible for administering all the concealed weapons permit applications that come into the Los Angeles Police Department. | Undisputed for purposes of this motion. |
| 2. In the <i>Assenza</i> case, pursuant to a stipulation for Entry of Judgment, the "good cause" policy was changed to reflect the following "good cause" | <i>Assenza</i> was a voluntary agreement entered into between the parties to that action. It is not law, and is not binding. Moreover, there is no |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|---|---|
| <p>definition in relevant part: "Good cause exists if there is convincing evidence of a clear and present danger to life or of great bodily injury to the applicant, his (or her) spouse, or dependent child, which cannot be adequately dealt with by existing law enforcement resources, and which danger cannot be reasonably avoided by alternative measures, and which danger would be significantly mitigated by the applicant's carrying of a concealed firearm." Good cause is deemed to exist, and a license will issue in the absence of strong countervailing factors, upon a showing of any of the following circumstances: (a) The applicant is able to establish that there is an immediate or continuing threat, express or implied, to the applicant's, or the applicant's family, safety and that no other reasonable means exist which would suffice to neutralize that threat.</p> | <p>evidence that that decision was reached by a trier of fact, or what went into the determination of good cause. Assuming <i>Assenza</i> were relevant, it sets out multiple categories for the issuance of a permit, but the LAPD has not issued pursuant to any of the categories absent evidence of an immediate threat. LAPD admits Plaintiff has the necessary training and moral character for the issuance of a permit. Defendants record of issuing only 4 permits in ten years in itself demonstrates how violative of the Second Amendment their conduct is. The fact is, LAPD will not issue a permit absent evidence of an immediate threat.</p> |
| <p>3. Simply fearing for one's own personal safety is not good cause.</p> | <p>Undisputed for purposes of this motion.</p> |
| <p>4. In 1995, after the <i>Assenza</i> case, LAPD immediately adopted and began implementing the aforementioned policy. In 1999, the State of California standardized the application process and required additional mandates. As a result, the Department updated its policies and procedures which created additional scrutiny and more responsibility in processing CCW applications.</p> | <p>Plaintiff objects to the reference of <i>Assenza</i> as a case in that Defendant seems to suggest some sort of adjudication on the merits. The settlement of <i>Assenza</i>, reflected in the stipulated judgment attached hereto is just that, a settlement wherein the LAPD admitted to numerous violations, gave those Plaintiff's permits, and then returned to their old practice of refusing to issue as evidenced by the fact that they have only issued 4 permits in the past ten years.</p> |
| <p>5. In order to obtain a CCW permit from the Los Angeles Police Department, the inquiring person can contact the LAPD Gun unit and speak with one of the sworn officers assigned to the Gun Unit. designated</p> | <p>Detective Tompkins stated that this was not sufficient, and the applicant must explain in detail the reasons and all possible exceptions of the application will be disregarded. For instance, Plaintiff</p> |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|--|--|
| <p>as the CCW coordinator. On the phone the CCW coordinator will explain to the applicant the training requirements and what documents to bring to the initial interview with the CCW coordinator. Specifically, the coordinator will ask for the following materials: The standard DOJ CCW application completed; a letter from his or her attorney if applicable; a declaration or statement of good cause; crime reports and any additional supportive documentation; reference letters if submitted; firearm training certificate; copy of driver's license, a utility bill, guard cards, exposed gun cards, or any other applicable certificates.</p> | <p>identified the fact the he carried large amounts of cash, but Tompkins stated that Plaintiff failed to explain further and so this basis was simply ignored. Deposition of LAPD representative Tompkins attached hereto as Exhibit A.</p> |
| <p>6. The coordinator also explains to the applicant the CCW protocol, which includes the application process, what will happen if their application is approved or denied, and the review process if the applicant wishes to have their denial reviewed. The interested individual then schedules an appointment to come in and interview with the coordinator which is wholly dependent upon the applicant's availability.</p> | <p>Disputed, as Plaintiff testified at deposition, the only material discussion was the Officers' statement that a permit would never be issued by the department. Declaration of Jonathan W. Birdt attached hereto at Paragraph 2.</p> |
| <p>7. From the day the applicant signs the application in the presence of the coordinator at the interview, the Gun Unit has 90 days in which to review the application.</p> | <p>Undisputed for purposes of this motion.</p> |
| <p>8. A detailed description of the nine-step application/review process is provided in the declaration of Rick Tompkins, the supervisor of the CCW permit process.</p> | <p>Plaintiff objects as this fact is irrelevant to any matter at issue herein.</p> |
| <p>9. There are currently 24 active CCW permits issued through and maintained by the Los Angeles Police Department. The Gun Unit receives and processes approximately 76 applications per year.</p> | <p>Undisputed for purposes of this motion.</p> |
| <p>10. The Gun Unit evaluates each application on the merits and treats every applicant equally regardless of</p> | <p>Disputed. This statement lacks foundation or evidentiary support.</p> |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|---|--|
| <p>ethnicity, gender, religion, or social status. There is no special treatment for high-profile people. The Gun Unit has had so-called "celebrities" apply for CCW permits and have denied their applications for failure to demonstrate good cause. No celebrities have active CCW permits with the LAPD.</p> | |
| <p>11. Plaintiff alleges that he was denied a license to carry a concealed weapon by the Los Angeles Police Department because he failed to identify an imminent or specific threat satisfying the Department's good cause requirement.</p> | <p>Disputed. Plaintiff alleges 3 independent grounds for a permit: implied threats, valuables and unusual circumstances. Each of these three are independent grounds under <i>Assenza</i> pursuant to which LAPD was required to deem "good cause" and issue a permit. Imminent or specific threat is Defendants requirement which Plaintiff challenges by way of this action.</p> |
| <p>12. In his declaration submitted in support of Plaintiff's Motion for Summary Judgment, he states he volunteers as a judicial officer for the Los Angeles Superior Court and as an advocate for the Juvenile Court.</p> | <p>Undisputed</p> |
| <p>13. Jonathan Birdt's CCW permit application was reviewed, analyzed, and processed in the exact same manner in which every application is processed.</p> | <p>Undisputed for purposes of this motion, assuming this fact means Plaintiffs application was summarily denied along with all the other applicants.</p> |
| <p>14. After reviewing Mr. Birdt's declaration, and supporting documentation (which consisted of copies of his California and Nevada state bar cards, California driver's license, his Nevada and Utah CCW permits, National Rifle Association ("NRA") membership card, and copies of certificates of completion of a firearms safety course,) Jonathan Birdt's CCW permit application was denied solely because he demonstrated no "good cause" for the issuance of a permit beyond mere self-defense.</p> | <p>Disputed. Plaintiff alleges 3 independent grounds for a permit: implied threats, valuables and unusual circumstances. Each of these three are independent grounds under <i>Assenza</i> pursuant to which LAPD was required to deem "good cause" and issue a permit. Plaintiff also furnished a separate letter of explanation that was requested and invited anyone to contact him if any additional information was required to assist in their evaluation. The LAPD never followed up or sought any additional information or</p> |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|---|---|
| | clarification from Plaintiff. Declaration attached hereto at Paragraph 3. |
| <p>15. Specifically, convincing evidence was not established of a clear and present danger to his life or of great bodily injury to himself or his family, which could not be adequately dealt with by existing law enforcement resources, and which danger could not be reasonably avoided by alternative measures. He did not provide proof that his work is of such a nature that it requires carrying a concealed weapon.</p> | <p>Disputed. Plaintiff alleges 3 independent grounds for a permit: implied threats, valuables and unusual circumstances. Each of these three are independent grounds under Assenza pursuant to which LAPD was required to deem "good cause" and issue a permit. Plaintiff also furnished a separate letter of explanation that was requested and invited anyone to contact him if any additional information was required to assist in their evaluation. The LAPD never followed up or sought any additional information or clarification from Plaintiff. Declaration attached hereto at Paragraph 3.</p> |
| <p>16. Mr. Birdt was sent a letter indicating that his CCW permit application was denied for lack of good cause. He was also notified that if he wished to challenge this decision, he needed to request in writing a hearing by the citizen advisory board.</p> | <p>Undisputed.</p> |
| <p>17. He simply sent the original letter back with the handwritten words "Yes, I contest your decision." He was then contacted by the CCW coordinator Kosal Bun by telephone and told that he needed to write a formal letter requesting a hearing and the current letter would not suffice.</p> | <p>Disputed, Plaintiff testified at deposition that he was never called by Officer Bun regarding the facts alleged herein.</p> |
| <p>18. In October, 2010 Mr. Birdt finally sent in a formal letter indicating that if he was not issued a CCW permit, he would be filing a lawsuit.</p> | <p>Undisputed.</p> |
| <p>19. On March 24, 2011, LAPD received notice from the CCW Citizens Advisory Board indicating that they had reviewed Plaintiff Jonathan Birdt's application, and they recommended AGAINST the issuance of a CCW permit to Mr. Birdt because he failed to establish</p> | <p>Disputed, it is unclear what the Citizen Advisory Board is, what they reviewed, or who decided what. Plaintiff also objects that this is irrelevant to any matter at issue in this litigation.</p> |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|---|---|
| good cause for licensure. | |
| 20. When driving from Nevada to California, Plaintiff must remove his weapon and lock it in a container in the trunk of his car. By doing this, Plaintiff claims he is in violation of Nevada law or restrictions on his CCW permit. Plaintiff believes that the act of removing his gun and putting it in a locked container amounts to brandishing a weapon, despite how discreetly this act is done. | Undisputed. |
| 21. Unlike possession of a gun for protection within a residence, carrying a concealed firearm presents a recognized "threat to public order," and is "prohibited as a means of preventing physical harm to persons other than the offender." [Citation.]" <i>Hale, supra</i> , 43 Cal. App. 3d at 356. A person who carries a concealed firearm on his person or in a vehicle, "which permits him immediate access to the firearm but impedes others from detecting its presence, poses an 'imminent threat to public safety' [Citation.]" <i>Hodges, supra</i> , 70 Cal. App. 4th at 1357. | Disputed, this is a misstatement of law, not a statement of fact. The case cited does not even stand for the proposition for which defendant seeks to assert. |
| 22. The Court's recognition in <i>Heller</i> that prohibitions on carrying concealed weapons were lawful was in full accord with long-standing Supreme Court precedent. Over a century ago, in <i>Robertson v. Baldwin</i> , the Supreme Court recognized that "the right of the people to keep and bear arms (article 2) is not infringed by laws prohibiting the carrying of concealed weapons." <i>Robertson v. Baldwin</i> , 165 U.S. 275, 281-82 (1897). | Disputed, this is a misstatement of law, not a statement of fact and lacks foundation. The case cited does not even stand for the proposition for which defendant seeks to assert. Moreover, this request improperly contains the legal opinion of a purported expert that is not an opinion, nor is it based upon any scientific method. |
| 23. Maintaining public safety and preventing crime are clearly important (if not paramount) government interests and the regulation of concealed firearms is a critical factor in accomplishing that interest. | Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|--|--|
| | training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance. |
| 24. Guns are used in more than 75% of all killings and in even larger portions of robberies. | Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance. |
| 25. A concealed handgun is the dominant weapon of choice for gun criminals and a special danger to government efforts to keep public spaces safe and secure. | Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance. |
| 26. By requiring evidence, the government is able to limit the number of concealed weapons in public to only actual anticipated needs. It also acts as a backup to those who seek a CCW license for criminal purposes but do not yet have a criminal record. | Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance. |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|---|---|
| <p>27. For example, approximately 39% of 2010 LAPD homicide arrestees that were audited had no disqualifying convictions, meaning those murderers would all have been eligible for a CCW permit if the discretionary "good cause" language of Penal Code Section 12050 were removed, as Plaintiff appears to be advocating for.</p> | <p>Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance.</p> |
| <p>28. The governmental interest furthered by Penal Code sections 12025, 12031 and 12050 as administered by Defendant -- the safety of the public and police officers from unknown persons carrying concealed, loaded firearms -- is both important and compelling.</p> | <p>Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance.</p> |
| <p>29. Concealed handguns are the priority of law enforcement everywhere because of the use of the concealed handgun in vast numbers of criminal offenses.</p> | <p>Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance.</p> |
| <p>30. LAPD's CCW permitting scheme was applied in an even-handed manner to Plaintiff. Plaintiff's application was thoroughly reviewed following the multiple steps that</p> | <p>Disputed. The declaration of Zimring is not evidence of this fact or any fact, and defendants 30(b)(6) has admitted that the City has no evidence of any kind to support for</p> |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

| Undisputed Facts | Plaintiff's Response |
|--|---|
| applications must go through. | this theory. There is no nexus in fact or law between this fact and the issuance of CCW permits to law abiding citizens with proper training. Moreover, this fact is irrelevant as it is not related to CCW issuance which increases safety by requiring training and reduces crime by regulating issuance. |
| 31. Plaintiff has no evidence that his application was not reviewed. He merely speculates it was not reviewed because of a comment made by an officer who conducted his interview. | Undisputed for purposes of this motion. |
| 33. Plaintiff has no evidence to support his Equal Protection Clause violation. Plaintiff's response to an interrogatory question asking the facts in support of his equal protection claim fails to satisfy his burden at summary judgment. Plaintiff responded in part, "Plaintiff is informed and believes that the LAPD issues very few permits, and those it does issue are issued on inconsistent standards. For instance, Chief Bratton was issued a permit, though he presented no specific threat of harm, and was always accompanied by a protective detail. Permits have been issued to celebrities and attorneys without the requisite showing." | Disputed. Plaintiff is currently waiting for Defendants to produce the good cause underlying each active permit, and will present such at or before the hearing on this motion. |
| 34. Plaintiff has no evidence to support his conclusion that former Chief of Police Bratton did not have good cause to obtain a CCW permit. | Disputed. Plaintiff is currently waiting for Defendants to produce the good cause underlying each active permit, and will present such at or before the hearing on this motion. |
| 35. Nor does Plaintiff have evidence to prove celebrities and attorneys were issued permits without a specific threat of harm. | Disputed. Plaintiff is currently waiting for Defendants to produce the good cause underlying each active permit, and will present such at or before the hearing on this motion. |
| 32. When asked which celebrities held CCW permits issued by the LAPD, Plaintiff answered Tom Selleck. | While asserting that the defendant does not pander to celebrities, defendant has not denied having |

H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF JOANTHAN W. BIRDT

I, JONATHAN W. BIRDT, declare as follows:

1. I am an attorney at law, duly licensed to practice law in all of the Courts of the State of California. I have personal knowledge of the facts set forth below and if called as a witness, I could and would testify thereto.

2. During my meeting with the LAPD to submit my application I was told the permit would not be granted and that the department did not issue permits.

3. Plaintiff also furnished a separate letter of explanation that was requested and invited anyone to contact him if any additional information was required to assist in their evaluation. The LAPD never followed up or sought any additional information or clarification from Plaintiff.

4. Attached hereto as Exhibit A is the Deposition of Richard Tompkins, the LAPD 30(b)(6) witness on Good Cause.

5. Attached hereto as Exhibit B is the *Assenza* settlement agreement.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the United States of America.

Executed this 25th day of April, 2011 in Los Angeles, California.

/S/
JONATHAN W. BIRDT

H

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Exhibit A

Bir dt

¹
ROUGH DRAFT

1 UNITED STATES DI STRI CT COURT
2 CENTRAL DI STRI CT OF CALI FORNI A

3

4 JONATHAN BI RDT,
5 Pl ai nti ff, No.
6 2: 10-CV-08377-RGK -JEM

7 vs.

8 CHARLIE BECK, LEE BACA, THE LOS
9 ANGELES POLI CE DEPARTMENT and
THE LOS ANGELES COUNTY SHERIFFS
DEPARTMENT, DOES 1-50, Incl usi ve,

10 Defendants.

11

12

13 ROUGH DRAFT DEPOSIT ION OF
14 RI CHARD TOMPKI NS

15

16 FR I DAY, APRI L 22, 2011

17 {BEGTI ME}

18

19

20 200 Mai n Street
21 Los Angel es, Cal i forni a

22

23

24 Toni Cohen, CA CSR No. 9871

25

ROUGHT DRAFT

♀

Bir dt

²
ROUGH DRAFT

1 APPEARANCES OF COUNSEL

2 For Pl ai nti ff:

3 {PLF_ ATTY_ FI RM}
4 JONATHAN W. BI RDT
5 18252 Bermuda Street
6 Porter Ranch, Cali forni a 91326
(818) 400-4485
jon@j onbi rdt. com

7 For Defendant:

8 {DATTFI RM}
9 {DEF_ ATTY_ NAME}
10 {DEF_ ATTY_ ADDRESS}
11 {DEF_ ATTY_ SUI TE}
12 {DEF_ ATTY_ CI TY}, {DEF_ ATTY_ STATE} {DEF_ ATTY_ ZI P}
13 {DEF_ ATTY_ PHONE}
14 {[DEF_ ATTY_ EMAI L}

15 Also Present:

16
17
18
19
20
21
22
23
24
25

ROUGH DRAFT

♀

Birdt
ROUGH DRAFT

1 Los Angeles, CALIFORNIA
2 FRIDAY, APRIL 22, 2011; {BEGTIME}

3 RICHARD TOMPKINS
4

5 a witness herein, having been sworn, testifies
6 as follows:

7 -EXAMINATION-

8 BY MR. BIRD T:

9 Q Would you state your full name for the record,
10 please.

11 A Richard Tompkins.

12 MR. BIRD T: And before we jump into you, I just
13 need to do a couple of little housekeeping matters
14 amongst counsel.

15 Counsel, we've all agreed to separately -- I
16 think we need to separately contact the court and ask the
17 magistrate to move the settlement conference. I have
18 no -- I understand Jennifer has already done it.

19 MS. LEHMAN: I called and I left a message this
20 morning. I wasn't sure what everyone's position was. So
21 I just expressed my position that I thought the
22 settlement would be a waste of time.

23 MR. BIRD T: And I'll do the same, and have no
24 problem doing the same. And both of you have represented
25 neither department maintains statistics regarding the

ROUGH DRAFT

♀

4
ROUGH DRAFT

Birdt

1 numbers of applications received, declined approved, or
2 re[SROEBGT]ed.

3 MS. MITCHELL: That's correct.

4 MS. LEHMAN: Correct.

5 MR. BIRD: And you probably have a declaration
6 on -- with respect to Detective Torres, we're not going
7 to take his deposition based upon City Counsel's
8 representation that he was not asked to and did not do
9 any research relative to CCW holders with respect to the
10 crime research he did and the declaration he submitted.

11 MS. MITCHELL: I don't think City Counsel's
12 representing that, but I'm certainly representing that.
13 You said City Counsel. I'm representing to you that he
14 did not do any kind of research on CCW holders, anything
15 like that. And I actual have a declaration. I just left
16 it in my office. I can get it to you.

17 MR. BIRD: Tomatoes-tomatoes. Counsel for the
18 city.

19 MS. MITCHELL: That's correct.

20 MR. BIRD: Semanti c.

21 Also with respect to Detective Tompkin's
22 deposition today, this initially started as Chief Beck's
23 depo, then Deputy chief Doan's depo. And I think we've
24 agreed to proceed with Mr. Tompkins as the 30(b)6 witness
25 on behalf of the City with respect to my application and

ROUGH DRAFT

♀

5

ROUGH DRAFT

1 the City's good cause policy reserving to you the right

Birdt

2 to designate anybody else should an issue arise in the
3 questioning, that he isn't qualified to answer.

4 MS. MITCHELL: Correct.

5 BY MR. BIRD T:

6 Q With that, it's your turn.

7 I think you stated your name. Do you
8 understand your testimony is under oath and carries the
9 penal ty of perjury today.

10 A Yes, I do.

11 Q Any reason you can't give your best and most
12 complete testi mony today?

13 A No, sir.

14 Q This is a fact finding proceeding, nothing I
15 ask is meant to trick, deceive, mislead any way. If
16 there's something about a question you don't understand,
17 didn't follow, got lost in an objection, let me know, we
18 can either have the court reporter repeat it or I'll
19 rephrase any question. Fair?

20 A Yes.

21 Q If you do understand a question, I've asked
22 we -- being the judge, the jury, the parties all have the
23 right to assume you understood exactly what I asked you.
24 Fair?

25 A Yes.

ROUGH DRAFT

♀

6
ROUGH DRAFT

1 Q Have you had your deposition taken before?

2 A Yes, I have.

Birdt

3 Q Sometimes we get going people say uh-huh and
4 uh-uh or nods of the head. I my say, Is that yes; is
5 that a no, I'm not trying to be rude. I'm just trying to
6 create a clear record for the reporter; fair enough?

7 A Yes.

8 Q My understanding is the City of Los Angeles
9 only has 24 activity CCW permits right now; is that
10 correct?

11 A Yes.

12 Q And of those permits can you tell me
13 approximately how many are ascends of plaintiffs?

14 MS. MITCHELL: Objection. Calls for
15 speculation. You can answer.

16 {THE WITNESS}: 15.

17 BY MR. BIRD: T:

18 Q And of the remaining approximately nine, can
19 you tell me how many of those are new applicants, let's
20 say, within the last 10 years?

21 MS. MITCHELL: Objection. Calls for
22 speculation. You can answer if you know.

23 {THE WITNESS}: I have a vague recollection
24 that we have four new applicants or Ccw applicants or
25 permits.

ROUGH DRAFT

♀

7
ROUGH DRAFT

1 BY MR. BIRD: T:

2 Q And those four, can you tell me in
3 approximately what year they were initially granted?

Birdt

4 MS. MITCHELL: I'm going to object to this line
5 of questioning. Specifically, we had agreed not to take
6 a 30(b)6 witness on the individuals that has CCW, they're
7 good cause, the date they were issued, et cetera. In
8 response, I was going to give you a lift. I'm still
9 planning to go you the list. However, I don't believe
10 deck Detective Tompkins has review that information.
11 This was not a designated area of questioning.

12 MR. BIRD: Understood. It's actually
13 foundational, and my last question on this line. I'm on
14 me my way out.

15 BY MR. BIRD:

16 Q Let me start over. Of the four now applicants
17 who have been give permits in the last 10 years, can you
18 tell me approximately when each was originally issued?

19 MS. MITCHELL: Objection. Calls for
20 speculation. But you can answer if you can.

21 {THE WITNESS}: I don't know specifically.

22 BY MR. BIRD:

23 Q Generally?

24 A I believe at Chief Bratton issued two and Chief
25 Beck has issued two.

ROUGH DRAFT

♀

8

ROUGH DRAFT

1 Q Was one of those Chief Bratton's own permit?

2 A No, sir.

3 Q With respect to the four applicants -- strike
4 that.

Birdt

5 With respect to the four new permits in the
6 last 10 years, were all four of those applicants victims
7 of a crime?

8 MS. MITCHELL: Objection. Calls for
9 speculation.

10 {THE WITNESS}: I don't know if I can answer
11 that. I don't know if I know specifically if they had a
12 crime report or not.

13 BY MR. BIRD T:

14 Q Okay. Were those four applicants issued
15 permits for meeting the good cause definition of the
16 clear and present danger or were they for other
17 categories?

18 MS. MITCHELL: Objection. Calls for
19 speculation. You can answer, if you can.

20 {THE WITNESS}: All four were issued because
21 they met our policy and procedure.

22 BY MR. BIRD T:

23 Q Of good cause?

24 A Of good cause.

25 Q And generally speaking, does the good cause

ROUGH DRAFT

♀

9

ROUGH DRAFT

1 policy and procedure require that the applicant be the
2 victim of a criminal threat of some sort?

3 A No, sir.

4 Q Does good case require -- strike that.

5 The four permits that were issued in the last

Birdt

6 four ten years, were those four people victims of
7 crimes?

8 MS. MITCHELL: Objection. Asked and answered.
9 And calls for speculation.

10 BY MR. BIRD T:

11 Q As far as you know?

12 A Again, as you said, I answered that. I don't
13 know if they had -- if they were victims of crimes.

14 Q Generally speaking, can you tell me what the
15 basis were for those permits?

16 MS. MITCHELL: Same objection.

17 {THE WITNESS}: They met the good cause
18 policy.

19 BY MR. BIRD T:

20 Q How?

21 MS. MITCHELL: I'm going to renew my earlier
22 objection on this specific topic as far as who these
23 people are and how they met the good cause policy. This
24 was not a designated area.

25 MR. BIRD T: I'm just doing this to talk about

ROUGH DRAFT

♀

10
ROUGH DRAFT

1 what the good cause policy is, and what better way to
2 understand it, than the four permits issued in the last
3 10 years.

4 BY MR. BIRD T:

5 Q All I'm asking is your general understanding as
6 you sit here today.

7 MR. BRENT: ^{Birdt} Again, calls for speculation.

8 BY MR. BIRD: T

9 Q You can answer.

10 A Are you asking me for the definition of good

11 cause?

12 Q No. I'm asking -- first, let's talk about the

13 two permits Chief Bratton's issued. What was the good

14 cause basis for those two permits?

15 MS. MITCHELL: Objection. Speculation.

16 BY MR. BIRD: T

17 Q As far as you know?

18 A I don't specifically know right now, sir.

19 Q Generally.

20 A They met good cause.

21 Q How?

22 A They met are procedure with good cause. That's

23 all I know at this time.

24 Q you don't know anything about the facts related

25 to the two permits issued by Chief Bratton.

ROUGH DRAFT

♀

11
ROUGH DRAFT

1 MR. BRENT: Objection assumes facts and calls

2 for speculation.

3 THE WITNESS: Again I'd rather rereview the

4 package to see.

5 BY MR. BIRD: T

6 Q That's not what I'm asking?

7 MR. BRENT: Don't guess. If you don't know,

Birdt

8 don't guess.

9 MR. BIRDT: First of all, you only get one
10 lawyer, and this is federal court and under Rule 30,
11 state your objection and that's it.

12 BY MR. BIRDT:

13 Q Sir, as you sit here today, regarding the two
14 permits issues by Chief Bratton, what knowledge do you
15 have regarding the factual basis establishing good cause
16 for those two permits?

17 MS. MITCHELL: Objection. Calls for
18 speculation.

19 {THE WITNESS}: I don't know.

20 BY MR. BIRDT:

21 Q You don't have any information?

22 A I don't recall.

23 Q As to the two permits issued by Chief Beck,
24 what were the facts underlying the good cause for those
25 two permits.

ROUGH DRAFT

♀

12
ROUGH DRAFT

1 MR. BRENTE: Objection. Calls for speculation.

2 THE WITNESS: Again I don't recall.

3 BY MR. BIRDT:

4 Q Anything?

5 A No, not specifically.

6 Q I'm not asking specifically. I'm asking
7 anything.

8 A I don't recall.

Birdt

9 Q Anything?
10 A No.
11 Q Were you involved in the permitting process for
12 any of those four permits?
13 MS. MITCHELL: Objecti on. Specul ati on.
14 {THE WITNESS}: Yes.
15 BY MR. BIRD T:
16 Q Do you know who those four permit holders
17 are?
18 MS. MITCHELL: Same objecti on.
19 {THE WITNESS}: Not by name, not by memory.
20 BY MR. BIRD T:
21 Q And, as you sit here today, you have absolutely
22 no memory of the basis underlying their good cause for
23 the issuance of the permits, true?
24 MS. MITCHELL: Same objecti on.
25 {THE WITNESS}: No, sir.

ROUGH DRAFT

♀

13
ROUGH DRAFT

1 BY MR. BIRD T:
2 Q Is what I said true?
3 A Repeat it again.
4 Q As you sit here today, do you have any
5 knowledge of any sort regarding the facts underlying the
6 good cause that's supported any of the four permits
7 issued in the last 10 years by L. A. P. D.
8 MR. BRENT E: Objecti on. Asked and answered.
9 And calls for specul ati on.

10 THE WITNESS: Birdt I don't recall.

11 BY MR. BIRD T:

12 Q I'm sorry. You're not answering my question,
13 though, and so I'm --

14 A I don't have an answer for you.

15 Q As you -- you can't not recall what you don't
16 know in your head. So we're just stuck on a double
17 negative. All I need to do is just clear it up. I'm not
18 trying to harass you.

19 All I'm asking is this: As you sit here today,
20 do you have any knowledge in your mind of the factual
21 basis underlying any of the four permits issued by the
22 L. A. P. D. in the last 10 years?

23 MS. MITCHELL: Objection. Asked and answered.
24 And calls for speculation.

25 {THE WITNESS}: No.

ROUGH T DRAFT

♀

14
ROUGH DRAFT

1 BY MR. BIRD T:

2 Q Thank you.

3 What is the good cause -- strike that.

4 Approximately how many permit a year does the
5 LAPD receive, permit applications.

6 MR. BRENTE: Objection. Calls for speculation.
7 You can answer if you know.

8 THE WITNESS: I don't know that. I know that
9 in our declarati on -- or my declarati on I stated that we
10 did 76 in 2010, only because we counted them. And that

Birdt

11 was only for the denial process. They made it through
12 the actual first round of the denial process.

13 Q What is required to establish good cause.

14 MR. BRENT: Objection. Vague. Under
15 California law or LAPD, what are we talking about.

16 BY MR. BIRD: T:

17 Q The LAPD?

18 A LAPD defines good cause to be a clear and
19 present danger of immediate threat to life or great
20 bodily injury to the applicant, to his suppose, or to his
21 kids. And that threat cannot be dealt with by existing
22 law enforcement resources. And the applicant cannot
23 reasonably avoid that danger or threat. And LAPD will
24 also look at whether or not the issuance of the CCW will
25 significantly lesson the threat or danger to the

ROUGH DRAFT

♀

15
ROUGH DRAFT

1 applicant.

2 MS. MITCHELL: Is this first verbatim or this a
3 summary.

4 {THE WITNESS}: This is out of memory -- from
5 memory.

6 Q What's a clear and present danger?

7 A Again, we'd have to look at -- it would come
8 down to five rules that assist in the -- guidelines of
9 rules that assist in the interpretation and the
10 implementation of our policy and include: One, that the
11 person can prove a threat of immediate -- threat to

Birdt

12 immediate life -- of life or great bodily injury, and
13 that we can't -- at that time police department, can't do
14 anything to prevent it.

15 If the person is a security officer, has all
16 these proper licensing and permits and documentation, and
17 can show that his work is of such a nature that he
18 requires a CCW.

19 Three, that he's name on a restraining order or
20 court order indicating that he's been a victim of a crime
21 or in fear of crime. That also goes to Penal Code
22 12025.5D of the California Penal Code which states that a
23 person that's in reasonably in fear of life, can arm
24 himself with a CCW or with a fire arm.

25 Four is that the person is -- transports large

ROUGH DRAFT

♀

16
ROUGH DRAFT

1 sums of money or other valuables, and he can show that
2 there's no other reasonable way to transport those items.

3 And five being is that the applicant is subject
4 to unusual and particular dangers or a threat of physical
5 attack and again the police department cannot prevent
6 that or stop that.

7 Q So categories -- strike that.

8 Category No. 2 would not require evidence of a
9 clear and present danger, correct.

10 MR. BRENT: We're talking about the security
11 guard category?

12 MR. BIRD: Yes?

13 THE WITNESS: Birdt
14 It's may or may not. Again, it
15 depends on what the security officer has to presents.

16 BY MR. BIRD: T

17 Q The restraining order would obviously be
18 somebody who's been the victim of crime?

19 MS. MITCHELL: Objection. Calls for a legal
20 conclusion.

21 {THE WITNESS}: I don't know if there's a lot
22 of different way to do it, but I do believe a lot of
23 people get restraining orders and -- people can get court
24 orders and restraining orders. I don't think it always
25 required a crime report.

BY MR. BIRD: T

ROUGH DRAFT

♀

17
ROUGH DRAFT

1 Q In the last 10 years has a permit been issued
2 under Category No. 2 for security officers.

3 MR. BRENTE: Objection. Calls for speculation.

4 THE WITNESS: I don't know. I don't know.

5 BY MR. BIRD: T

6 Q You said all four of the permits issued in the
7 last ten years were for somebody who had demonstrated
8 good cause, correct?

9 A That's correct.

10 Q Do you know if any of those four were security
11 officers?

12 MS. MITCHELL: Same objection, speculation.

13 {THE WITNESS}: I don't know.

Birdt

14 BY MR. BIRD T:

15 Q In terms of the transporting valuables, what's
16 a valuable?

17 A Again, it could be a bunch of things. It would
18 depend on the person presenting it to us and explained it
19 to us. It's could be currency, as far as US currency, or
20 foreign currency. It could be jewelry. It could be
21 technology equipment or technical equipment. It could be
22 a variety of things.

23 Q Does anybody actually have one of those?

24 MS. MITCHELL: Objection. Speculation.

25 {THE WITNESS}: Again, I don't know

ROUGH DRAFT

♀

18
ROUGH DRAFT

1 specifically, no. I don't know.

2 BY MR. BIRD T:

3 Q What about the 5th category, Unusual issues,
4 has anybody been given a CCW permit under that
5 category?

6 MS. MITCHELL: Objection. Calls for.
7 Speculation?

8 {THE WITNESS}: I'm going to say no on that
9 one. I believe the answer -- I believe the answer is no.

10 BY MR. BIRD T:

11 Q Just a point of clarification: If he's the
12 30(b)6 witness, he can't speculate. So if you want to
13 designate somebody new, that's fine. But I just want to
14 be clear on that. Feel free to designate somebody else,

15 but he's a 30(b)6 witness.
16 MS. MITCHELL: Okay. I'm going to respond to
17 that. We specifically eliminated the 30 B 6 topic on CCW
18 holders. He has not review the information on CCW
19 holders. He's the 30 b 6 witness on our policy and our
20 procedure. Anything that calls for CCW holders, he's
21 going to be speculating on.

22 MR. BIRD: I understand. What I'm asking
23 about is procedure, for issuing, like the amount of
24 valuables. Let me go back to that.

25 BY MR. BIRD:

ROUGH DRAFT

†

19
ROUGH DRAFT

1 Q In terms of transporting valuables, is there a
2 cash threshold amount?

3 A No, sir.

4 Q Would \$1,000 be enough?

5 A Again, it's based on the totality of the
6 application.

7 Q But nobody's actually met that criteria as far
8 as you know?

9 MS. MITCHELL: Objection. Misstated testimony

10 THE WITNESS: that's not how I answered.

11 BY MR. BIRD:

12 Q Does anybody have a CCW permit for transporting
13 valuables?

14 MS. MITCHELL: Asked and answered.

15 BY MR. BIRD:

Birdt

16 Q You can answer?

17 A I don't.

18 Q So let's talk about a threat of immediate harm.

19 What does that mean?

20 A Again, it's pretty clear on the way it's

21 defined. The person is going to be great bodily injury,

22 going to be hurt with read bodily injury or threat to

23 life.

24 Q So somebody has to demonstrate to you by clear

25 and convincing evidence that they're at immediate risk of

ROUGH DRAFT

♀

20
ROUGH DRAFT

1 great bodily harm in order to satisfy the good cause

2 requirement.

3 MR. BRENTE: By "you," you mean Los Angeles

4 Police Department?

5 MR. BIRD T: Correct.

6 THE WITNESS: that's a portion of it, yes, sir.

7 BY MR. BIRD T:

8 Q What's the other portion.

9 A Again it's the five rules and guidelines for

10 interpretation and implementation of the policy.

11 Q But to satisfy the good cause requirement of

12 clear and present danger the applicant must demonstrate

13 that they are in immediate risk of great bodily harm,

14 true?

15 A Yes. Great bodily injury?

16 Q Correct?

Birdt

17 A Yes.

18 Q Do they have to show that they have already
19 been subject to either a threat of immediate harm or the
20 victim of some sort of harm?

21 MS. MITCHELL: Objecti on. Vague.

22 BY MR. BIRD T:

23 Q To satisfy the requirement of the clear and
24 present danger?

25 A Say the questi on agai n please.

ROUGH T DRAFT

♀

21
ROUGH DRAFT

1 Q Sure. How -- strike that.

2 How does one go about demonstrating to the LAPD
3 that they are in immediate risk of great bodily injury?

4 A Again, on the application we request that they
5 provide dates, times, location, and police agency they
6 reported the crime to as far as showing that there is a
7 threat there, that there is a violent threat. And that's
8 all we're asking, for the most part. That's the easiest
9 way to do it.

10 Again if they have a person -- a witness or a
11 person that was present, again, it's something that can
12 he can look at and make contact and make inquiry on and
13 verify that it is a credibility threat or verifiable
14 threat.

15 Q So to satisfy the theft of immediate harm, the
16 applicant has to demonstrate that they've already been
17 the victim of a credible threat of great bodily harm,

Birdt

18 true.

19 MR. BRENT: Objecti on. Vague.

20 Mi scharacterizes hi s statement.

21 THE WITNESS: Again, not the way you're saying

22 it. Again, it could be something this they're afraid

23 that is going to happen. Again, they have to document

24 how they have that information.

25 BY MR. BIRD: T:

ROUGH DRAFT

♀

22

ROUGH DRAFT

1 Q With credibly evidence that a third party has
2 threatened with harm?

3 A Any way they can show it. We're willing to
4 take any information that they have and follow it up.

5 Q But they have to demonstrate that something has
6 already happened to cause them this fear, correct.

7 MR. BRENT: Objecti on. Vague.

8 THE WITNESS: Again they don't have to show
9 that it's already occurred. That they think it's going
10 to occur, they have the feeling that it's going to occur,
11 and they have to show us why. We have to be able to show
12 proof that that threat is verifiable.

13 BY MR. BIRD: T:

14 Q That's there's an actual actor or suspect out
15 there seeking to do that person harm?

16 A Yes.

17 Q Can an applicant satisfy the clear and present
18 danger standard in any other way than showing that there

Birdt

19 is a person out there seeking to do them harm and has the
20 ability to carry out that threat?

21 A Again, a security officer that's doing his job,
22 his business, can provide us the information that shows
23 that by his nature the business of the such nature to
24 have a CCW can do that.

25 Q Anybody else?

ROUGH DRAFT

♀

23

ROUGH DRAFT

1 A Again, the person that's stating -- an
2 applicant that's stating that he's transporting large
3 sums of money, and again has no other way to do it, and
4 shows us why, possibly. Again each one of these would be
5 looked at on an individual basis. There would be a lot
6 of questions, a lot of investigation going into each
7 application.

8 Q Interesting. My application stated that I
9 carried large amounts of cash, didn't it?

10 A Yes, it does.

11 Q What investigation did you conduct to follow-up
12 on that assertion?

13 A You added nothing to it as far as saying why
14 you felt you need a CCW. The department reviewed your
15 application. You had no good cause in any sense of the
16 application -- in that good cause definition. So the
17 department denied your application.

18 Q You just said one way to get a permit is for
19 somebody who carries large amounts of cash, correct?

20 A Birdt
Has to show that's there's no other way to do
21 it.

22 Q Just a moment. You said that a person can get
23 a permit if they demonstrate they carry large amounts of
24 cash, true?

25 MS. MITCHELL: Objection. Mischaracterizes

ROUGH DRAFT

♀

²⁴
ROUGH DRAFT

1 his testimony.

2 MR. BIRD: Strike that.

3 BY MR. BIRD:

4 Q Did you just testify that one way a person can
5 get a CCW application is by stating that they carry large
6 amounts of cash, yes or no?

7 MS. MITCHELL: Objection. Improper question.
8 The testimony was what was the testimony was.

9 BY MR. BIRD:

10 Q Did you testify that avenues of No. 4 to get a
11 conceal weapons permit is if an applicant states they
12 carry large amounts of cash?

13 MS. MITCHELL: Same objection.

14 BY MR. BIRD:

15 Q You can answer?

16 A That's not what I stated.

17 Q What is the Category No. 4?

18 A Category 4 is that a person that's transporting
19 large sums of money or valuables and can show that
20 there's no other way for them do so, reasonably do so, is

21 one way to get a -- require the CCW.

22 Q Did my application state that I carried large
23 amounts of case.

24 MR. BRENTE: Objecti on. Specul ati on. You can
25 answer i f you can.

ROUGH DRAFT

†

²⁵
ROUGH DRAFT

1 THE WITNESS: Yes, i t did.

2 BY MR. BIRDT:

3 Q What follow-up or i nvestigati on did you do to
4 determine whether that was an appropriate category for
5 the i ssuance of a permi t.

6 MR. BRENTE: Agai n, by "you" you mean the Los
7 Angel es Pol ice Department.

8 MR. BIRDT: Yes?

9 THE WITNESS: You've l isted nothing else i n
10 your applicati on to show that there was i ssue or a threat
11 of any ki nd of i njury or coul d that you transport those
12 monies i n any other way -- reasonably transport those
13 monies i n any other ways. Simple as that. The
14 applicati on was very vague i n what you wrote.

15 Q Okay. What follow-up did you do?

16 MS. MITCHELL: Objecti on. Assumes facts?

17 BY MR. BIRDT:

18 Q Di d you do any fol low-up?

19 A No, sir. We -- agai n, i t's on you to provide
20 that i nformati on on your applicati on and i n letters i n
21 letters of reference to us.

Birdt

22 Q Now, sir, are you familiar with the asense of
23 consent decree?

24 A Yes, I am.

25 Q Do you understand that it requires you to

ROUGH DRAFT

♀

26

ROUGH DRAFT

1 accept the applicants' statement at face value?

2 MS. MITCHELL: Objection. Calls for
3 speculation. Vague?

4 {THE WITNESS}: I don't recall that statement.

5 BY MR. BIRD T:

6 Q What was vague or unclear about my statement
7 that I transported large amounts of cash?

8 A It didn't say how much. It didn't say where
9 you were transporting to, where you were transporting it
10 from, why you were transporting it, the need to transport
11 it. There were a lot of other things.

12 Q What else would you need to know?

13 A Mostly that, sir.

14 Q I carry it in my possible everywhere I go?

15 A I'm not doing an application right now. What
16 was on your application when you submitted it, there was
17 not any information in there, not enough, the department
18 denied your application because you did not provide good
19 cause.

20 Q Does Category No. 4 require evidence of a clear
21 and present danger?

22 A It may.

23 Q But it may not?
24 A It may or may not. Again, it's the totality of
25 the application, whether or not you're going to be a

ROUGH DRAFT

♀

27
ROUGH DRAFT

1 victim of crime, whether or not the -- if you can show
2 that there's no other way to transport that money.
3 Q Was I asked whether there's any alternative or
4 reason.
5 MR. BRENTE: Objection. Calls for
6 speculation.
7 THE WITNESS: That I don't know.
8 BY MR. BIRDT:
9 Q Was any investigation done by anybody to
10 follow-up on the statements made in my application on
11 behalf of the LAPD.
12 MR. BRENTE: Calls for speculation.
13 THE WITNESS: Your application was processed.
14 BY MR. BIRDT:
15 Q That wasn't my question, sir. I'm going to
16 have the court reporter repeat, if you will I please
17 listen to it?
18 (Record read.)
19 THE WITNESS: Yes.
20 BY MR. BIRDT:
21 Q By who?
22 A It would be Officer Keith Wong and Officer
23 Kosal Bun.

24 MR. BRENT: ^{Birdt} That's K-O-S-A-L, B-U-N.
25 BY MR. BIRD: T

ROUGH DRAFT

♀

28
ROUGH DRAFT

1 Q What did Officer Wong do?
2 MS. MITCHELL: Objection. Calls for
3 speculation.
4 {THE WITNESS}: Officer Wong met with you and
5 took your application from you.
6 Q And Kosal Bun did the --
7 A Background check.
8 Q Was there anything in my background check that
9 was contrary to the policy for the issuance of the
10 permit?
11 MS. MITCHELL: Objection. Vague. And
12 speculation?
13 {THE WITNESS}: Can you be more specific.
14 BY MR. BIRD: T
15 Q Sure. Was anything revealed in my background
16 check that would be -- that weighed into the decision to
17 deny my permit?
18 A No, sir.
19 Q Was there any follow-up done regarding any of
20 the statements made in my application or in the separate
21 letter statement requested by the officers in reviewing
22 my CCW application.
23 MR. BRENT: Objection. Vague. Calls for
24 speculation.

25 THE WITNESS: Birdt Don' t know.

ROUGH DRAFT

♀

29
ROUGH DRAFT

1 BY MR. BIRD T:

2 Q Can you tell me how the clear and present
3 danger standard protects the community?

4 MS. MITCHELL: Objection. Assumes facts.

5 {THE WITNESS}: I don' t know what you' re
6 aski ng.

7 BY MR. BIRD T:

8 Q Why does did LAPD have such a restrictive
9 defi ni ti on of good cause.

10 MR. BRENT E: Objection. Assumes facts.

11 THE WITNESS: LAPD has a very strict CCW policy
12 to limit the amount of CCW permits that are issued by the
13 Chief of police specifically to the people that need
14 them, that people can -- that we can' t protect or help.

15 Q And why does the LAPD have a very strict
16 policy?

17 MS. MITCHELL: Objection. Asked and answered.

18 {THE WITNESS}: Again, I had more to say.

19 BY MR. BIRD T:

20 Q I' m sorry.

21 A It was dramatic pause. Again, it also protects
22 the life of the Los Angeles Police Officer and the
23 communi ty members.

24 Q And can you please tell me all evidence, facts,
25 studies or information upon which you rely for the

Bir dt

ROUGHT DRAFT

♀

30
ROUGH DRAFT

1 asserti on that your very strict policy protects
2 offi cers?

3 MS. MITCHELL: Objecti on. Vague. Calls for
4 specul ati on. And assumes facts.

5 {THE WITNESS}: I don' t. I have any of the
6 i nformati on for you, sir.

7 BY MR. BIRDT:

8 Q Would your answer be the same if I asked about
9 how it would protect the communi ty?

10 A That' s correct.

11 Q Any other reason you provide for why you have a
12 very strict policy to limit the number of permits other
13 than the two you gave me?

14 A If we make the policy any less strict, the vast
15 majority of the people in Los Angeles would have -- or
16 would qualify for CCW, and would put more guns on the
17 street and lead to more gun violence, and the fear of the
18 gun violence.

19 Q And can you please tell me all of the facts,
20 evi dence, i nformati on, studi es, or other i nformati on upon
21 which you support your statement that issuing more
22 permits would lead to more gun violence.

23 MR. BRENT: Objecti on. Vague. Calls for
24 specul ati on.

25 THE WITNESS: I don' t have any of i nformati on,

Bir dt

ROUGHT DRAFT

♀

31
ROUGH DRAFT

1 si r.

2 BY MR. BIRDT:

3 Q You would agree that as a resident of Los
4 Angeles under normal circumstances, just every day
5 circumstances, not where somebody's obviously chasing me
6 down the street or I have a restraining order -- let me
7 start over.

8 Under normal circumstances, in order for the
9 resident of the City to Los Angeles to
10 possess a loaded weapon outside of the home, the own
11 means by which they can lawfully do that is with a CCW
12 permit, true?

13 A No.

14 Q What are the other options where under normal
15 circumstances a citizen of Los Angeles can do that?

16 A Again, under Penal Code 12025.5 D it says if
17 person's in fear of his life, he may possess a fire
18 arm.

19 Q Other than when they're in immediate fear of
20 their life, is there any other avenue under which under
21 normal circumstances a residence of the City of Los
22 Angeles can possess a loaded firearm outside of the home
23 with -- absent a CCW permit?

24 A Again, you do have shoot ranges, and target
25 ranges, and so forth they were allowed to possess a

ROUGHT DRAFT
Page 30

Birdt

♀

32
ROUGH DRAFT

1 firearm.

2 Q I'm talking about normal circumstances. I want
3 to for walk my dog, there's nobody chasing me with a gun,
4 the only way I can lawfully possession a load firearm is
5 with a CCW permit?

6 A Yes. Again, with the exeption of 12025, yes.

7 Q Has the good cause policy of the City of Los
8 Angeles been reviewed in any way in light of the United
9 States Supreme Court decision in McDonald?

10 MS. MITCHELL: Objection. Attorney-client
11 privilege. I'll instruct my client not to answer as far
12 as it interferes with the attorney-client privilege.

13 You can answer insofar as it does not interfere
14 with the attorney-client privilege.

15 THE WITNESS: No.

16 BY MR. BIRD T:

17 Q Did I demonstrate a record of responsible
18 handi ng of fi rearms?

19 MS. MITCHELL: Objection. Vague and ambiguous.

20 {THE WITNESS}: Yes, sir.

21 BY MR. BIRD T:

22 Q Did I demonstrate long-term participation in
23 shooting sports?

24 MS. MITCHELL: Are we talking about February
25 23rd, 2010 when you submitted your application? Let's be

ROUGH DRAFT

♀

Birdt

33
ROUGH DRAFT

1 specific, if that's what you're going to ask instead of
2 just a life-time policy?

3 {THE WITNESS}: Can you be more specific on
4 your question. When you're asking or why you're
5 asking.

6 BY MR. BIRD T:

7 Q Did I demonstrate to the Los Angeles Police
8 Department a long-term participation in shooting
9 sports?

10 MS. MITCHELL: Objection. Vague and ambiguous.

11 {THE WITNESS}: On the application, yes.

12 BY MR. BIRD T:

13 Q And, in fact, I provided evidence that in a the
14 practical shooting competition, I scored higher than
15 several sworn officers of the LAPD, didn't I.

16 MR. BRENT E: Objection. Calls for speculation.
17 And vague.

18 THE WITNESS: That I don't recall.

19 MS. MITCHELL: You could have a contest right
20 now if you want.

21 MR. BIRD T: Absolutely for my permit?

22 MS. MITCHELL: Sure. With your pink gun and
23 everything.

24 MR. BIRD T: You name it. I'm there.

25 MS. MITCHELL: Just kidding. I take that back.

ROUGH DRAFT

♀

Birdt
34
ROUGH DRAFT

1 BY MR. BIRDT:

2 Q Did I demonstrate that I had received training
3 in the policy and procedures for carrying a concealed
4 weapon.

5 MR. BRENT: Objection. Vague.

6 THE WITNESS: Yes.

7 BY MR. BIRDT:

8 Q So in terms of the favorable factors under
9 ascends for the issuance of a permit and the background
10 morale character requirements, I satisfied both of those
11 requirements as part of your investigation process,
12 true?

13 MS. MITCHELL: Objection. Misstates testimony,
14 policy and procedures.

15 {THE WITNESS}: State your question again,
16 sir.

17 BY MR. BIRDT:

18 Q Sure. There are in general three requirements
19 for the issuance of a permit: Training, background, and
20 good cause; is that fair a statement?

21 A Yes.

22 Q And as to training and background, I presented
23 sufficient evidence to satisfy those two elements,
24 correct?

25 A Yes.

ROUGH DRAFT

♀

35
ROUGH DRAFT
Page 33

Birdt

1 Q The Gun Free School Zone Act prohibits
2 residences of Los Angeles from possessing an exposed
3 firearm within 1,000 feet of a school, correct?

4 MS. MITCHELL: Objection. Calls for
5 speculation. You can answer if you can.

6 {THE WITNESS}: Any firearm.

7 BY MR. BIRD T:

8 Q Any firearm. What I said is correct?

9 A Say it again, please? Say that statement
10 again.

11 Q The gun-free school zone act prohibits anyone
12 from possessing an unlocked firearm within 1,000 feet of
13 a school unless they have a CCW permit or are otherwise a
14 sworn law enforcement official, true?

15 MS. MITCHELL: Objection. Calls for
16 speculation.

17 {THE WITNESS}: I'm trying to remember if it
18 was 1,000 feet or 1,000 yards.

19 BY MR. BIRD T:

20 Q One or the other. At least 1,000 feet?

21 A Yes, sir.

22 Q And in my application I stated that I lived
23 across the street from a school, correct.

24 MR. BRENTE: Objection. Calls for speculation.

25 THE WITNESS: I don't recall that.

ROUGH T DRAFT

♀

36
ROUGH DRAFT

1 BY MR. BIRD T:

Birdt

2 Q Well, let me represent to you that I live
3 across the street from a school. Assuming that to be
4 true, I cannot possession any firearm if I step off my
5 property unless it's in a locked container or I have a
6 CCW permit, true.

7 MR. BRENT: Objection. Calls for speculation,
8 a legal conclusion. Improper hypothetical.

9 THE WITNESS: True.

10 BY MR. BIRD: T

11 Q And with respect to the -- with respect to the
12 four permit that's were granted in the last ten years,
13 how many of those to go to citizen advisory review panel.

14 MR. BRENT: Objection. Calls for speculation.

15 THE WITNESS: I don't know, sir.

16 BY MR. BIRD: T

17 Q Do you know if any of them did or did not.

18 MR. BRENT: Same objection.

19 THE WITNESS: Yeah. Again, I don't know.

20 BY MR. BIRD: T

21 Q Referring to again the favorable factors under
22 Asensa, we've talked about the first two. Let me just
23 ask you category No. 3 or C is the applicant has a record
24 of good citizenship in general as evidenced, for
25 instance, by servicing in the community through such

ROUGH DRAFT

♀

37
ROUGH DRAFT

1 activities as credible services in the armed forces,
2 police reserves or active participation in charitable or

Bir dt

3 public service organizations or activities or in
4 political affairs. I've sort of summarized, but in
5 general you're familiar with that category?

6 A Yes.

7 Q And in my application I demonstrated several
8 pieces of information that would support that favorable
9 factor, including volunteering as a judge and a juvenile
10 advocate, true?

11 A That's correct.

12 Q And the same would be true for D, the applicant
13 is trustworthy and responsible as evidence from by
14 employment history, position held in civic political,
15 religious, or secular achievements or record of personal
16 accomplishments in other areas of endeavor?

17 A say that whole thing again please? Are you
18 applying this to your application?

19 Q Yeah?

20 A One more time.

21 Q The applicant is trustworthy and responsible as
22 evidenced, for instance, by employment history, position
23 held in civic, politic, religious secular achievements or
24 record of personal accomplishments and other areas of
25 endeavor.

ROUGH DRAFT

♀

38
ROUGH DRAFT

1 MR. BRENT: Based on the application that you
2 submitted, correct.

3 MR. BIRDT: And the supporting information.
Page 36

Birdt

4 THE WITNESS: Yes.

5 BY MR. BIRDT:

6 Q And the last one: Not -- leave that alone.

7 Disability or handicapped.

8 Did I present any unfavorable factors as list
9 under asendsa.

10 MS. MITCHELL: In your application?

11 BY MR. BIRDT:

12 Q In my application or any of the supporting
13 material?

14 A No, sir.

15 Q Are you aware of any instant of violation or
16 crime by a CCW holder?

17 MS. MITCHELL: Objecti on. Vague. Calls for
18 speculation?

19 {THE WITNESS}: With the Ci ty of Los Angel es,
20 no.

21 BY MR. BIRDT:

22 Q There's a statement that in the moving papers
23 that says, the gun unit receives and processes
24 approximately 300 applications per year. Is that
25 generally consistent with your understanding?

ROUGH DRAFT

♀

39
ROUGH DRAFT

1 MS. MITCHELL: Objecti on. Vague. Are we
2 referring to hi s declarati on.

3 MR. BIRDT: I'm referring to Ci ty's material
4 fact No. 9: The gun unit receives and processes

Birdt

5 approximately 300 applications per year.

6 A I'm not sure who provided that information.

7 I'm not sure what they're qualifying as a process or an

8 application.

9 BY MR. BIRDT:

10 Q So would you disagree with that factual

11 statement?

12 A I don't know how they came up with that number.

13 Q Is that in any way consistent with your

14 understanding of reality.

15 MR. BRENTE: Again we're talked about complete

16 applications, or are we talking about incomplete

17 application

18 THE WITNESS: The first time I gave a number

19 was 76 for 2010. Other than that, we don't keep any

20 stats or numbers on this stuff. So I mean I don't know

21 on an average on an annual specifically per year, I don't

22 know.

23 BY MR. BIRDT:

24 Q What exactly is your position?

25 A D-III, Detective III Los Angeles Police

ROUGH DRAFT

♀

40

ROUGH DRAFT

1 Department currently assigned to the gang and the

2 narcotic division gun unit.

3 Q Does the LAPD recognize the right of residents

4 to have access to firearms for lawful purpose including

5 self-defense.

Birdt

6 MR. BRENTE: Objection. Vague. Calls for a
7 legal conclusion.

8 THE WITNESS: Citizens can do it, yes.

9 BY MR. BIRDRT:

10 Q Possess a firearm for self-defense outside of
11 the home?

12 A Again, under 12025.5 D, yes. Inside the house
13 they can possess a firearm.

14 Q But outside of the home, only if somebody's
15 threatening them with a credible threat of harm?

16 A Again, a loaded firearm, yes.

17 MS. MITCHELL: How much more do we have?

18 MR. BIRDRT: Minutes. But why don't we take a
19 five-minute break, I'll need one anyways.

20 (Recess taken.)

21 BY MR. BIRDRT:

22 Q In my application I stated that I transported
23 significant amounts of valuable property, true?

24 MS. MITCHELL: Calls for speculation.

25 {THE WITNESS}: I don't recall that phrase.

ROUGH DRAFT

♀

41
ROUGH DRAFT

1 BY MR. BIRDRT:

2 Q Cash.

3 A Say it again, please.

4 Q In my application I stated that I transported
5 large amounts of cash, true?

6 MS. MITCHELL: Same objection.

Birdt

7 {THE WITNESS}: I don't know if it was verbatim
8 or exactly that phrase.

9 BY MR. BIRD T:

10 Q Words to that effect?

11 A Transport large sums of monies or something
12 to that degree, yes.

13 Q Under assenda good cause is deemed to exist if
14 the applicant establishes circumstances exist requiring
15 him or her to transport in public significant amounts of
16 valuables property, true?

17 A You can show that there's more to it. You have
18 to show that there no other reasonable way to do so.

19 Q Did I say there was any other way to do it?

20 A You made a very short statement. You didn't
21 back it up with anything, you didn't confirm it, you
22 didn't put anything to include it. It was taken as fact
23 of statement of whatever. That's all it was, you carry
24 large sums of monies.

25 Q That's also that's required understand asendsa,

ROUGH DRAFT

♀

42
ROUGH DRAFT

1 isn't it?

2 MS. MITCHELL: Objection. Calls for
3 speculation.

4 {THE WITNESS}: No.

5 BY MR. BIRD T:

6 Q Did you do any follow-up to ascertain whether
7 or not that statement met the parameter for the asesnds

Birdt

8 consent degree?

9 MS. MITCHELL: By "you" you mean Los Angeles
10 police department.

11 {THE WITNESS}: You provided no other
12 information on your application. There was no need to go
13 any further. I don't know if cosel or Kevin Wong asked
14 you additional questions.

15 Q You have no knowledge of that one way or
16 another, true?

17 A No. It wasn't documented any further in your
18 application or your investigation.

19 MR. BIRD: I have nothing further.

20 MS. MITCHELL: I have no further questions.

21 BY MR. BIRD:

22 Q Under assendsa you're required to take the
23 applicants representation at face value absent
24 counterveiling information, true?

25 MS. MITCHELL: Objection. Calls for

ROUGH DRAFT

‡

43
ROUGH DRAFT

1 speculation. legal conclusion. I'm not sure that's
2 there in?

3 {THE WITNESS}: I don't recall that.

4 BY MR. BIRD:

5 Q What policies or procedures exist for
6 evaluating a CCW application based upon the
7 representation that somebody carries large amounts
8 valuable property?

Page 41

Bir dt

9 MS. MITCHELL: Vague.

10 {THE WITNESS}: Again, the application says
11 that to provide good cause, fill out the application, and
12 provides specific dates and times and location to help
13 with the application. That was not included in yours .

14 BY MR. BIRDT:

15 Q Did n' t I include a whole separate letter
16 explaining that?

17 A You provided a separate letter, but, again, not
18 very specific on why you needed a CCW, all over the
19 place.

20 Q All we're talking about is valuable property.
21 Did I not state that I gambled, had gambling income, and
22 frequently traveled back and forth between casinos with
23 large amounts of cash in my supporting letter.

24 MR. BRENTE: Objection. Calls for
25 speculation.

ROUGH DRAFT

♀

44
ROUGH DRAFT

1 THE WITNESS: No I don't recall.

2 MR. BIRDT: Nothing further.

3 MR. BRENTE: Same stipulation.

4 MR. BIRDT: Sure.

5 MR. BRENTE: We'll get a copy of the original,
6 have about a month for Detective Tompkin to come in
7 review it, make any changes, then send back to you the
8 changes. In the event -- we'll keep the original. In
9 the event the original can't b produced that a certified

Birdt

10 unsigned copy can be used instead.

11 MR. BIRD: In the event I'm not notified of
12 the date or signing of any changes a certified copy can
13 be deemed a signing original. So.

14 MR. BRENT: MS. MITCHELL: So stipulated.

15 MS. MITCHELL: Copy.

16 MR. BIRD: Rough. 11:30 AM.

17

18

19

20

21

22

23

24

25

ROUGH DRAFT

H

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Exhibit B

14

FILED
LOS ANGELES SUPERIOR COURT
JUN 11 2010
JOHN A. CLARKE, CLERK
BY J. LORENZ, DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

RECEIVED
JUN 04 2010
DEPT. 14

| | | | |
|----|--------------------------------|---|---------------------------|
| 10 | ANTHONY MARIO ASSENZA, et al., |) | CASE NO. BC 115813 |
| 11 | Plaintiffs/Petitioners |) | THIRD AMENDED JUDGMENT OF |
| 12 | v. |) | DECLARATORY RELIEF |
| 13 | CITY OF LOS ANGELES, et al., |) | |
| 14 | Defendants/Respondents. |) | |

18 IT IS ORDERED that the rights and obligations of the parties
19 to this action are declared as follows:

20 A. Defendants Affected.

21 The defendants affected by this judgment herein are: CITY
22 OF LOS ANGELES, the CITY OF LOS ANGELES POLICE DEPARTMENT
23 (hereinafter "LAPD"), LOS ANGELES BOARD OF POLICE COMMISSIONERS,
24 and CHARLIE BECK, CHIEF OF POLICE OF THE CITY OF LOS ANGELES
25 POLICE DEPARTMENT.

26 B. Introduction.

27 This action challenging LAPD's procedure, rules and
28

COPY

1 practices for issuing licenses to carry concealed firearms
2 pursuant to Pen. C. Section 12050 ff. was filed September 24,
3 1992. Some of the plaintiffs sought to be issued licenses and
4 they and the other plaintiffs sued as taxpayers and citizens. The
5 Los Angeles defendants received an open extension to answer, and
6 entered into highly complex settlement negotiations which have
7 continued to this time.

8 C. Admission.

9 The Los Angeles defendants admit that certain rules,
10 policies, practices and procedures, and certain features of the
11 Board Policy Statement cited in the complaint, were not in
12 compliance with Section 12050 ff. Those former rules, policies,
13 practices and procedures have been altered. The Policy Statement
14 itself has been repealed and will be replaced by the provisions
15 of items E and F of this judgment, provided that the Los Angeles
16 defendants reserve the right to add further specifications to
17 their rules, regulations and guidelines, so long as such
18 amendments are not inconsistent with the provisions of this
19 judgment.

20 D. Plaintiffs' Licenses.

21 The allegations of the complaint showed good cause as to all
22 of the plaintiffs who sought to be issued licenses. For purposes
23 of this judgment the following persons are deemed plaintiffs:

24 ANTHONY MARIO ASSENZA, ROBERT JAMES BRYANT, WILLIAM ARTHUR
25 CRAWFORD, PAUL STEVEN DWAN, BRUCE HAROLD EDELMAN, OLOGY ERLE
26 GIBSON, TERRY HOMER HARDEN, RICHARD ALAN HOCHBERG, BURTON C.
27 JACOBSON, THOMAS MICHAEL KUTROSKY, YAROM LIMOR, MARSHALL CLIFFORD
28

1 MARS, JOHN R. MARTIN, ROBERT KELLOGG MILLER, MICHAEL SCOTT
2 ONTIVEROS, TED PASTERNAK, VICTOR DONALD RAPPOPORT, JESSEE DONALD
3 RICH, JEROME MARTIN ROSENBERG, JOEL C. SCHLOSSMAN, NATHAN DAVID
4 SCHLOSSMAN, CARLOS SEDILLO, SANFORD SHIRE, BERNICE SHARON SILVER,
5 RICHARD CLAYTON TEMME, JOHN HARRIS THALER, DONNA LYNNE THOMAS,
6 GARY BRIAN TIGAR, KENT LEE TURNIPSEED, and DAVID ALAN YOCHELSON.

7 These named plaintiffs will receive licenses, and their licenses
8 will be renewed for a one year term, but only so long as they
9 continue to have good cause, good character, not to be barred by
10 law from the ownership of concealable firearms, and to meet each
11 of the other requirements of licensure under Section 12050 ff.

12 E. The policy LAPD has adopted is that good cause exists if
13 there is convincing evidence of a clear and present danger to
14 life or of great bodily injury to the applicant, his (or her)
15 spouse, or dependent child, which cannot be adequately dealt with
16 by existing law enforcement resources, and which danger cannot be
17 reasonably avoided by alternative measures, and which danger
18 would be significantly mitigated by the applicant's carrying of a
19 concealed firearm.

20 F. The following further rules and guidelines are provided
21 for the interpretation and implementation of Item E:

22 INTRODUCTORY

23 The department recognizes that Pen. C. Section 12050
24 requires the issuance of licenses to persons of good character
25 who have good cause to carry a concealed firearm for the defense
26 of themselves or others or in pursuing their livelihood. These
27 guidelines are designed to implement that requirement.
28

1 Good cause is more likely to be found if the applicant has a
2 demonstrated record of responsible handling of firearms as
3 indicated by voluntarily having taken firearms training and/or
4 long-term participation in the shooting sports. While lack of
5 such a demonstrated record is not a disqualification if the
6 applicant is otherwise qualified to use a firearm properly,
7 licenses will not issue if there is substantial, articulable
8 reason to believe that issuance would be contrary to public
9 safety or if the applicant does not have good character. Among
10 other criteria to be considered are: the applicant's record and
11 history in accidents with firearms, automobiles or other
12 dangerous instrumentalities; and association with persons having
13 a criminal record or who are reliably known to lack good
14 character. The expression of dangerous or irresponsible
15 attitudes, or threats, toward or regarding the use of firearms or
16 other dangerous instrumentalities shall be grounds for denial or
17 revocation of a license.

18
19 CRITERIA FOR LICENSURE

20 1. Training. The license, if approved, shall not become
21 effective until the applicant has furnished proof to the
22 department that he or she has successfully completed the course
23 of training in the carrying and use of firearms established
24 pursuant to Section 7585 et seq., of the California Business and
25 Professions Code or some other appropriate course which included
26 the following subjects of training: knowledge of California laws
27 regarding weapons and deadly force use; safe handling, carriage,
28

1 use and storage of concealable firearms; competency with the
2 types of firearms to be listed on the license.

3 2. Good Cause. Good cause shall be deemed to exist, and a
4 license will issue in the absence of strong countervailing
5 factors, upon a showing of any of the following circumstances:

6 a) The applicant is able to establish that there is an immediate
7 or continuing threat, express or implied, to the applicant's, or
8 the applicant's family's, safety and that no other reasonable
9 means exist which would suffice to neutralize that threat. b) The
10 applicant is employed in the field of security, has all requisite
11 licenses, is employed by a security firm having all requisite
12 licenses, and provides satisfactory proof that his or her work is
13 of such a nature that it requires the carrying of a concealed
14 weapon. c) The applicant has obtained, or is a person included
15 within the protections of, a court order which establishes that
16 the applicant is the on-going victim of a threat or physical
17 violence or otherwise meets the criteria set forth in Pen. C.
18 Section 12025.5. d) The applicant establishes that circumstances
19 exist requiring him or her to transport in public significant
20 amounts of valuable property which it is impractical or
21 impracticable to entrust to the protection of armored car
22 services or equivalent services for safe transportation of
23 valuables. e) The applicant establishes that he or she is subject
24 to a particular and unusual danger of physical attack and that no
25 reasonable means are available to abate that threat.

26 3. Favorable Factors. Among facts upon which the department
27 will, in the exercise of its discretion, look favorably in
28

1 considering applications are whether a) the applicant has a
2 demonstrated record of responsible handling of firearms; b) the
3 applicant has a commitment to safe and responsible handling of
4 firearms as shown by having voluntarily taken firearms training;
5 c) the applicant has a record of good citizenship in general as
6 evidenced, for instance, by service to the community through such
7 activities as creditable service in the armed forces, including
8 the National Guard and state militia or in the police reserves,
9 or of active participation in charitable or public service
10 organizations or activities or in political affairs; d) the
11 applicant is trustworthy and responsible as evidenced, for
12 instance, by employment history, positions held that are civic,
13 or political, or religious, or secular achievements, or record of
14 personal accomplishment in other areas of endeavor; e) that the
15 applicant suffers under a disability or physical handicap,
16 including age or obesity, which hinders the applicant's ability
17 to retreat from an attacker.

18 4. Unfavorable Factors. Factors which will bear negatively
19 on issuance (unless they appear to be in the remote past) are: a)
20 the applicant has a long-term history of mental or emotional
21 instability, alcoholism, drug use or addiction; b) the applicant
22 has a history of fault in serious accidents with firearms,
23 automobiles or other dangerous instrumentalities; c) the
24 applicant has had a permit to own or carry a concealed weapon
25 denied, suspended or revoked for good cause by any issuing
26 authority; d) the applicant has had a driver's license denied,
27 suspended or revoked for good cause by any issuing authority; e)
28

1 the applicant has a long-term record of irresponsible and
2 dangerous behavior with automobiles as indicated by numerous
3 convictions of serious driving offenses; f) the applicant has a
4 long-term history of conduct from which it appears that he or she
5 is not now of good moral character, trustworthy or responsible.
6 While none of the foregoing disqualify an applicant per se, a
7 license will be denied if it appears, in the discretion of the
8 department, that the applicant does not now have good character
9 or that issuance of a license to him/her is not consistent with
10 public safety.

11 5. Presumption. Absent good cause for denial, persons
12 having good cause as defined in paragraph 2 shall be issued
13 licenses for the maximum time period allowed by section 12050,
14 and their licenses shall be renewed so long as they continue to
15 have good cause. No license shall issue if the applicant is
16 prohibited by law from possessing or acquiring firearms, or
17 concealable firearms, or is below the age of 21 years.

18 PROCEDURAL MATTERS

19 6. Divulgence of Information. All applicants shall receive
20 a copy of these guidelines along with the application form.

21 7. Evidence. Declarations under penalty of perjury suffice
22 as evidence of facts showing good cause, provided that the
23 Department is not required to accept the allegations in a
24 declaration if it has credible counter-evidence or finds the
25 declarant not credible. The applicant will be required to furnish
26 proof of his or her medical and psychological fitness in a manner
27 to be prescribed by the department. This shall include
28

1 certification of the applicant's eyesight to meet the standards
2 established by the California Department of Motor Vehicles for
3 issuance of driver's license. As proof of good character the
4 applicant shall present at least two statements from responsible
5 persons attesting thereto. The applicant may present additional
6 good character, trustworthiness and to negate the converse
7 evidence to prove responsibility or to negate the converse.

8 8. Celerity. License applications shall be approved or
9 rejected within fifty days of the application being submitted;
10 provided, that if the applicant has not been cleared (or
11 rejected) of Justice by the fortieth day, LAPD shall have an
12 additional ten days for such action which additional period shall
13 begin as of the date by which LAPD receives word from the
14 California Department of Justice; and further provided that an
15 additional sixty day period is allowed in cases in which the
16 applicant has appealed a rejection or any restriction of the
17 license. Those whose applications are rejected will receive a
18 specific written reason for rejection along with notification of
19 their right to seek review from the advisory panel.

20 9. Conditions. Absent some compelling reason, licensees will
21 be allowed to specify up to three firearms of their choice to be
22 listed on their license and the Department will amend their
23 licenses to substitute or add firearms so long as the number does
24 not exceed three and each firearm meets the other provisions of
25 this paragraph. The department may attach to the license such
26 conditions as in the reasonable exercise of its discretion it
27 deems appropriate; provided that these conditions shall be noted
28

1 on the face of the license. Conditions may include, but are not
2 limited to:

- 3 a. The type of weapon to be carried.
- 4 b. The type of ammunition to be permitted.
- 5 c. Circumstances in which it may or may not be
6 carried. Absent some compelling reason,
7 limitations a. and b. shall not preclude use of
8 kinds of firearm or ammunition which are generally
9 deemed appropriate for issuance to plain clothes
10 law enforcement personnel in the State of
11 California.

12 G. Advisory Review.

13 1. Plaintiffs' lead counsel, Don B. Kates, shall
14 appoint a panel of advisors to review contested applications.
15 (Kates may add or substitute members of the panel as he deems
16 necessary to carry out its functions, e.g. in case of the
17 resignation, death or disability a new nominee to make such
18 appointments shall be nominated by the plaintiff Second Amendment
19 Foundation.)

20 2. LAPD will accompany its notification to applicants
21 of its action on their application with a statement that a review
22 panel exists. If the applicant is dissatisfied and requests such
23 review, LAPD will promptly submit to the panel's review its files
24 in all cases in which an application is rejected or granted with
25 substantial limitations and will attempt to respond in a
26 reasonable and timely manner to questions the panel may have. The
27 panel will promptly review each submitted application and
28

1 recommend in writing if it believes a different decision should
2 have been made by LAPD. LAPD will promptly reconsider the matter
3 and take any further action it deems merited.

4 3. LAPD may be liable for an award of attorney's fees
5 in any legal action: a) which was initiated after the advisory
6 panel recommended action favorable to the applicant; b) which
7 recommendation LAPD rejected, if c) the outcome in that legal
8 action substantially parallels the advisory panel's
9 recommendation.

10 H. Continued Jurisdiction.

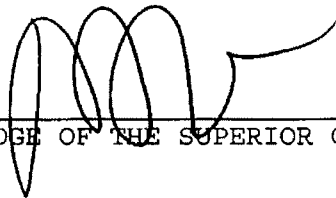
11 The court will retain continued jurisdiction of the action
12 in order to make any further orders which may be necessary.

13 I. Attorney's Fees and Costs. Each party to this action
14 shall bear its own costs and fees, including attorneys' fees in
15 this matter.

16 IT IS SO ORDERED.

17 DATED:

18 6/11/10

19 
20 _____
21 JUDGE OF THE SUPERIOR COURT

22
23
24
25
26
27
28
6/22/10