

DENNIS J. HERRERA, State Bar #139669
City Attorney
WAYNE SNODGRASS, State Bar #148137
CHRISTINE VAN AKEN, State Bar #241755
Deputy City Attorneys
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, California 94102-4682
Telephone: (415) 554-4633
Facsimile: (415) 554-4699
E-Mail: christine.van.aken@sfgov.org

Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO
and ITS OFFICIALS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THERESE MARIE PIZZO,

Plaintiff,

vs.

Case No. C09-4493 CW

**DECLARATION OF OFFICER IGNATIUS
CHINN IN SUPPORT OF CITY AND COUNTY
OF SAN FRANCISCO'S MOTION FOR
SUMMARY JUDGMENT**

CITY AND COUNTY OF SAN FRANCISCO
MAYOR EDWIN LEE, in his official
capacity; SAN FRANCISCO POLICE
DEPARTMENT CHIEF OF POLICE GREG
SUHR, in his official capacity; SAN
FRANCISCO SHERIFF VICKI
HENNESSEY, in her official capacity; CITY
AND COUNTY OF SAN FRANCISCO; and
STATE OF CALIFORNIA ATTORNEY
GENERAL KAMALA D. HARRIS, in her
official capacity,

Hearing Date: July 26, 2012
Time: 2:00 p.m.
Place: Courtroom 2, 4th Fl.
Oakland Courthouse

Defendants.

NATIONAL RIFLE ASSOCIATION, INC.,

Amicus Curiae.

1 I, Ignatius Chinn, declare as follows:

2 1. I am an Officer of the San Francisco Police Department ("SFPD") assigned to
3 the Violence Response Team. The matters stated in this declaration are based on my
4 training, education, and experience. I could and would testify competently to the matters
5 stated in this declaration.

6 2. I have served as a peace officer for more than 40 years. My professional
7 career is described in the C.V. attached as Exhibit A to this declaration. In summary, I
8 began my law enforcement career with the Oakland Police Department in 1970. After 21
9 years with the Oakland Police Department, where I was promoted to the rank of Sergeant,
10 I joined the California Department of Justice ("DOJ") as an investigator. In 2000, I was
11 promoted to the rank of Special Agent Supervisor and assigned to the Firearms Division
12 of DOJ, supervising agents involved in firearms investigations. In that role, I have
13 prosecuted more than 200 suspects and recovered more than 3000 firearms. I served as
14 the Division's firearms expert and testified in more than 27 prosecutions and court cases
15 as an expert in firearms identification, operation, and nomenclature. It was also my
16 responsibility to act as the side arm and assault weapons armorer for the Division,
17 identifying new equipment and ammunition for special agents. In 2008, I retired from the
18 Department of Justice and joined the San Francisco Police Department, where I am
19 currently assigned to the Violence Response Team. As an officer of the San Francisco
20 Police Department, I continue to act as a consultant for department members concerning
21 firearms issues, and I continue to testify as a firearms expert in the Contra Costa, San
22 Francisco, and San Mateo Superior Courts.

23 3. I have testified in court as an expert in firearms issues numerous times in my
24 career. I have never been rejected as an expert witness by any court. A list of the cases in
25 which I have testified since 1989 is attached to this declaration as Exhibit B.

26 4. Enhanced-lethality ammunition, as that term is used in the San Francisco
27 Police Code, has a greater ability to incapacitate a suspect because it expands upon
28

1 impact and causes a larger wound to the body. This ammunition may also project or
2 disperse barbs or other objects that increase the damage to a body hit with such
3 ammunition. Based on my experience and training, suspects who are shot with enhanced-
4 lethality ammunition are more likely than suspects who are shot with full-metal jacket
5 ammunition to suffer serious injury or death.

6 5. Because of the ability of enhanced-lethality ammunition to incapacitate and
7 injure a suspect, and because of the high likelihood that peace officers will, in the course
8 of their duties, encountered armed and dangerous suspects, many law enforcement
9 agencies, including the San Francisco Police Department and the San Francisco Sheriff's
10 Department, issue hollow-point ammunition to law enforcement officers. However, in
11 my experience, a person who is shot with full metal jacket ammunition can also be
12 seriously wounded. In the unlikely event of a home invasion, civilians can defend
13 themselves adequately using conventional full metal jacket ammunition, which does not
14 expand within the body but has the same kinetic force as enhanced-lethality ammunition.
15 There is no such thing as a good gunshot wound.

16 6. In my experience, an accidental discharge is a far more common occurrence
17 than the shooting of an armed home invader. In the event of an accidental discharge,
18 ammunition that is not enhanced-lethality ammunition can be less likely to cause serious
19 injury or death. Similarly, suicides and the use of guns against a friend or family member
20 are far more likely occurrences than the use of guns against armed home invaders. The
21 use of ordinary ammunition instead of enhanced-lethality ammunition in such
22 circumstances could increase the likelihood that the person who is shot will not suffer a
23 more serious injury or death.

24 7. Expanding bullets do not always perform as they are advertised to. For
25 example, they do not always expand within their target. Similarly, they sometimes pass
26 through walls or through the bodies of people who are shot. And of course, enhanced-
27 lethality ammunition must be aimed properly to be effective against a target. Thus, a
28

1 home defender who is armed with enhanced-lethality ammunition cannot be certain that
2 he or she will incapacitate an invader and cannot be certain that any bullet he or she fires
3 will not pass through a wall or the body of a target. Also, the particular circumstances of
4 a confrontation could make enhanced-lethality ammunition less effective at incapacitating
5 an armed intruder. For example, if a home defender is confronted by an armed invader
6 wearing heavy clothing, hollow point ammunition may in some circumstances expand
7 upon initial impact with the outer layers of clothing, causing less penetration of the bullet
8 into the body of the invader. Simply put, there are no guarantees in armed confrontation.

9 8. There are also kinds of expanding ammunition that are not enhanced-lethality
10 ammunition, as that term is defined in the San Francisco Police Code. These include
11 jacketed soft-point bullets, which have expanding characteristics. In the event a civilian
12 wishes to use expanding ammunition, he or she can use expanding ammunition that does
13 not have a hollow point and does not project or disperse barbs or other objects that
14 damage the human body and thereby cause greater damage to the body and a greater
15 likelihood of injury or death.

16 9. In my experience, different makes of bullet perform slightly differently when
17 they are fired because of the differences in their shapes and weights. Because of this,
18 marksmen perform best when they fire the kind of bullet that they are accustomed to
19 firing in practice rounds. It is for this reason that the San Francisco Police Department
20 requires sworn officers to qualify at the range using their department-issued weapon and
21 department-issued bullets of the same make and caliber as they carry during their regular
22 duties. An individual who is unfamiliar with the way a kind of ammunition fires may be
23 more likely to miss a target.

24 10. Enhanced-lethality ammunition is more expensive than conventional full
25 metal jacket ammunition. It may be as much as twice as expensive. Because of the
26 increased cost of enhanced-lethality ammunition, many gun owners do not practice at the
27 range with enhanced-lethality ammunition. As a result of this lack of practice with
28

1 enhanced-lethality ammunition, gun owners may be more likely to miss a target when
2 their guns are loaded with enhanced-lethality ammunition.

3 11. There is only one licensed gun dealer in San Francisco, High Bridge Arms,
4 located at 3185 Mission Street in the Outer Mission neighborhood. I know the owners of
5 High Bridge Arms and I interact with them regularly. When potential gun purchasers do
6 not pass background checks, it is my responsibility to investigate those applications for
7 perjury issues, and I interact with the High Bridge Arms owners in order to do that. They
8 do not sell enhanced-lethality ammunition in their store. I have discussed Police Code §
9 613.10(g) with them, and they have never expressed to me any difficulty in understanding
10 the definition of enhanced-lethality ammunition set forth in that section of the Police
11 Code.

12 12. In my opinion, the Police Code's prohibition on enhanced-lethality
13 ammunition, contained in Police Code § 613.10(g), is clear and unambiguous. This
14 provision prohibits licensees in San Francisco from selling hollow point ammunition or
15 other ammunition that expands and is designed to wound with fragments or barbs.
16 Ammunition boxes are typically labeled with the kind of ammunition contained within
17 them, including whether they are hollow points or not. Ammunition dealers in San
18 Francisco can comply with Police Code § 613.10(g) simply by looking at the ammunition
19 box or reviewing the description in a catalog.

20 13. Although High Bridge Arms is the only gun dealer licensee in San Francisco,
21 residents of San Francisco can easily procure hollow-point ammunition from a variety of
22 sources in the Bay Area. These include gun shows that are held several times a year at
23 Cow Palace, located at 2600 Geneva Avenue in Daly City, just steps outside the San
24 Francisco city limits and accessible by public transportation. There are also firearm
25 stores open year-round in the Bay Area outside of San Francisco where enhanced-lethality
26 ammunition may be purchased.

27 14. I am familiar with many of the gun storage lockboxes authorized for sale in
28

1 California by the California Department of Justice pursuant to Penal Code §§ 23620 *et*
2 *seq.* Indeed, when I was a Special Agent Supervisor for the Bureau of Firearms, one of
3 my roles was to sit on the board that evaluated safety devices as part of the authorization
4 process. There are many gun storage lockboxes authorized for sale in California that can
5 be readily opened in just seconds using a simple combination of numbers entered into a
6 keypad. The price for such boxes can be as low as \$50, as shown in Exhibit C, which
7 advertises a lockbox approved for sale in California by the Department of Justice that can
8 be bolted into a drawer. There are also biometric lockboxes that open when the
9 authorized user's fingerprint is detected. These lockboxes can be opened in even less
10 time than keypad lockboxes. A page showing the price of a DOJ-approved biometric
11 lockbox at less than \$200 is attached as Exhibit D. In my opinion, storing a gun in a
12 locking box such as the keypad lockboxes or biometric lockboxes that I have described in
13 this paragraph provides ready access to the gun in the event of a self-defense emergency.

14 15. Storing a firearm in a lockbox or disabling it with a trigger lock has the added
15 benefit of preventing theft of the firearm. In my experience, a daytime break-in to a
16 residence when it is unoccupied is a far more common occurrence than a break-in that
17 occurs when a residence is occupied. My experience is borne out by the Federal Bureau
18 of Investigation's Uniform Crime Report statistics for the past three years for which
19 complete data is available, which show that in residential burglaries where the time of the
20 offense is known, daytime burglaries are nearly twice as common as night-time
21 burglaries, as shown in Exhibit E to this declaration. Criminals who break into
22 residences where a gun is kept unsecured frequently steal the unsecured gun, resulting in
23 more guns in the hands of criminals. San Francisco's requirement that a firearm stored in
24 the home must be locked when it is not carried on the person of an adult can help prevent
25 the theft of the firearm. Furthermore, storing a firearm in a lockbox or disabling it with a
26 trigger lock can prevent accidental shootings or shootings by unauthorized users of the
27 gun. As I described above, accidental discharges, suicides, and the use of guns against
28

1 friends or family members are far more likely occurrences than the use of guns against
2 armed home invaders.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed this 25th day of June, 2012, in San Francisco,
5 California.

6  #2224
7 _____
8 OFFICER IGNATIUS CHINN