

No. 15-15428

In the United States Court of Appeals
For the Ninth Circuit

BARRY BAUER, et al.,
Plaintiffs-Appellants,

v.

KAMALA D. HARRIS,
in her official capacity as Attorney General of the
State of California, et al.,
Defendants-Appellees.

On Appeal from the United States District Court
For the Eastern District of California
(1:11-cv-01440-LJO-MJS)

APPELLANTS' EXCERPTS OF RECORD
VOLUME III of III

C.D. Michel (S.B.N. 144258)
Sean A. Brady (S.B.N. 262007)
Anna M. Barvir (S.B.N. 268728)
MICHEL & ASSOCIATES, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Tel. No: (562) 216-4444
Fax. No: (562) 216-4445
E-mail: cmichel@michellawyers.com

Counsel for Plaintiffs-Appellants

Pursuant to Federal Rules of Appellate Procedure for the Ninth Circuit, Rule 30-1, Appellants, Barry Bauer, et al., by and through their attorney of record, C.D. Michel of Michel & Associates, P.C., hereby confirm to the contents and form of Appellants' Excerpts of Record on appeal.

Date: July 15, 2015

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel

C.D. Michel

Attorney for *Plaintiffs-Appellants*
Barry Bauer, Nicole Ferry, Jeffrey
Hacker, National Rifle Association of
America, Inc., CRPA Foundation,
Herb Bauer Sporting Goods, Inc.

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EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO BRANCH COURTHOUSE

BARRY BAUER, STEPHEN
WARKENTIN, NICOLE FERRY,
LELAND ADLEY, JEFFREY HACKER,
NATIONAL RIFLE ASSOCIATION OF
AMERICA, INC., CALIFORNIA
RIFLE AND PISTOL ASSOCIATION
FOUNDATION, HERB BAUER
SPORTING GOODS, INC.,

Plaintiffs,

vs. Case No.
1:11-cv-01440-LJO-MJS

KAMALA HARRIS, in Her Official
Capacity as Attorney General
For the State of California;
STEPHEN LINDLEY, in His
Official Capacity as Acting
Chief for the California
Department of Justice, and
DOES 1-10,

Defendants.

DEPOSITION OF
STEPHEN J. LINDLEY

February 21, 2014

10:38 a.m.

1300 I Street

Sacramento, California

Daniel E. Blair, CSR No. 4388

800.211.DEPO (3376)
EsquireSolutions.com

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1 if it's true or not, I would still need to hear your --

2 what information you had about that rumor. Does that
3 make sense?

4 A. Yes.

5 Q. Okay. If we can have just one person speak at
6 a time, it makes -- not only makes the deposition go
7 smoother, but it also makes a much more clear record.

8 Does that make sense?

9 A. Yes.

10 Q. And you're doing very well in giving me nice,
11 clear, articulate yeses -- yeses instead of uh-huhs or
12 huh-uhs, so I don't foresee that being an issue.

13 Have you understood all the instructions I've
14 given you today?

15 A. Yes.

16 Q. Have all the depositions that you've provided
17 testimony in, have they all been as a result of your
18 employment?

19 A. Yes.

20 Q. Have you ever given deposition testimony
21 regarding California's Armed Prohibited Persons System?

22 A. Not until today.

23 Q. One thing that I like to do at the beginning of
24 a deposition is I do my best to get definitions and
25 clarifications out of the way so we have nice, clear

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1 record, and you actually respond by using terms that you
2 mean to use, so there's not confusion later on.

3 So with that being said, I'd like to go through
4 a couple of terms and see if we can agree on some
5 definitions and clarify some things.

6 So the first would be APPS. And that is -- I
7 use that to mean the Armed Prohibited Persons System.
8 Is that a common acronym for the Armed Prohibited
9 Persons System?

10 A. Yes.

11 Q. Okay. And is it okay if I use that today?

12 A. Yes.

13 Q. Can you give me just a short, broad-stroke
14 summary of what APPS does?

15 A. APPS helps identify individuals that at one
16 time legally purchased a firearm but have subsequently
17 become prohibited from possessing them.

18 Q. Is APPS ever referred to as the Armed
19 Prohibited Persons Program?

20 A. It has been.

21 Q. Okay. And then the acronym APPP, have you
22 heard that used?

23 A. I have not heard the APPP used before.

24 Q. Okay.

25 A. But I have heard it referred to as the Armed

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1 Prohibited Persons Program.

2 Q. And then I guess I'll ask a general question.

3 With regard to names and titles, is it sometimes the
4 case within the DOJ that slightly different titles are
5 used to mean the same particular thing?

6 A. Yes.

7 Q. Okay. Do you know if APPS has a particular
8 billing code that's used to refer to items that have to
9 do with APPS projects?

10 A. A more common term would be a cost code.

11 Q. Cost code?

12 A. Yes.

13 Q. Do you happen to know what that is?

14 A. The number?

15 Q. Yeah.

16 A. I believe it is 509.

17 Q. 519?

18 A. 509.

19 Q. 509. Okay. I may forget that. But if I refer
20 to the APPS cost code, you would know what I was
21 referring to?

22 A. Yes.

23 Q. And again, this is just purely clarification.

24 The term armed and prohibited person and armed
25 prohibited person, are those used interchangeably?

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1 A. Depending on the knowledge of the person, yes.

2 Q. Okay. Is the preferred term armed prohibited
3 person?

4 A. I prefer armed and prohibited.

5 Q. Okay. Are you familiar with the term APPS
6 unit?

7 A. Yes.

8 Q. What does that mean to you?

9 A. In my terms, it would mean our non-sworn staff
10 conducting the analysis to place somebody into the APPS
11 system.

12 Q. We'll get this in more detail later, but is it
13 fair to say that there are both sworn and non-sworn DOJ
14 employees that work on APPS-related matters?

15 A. Yes.

16 Q. Okay. Do you have an estimation of how many
17 non-sworn staff members are in the APPS unit currently?

18 A. If you talk -- if we're referring to just our
19 program staff, our APPS unit, about 12.

20 Q. Are there any other non-sworn staff members
21 that do APPS work that you can think of other than those
22 12?

23 A. Yes. There are individuals that work with our
24 agents out in the field offices.

25 Q. What type of job title would that be?

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1 A. The two main ones would be office tech and
2 Criminal Identification Specialist. We also have a
3 couple of property controllers.

4 Q. I didn't catch that. What --

5 A. Property controllers. They mainly deal with
6 the evidence that the Agents bring in.

7 Q. Okay. To the best of your knowledge, has the
8 non-sworn staff in the program -- I'm sorry. Have
9 program staff in the APPS unit ever been a greater
10 number than 12?

11 A. I'm thinking. It may have been, but I don't
12 believe so, since I've been in charge of the Bureau.

13 Q. Okay. Are you aware of something called the
14 Armed and Prohibited Persons Section?

15 A. I've heard that term.

16 Q. Do you have an opinion as what it's used for?

17 A. I think it's still referring to the Armed
18 Prohibited Persons unit or the APPS unit.

19 Q. Okay. Is there a division of the California
20 Bureau of Firearms known as the enforcement section?

21 A. Well, to kind of clarify some terms, we don't
22 have a division in the Bureau; we work for a division.

23 Q. Right.

24 A. And then we have a, I would say, section inside
25 the Bureau regarding enforcement.

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1 division in the department. In 2007, it was
2 restructured by AG Brown into a bureau within the
3 Division of Law Enforcement.

4 Q. Now, in APPS context, I've seen the term sweep
5 used quite often. Do you have an understanding of what
6 the term sweep means specifically with regard to APPS?

7 A. A concentrated enforcement effort.

8 Q. Okay. Does it have a time limitation?

9 A. Possibly.

10 Q. Is it also possible that the sweep could have a
11 substantive directive as well, it could be a specific
12 type of prohibited person that's being the target of the
13 APPS contact. Does that make sense?

14 A. I would clarify, more of a concentrated effort
15 towards is certain prohibition, but yes.

16 Q. Okay. I'm going to try and use just the term
17 contact, but I might also use the phrase APPS database
18 contact. And when I use those terms, the way I would
19 understand them is I'm referring to a law enforcement
20 official appearing at a specific location for the
21 purpose of locating someone that APPS has identified as
22 potentially being a prohibited person in possession of a
23 firearm.

24 That's a little bit wordy, but does it sound
25 accurate to you?

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1 MS. GRANGER: Could you repeat that one more
2 time? Sorry.

3 MR. FRANKLIN: Yeah, I will do that.

4 Q. So for either APPS database contact or simply a
5 contact, I'm referring to a law enforcement official
6 appearing at a specific location for the purpose of
7 locating someone that APPS has identified as potentially
8 being a prohibited person in possession of a firearm.

9 And there's a lot of concepts, so I'm trying to
10 get into what a contact is, because there are a lot of
11 different things that could be a contact, but --

12 A. That was very wordy, but I get the gist of what
13 you're trying to refer to.

14 Q. Not necessarily with the exact same definition,
15 but is a contact a term of art that's used in the APPS
16 context?

17 A. I think it's the term that's used in law
18 enforcement.

19 Q. And it wouldn't -- a contact in the APPS
20 wouldn't necessarily be a contact with someone who was
21 identified as a prohibited person; is that correct?

22 A. Correct.

23 Q. So it could be that the prohibited person is
24 not home and his mother answers the door; that would
25 still be a contact, correct?

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1 A. We refer to that any time that we're going to
2 be contacting the public in the course of an
3 investigation, regardless of what that investigation is,
4 we would list that as a contact.

5 Q. Okay. That helps.

6 So if I use DROS or D-R-O-S for the term Dealer
7 Record of Sale, would that make sense to you?

8 A. Yes. But I think we need to kind of define a
9 little bit about what we're talking about with that,
10 because that might be some of the confusion about this
11 issue because it's referred to several different ways,
12 trying to incorporate several different issues.

13 Q. Okay. Well, I think the way I intend to use it
14 most times is going to be in connection with the concept
15 of the DROS fee.

16 A. The DROS fee or the DROS fund?

17 Q. Fee specifically, yeah. And I recognize that
18 distinction as well.

19 A. Now, what we're talking about, are we talking
20 about the \$19 or the whole -- the full --

21 Q. The \$19.

22 A. -- \$25? Just the \$19.

23 Q. Yeah. My understanding, that if you're using
24 the term DROS fee, that is only at least -- at least --
25 and I can show you where I'm getting this in a second,

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1 52 DOJ facilities around the state, and the Attorney

2 General's protective detail. That was under Attorney

3 General Bill Lockyer.

4 Q. And how long were you in that position?

5 A. From July 1st, 2006 to July of 2007, give or

6 take a month.

7 Q. What position -- what employment did you have

8 before that position?

9 A. I was a Special Agent In Charge assigned to the

10 Los Angeles regional office. My main course of

11 investigation was the sexual predator apprehension team.

12 Q. And what time frame were you in that position?

13 A. From July 1st of 2003 to July 1st of 2006, give

14 or take a month.

15 Q. Okay. Prior to that position, did you have

16 employment?

17 A. Yes.

18 Q. And what was that position?

19 A. I was a Special Agent assigned to the San Diego

20 regional office for the Department of Justice.

21 Q. And for what time frame were you holding that

22 position?

23 A. I was hired by the department, give or take a

24 day, I think it was February 19th, 2001, until I was

25 promoted in July of 2003.

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1 Q. Was that your first employment with the
2 Department of Justice?

3 A. Yes.

4 Q. Had you had employment prior to that?

5 A. Yes.

6 Q. What employment was that?

7 A. I worked for the City of National City,
8 everything from a cadet to a sergeant.

9 Q. I'm sorry, what city was it?

10 A. City of National City in San Diego County.

11 Q. And how long were you with that city?

12 A. From September 1990 to February 2001, give or
13 take a few days.

14 Q. Prior to that position, did you have employment
15 that was in any way law enforcement related?

16 A. No.

17 Q. And it sounds like you went up through the
18 ranks during that time frame. Can you give me examples
19 of just some of the tasks you would have been
20 responsible for during this time frame? And it's 1990
21 to 2001.

22 A. I was a cadet, I was a police officer, training
23 officer, I was a detective, and then a police sergeant.

24 Q. Okay. So back to the present. Can you tell me
25 what the main duties are of your current employment?

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1 A. I manage, lead and oversee the Bureau of
2 Firearms.

3 Q. Is one of your job duties to oversee the
4 operation of APPS?

5 A. Yes.

6 Q. With regard to APPS, what tasks do you perform
7 to supervisor that project?

8 A. We could be here for a while. We talk about
9 the personnel, the budget, facilities, equipment,
10 policies, any issues that come up, strategic planning,
11 and sometimes enforcement.

12 Q. With regard to policy decisions about the
13 operation of APPS, are you generally the one responsible
14 for making that type of decision?

15 A. It depends on the level of the decision.

16 Q. So sometimes decisions would be made by someone
17 who has a higher rank than you?

18 A. Yes.

19 Q. Is it fair to say that oftentimes you make
20 comparatively speaking lower-level management decisions
21 with regard to APPS?

22 A. I think that is somewhat vague.

23 MS. GRANGER: Misstates his testimony.

24 MR. FRANKLIN: Lower level policy decisions.

25 MS. GRANGER: Objection. Vague as to lower

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1 level.

2 Q. BY MR. FRANKLIN: Well, okay. Let me ask you
3 this question: In terms of the implementation of APPS,
4 who above you would have the ability to make policy
5 determinations?

6 A. Who also has the ability to make policy
7 determinations?

8 Q. That's right.

9 A. My union supervisor, Greg (inaudible) Wallace,
10 our Chief Deputy Attorney General, Nathan Barankin, and
11 the Attorney General herself.

12 Q. Could you put an estimate, a percentage, on how
13 much of your workload is related to APPS?

14 A. Not trying to be difficult. On a daily basis
15 or just, say, on a monthly basis or a yearly basis?
16 Because it kind of changes from --

17 Q. Okay. Well, that's --

18 A. Some days it's a hundred percent, some days
19 it's, you know, five percent.

20 Q. That's a fair response. Let's say on a monthly
21 basis.

22 A. 25 percent, give or take.

23 Q. Is there any aspect, particular aspect of
24 overseeing APPS that stands out in your mind as being
25 the one that requires the most work from you?

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1 MS. GRANGER: Objection. Vague as to most,
2 most work.

3 If you understand, you can answer.

4 THE WITNESS: I'm assuming you're saying large
5 percentage?

6 MR. FRANKLIN: Right. That's exactly what I
7 mean.

8 THE WITNESS: At the time, it would be hiring.

9 MR. FRANKLIN: Okay.

10 THE WITNESS: Training.

11 Q. BY MR. FRANKLIN: Not to get off -- too far off
12 on a tangent, is the heavy workload in terms of -- I
13 don't want to put words in your mouth. Is the workload
14 in terms of hiring that's -- that you're currently
15 experiencing, is it your understanding that that's a
16 result of more funds being made available to perform
17 hiring for APPS-related projects?

18 A. That would be accurate.

19 Q. Do you remember when the first time was you
20 heard about the existence of APPS?

21 A. April 15th, 2007.

22 Q. That a pretty good memory.

23 Is there something specific about that date
24 that makes you remember it?

25 A. That was the first day that I was asked to come

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1 over to the Bureau of Firearms to help with an
2 assessment of the Bureau as it's being downgraded from a
3 division to a bureau.

4 Q. And as a part of that process, you became aware
5 of the existence of APPS?

6 A. Yes.

7 Q. So if I've got my timeline right here, this
8 would have been while you were a Special Agent In
9 Charge, and you were doing security of the DOJ
10 facilities and the Attorney General security. Is that
11 right?

12 A. Correct.

13 Q. And was there a specific reason that you were
14 involved in the switch-over between the two entities
15 that you just described?

16 A. I was assigned to do that by the Director of
17 the Division of Law Enforcement and the new Chief of the
18 Bureau of Firearms.

19 Q. Was that Rizzo at the time?

20 A. No. It was Chief Will Cid.

21 Q. Oh, okay.

22 MS. GRANGER: Did you say Rizzo --

23 MR. FRANKLIN: I --

24 MS. GRANGER: -- or Rossi?

25 MR. FRANKLIN: Rossi is who I meant. Rizzo is

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1 A. Yes and no. The reason I say no is after
2 Senate Bill 950, it took some time for the Bureau to
3 look at how the process was going to happen as
4 identifying people who are armed and prohibited. So
5 that has taken on some slightly different connotation
6 over those years. But roughly.

7 Q. Okay. And also a term I've heard used is the
8 APPS database. How does that relate with the two terms,
9 if at all, that we've -- you've just discussed?

10 A. It's kind of all and one the same, depending on
11 how people want to identify it.

12 Q. I think -- well, I'll ask this now so I don't
13 forget it. And I apologize if I end up saying it twice.

14 Is it possible that there is the distinction
15 between the APPS database as being a conglomeration of
16 voluminous different information related to the process
17 of narrowing down a list of prohibited persons via the
18 use of the APPS system?

19 So I guess where I'm going with that is, is it
20 possible that the APPS list or the Armed Person --
21 Prohibited Armed Person File is a subset of the APPS
22 database?

23 MS. GRANGER: Objection. Compound.

24 MR. FRANKLIN: It's a --

25 MS. GRANGER: Do you want him to define what

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1 the APPS --

2 MR. FRANKLIN: Yeah, it's a technical question.

3 I just need to understand it.

4 THE WITNESS: Well, I think how we define that
5 is based on your level of knowledge of what goes on.
6 The more knowledge you have about it, you can kind of
7 break it down to what things are. For a layperson, the
8 APPS database, the APPS list, would be one and the same.

9 MR. FRANKLIN: Uh-huh.

10 THE WITNESS: As you know about the
11 inner-workings of the system, those are separate
12 entities.

13 MR. FRANKLIN: Okay.

14 MS. GRANGER: Do want him to say what he
15 believed what would be defined was the APPS database
16 versus the APPS list?

17 MR. FRANKLIN: Yeah, that would be helpful, if
18 you feel like those are things that you can define for
19 me.

20 THE WITNESS: Let's start with the APPS system
21 as a whole. It is just a system for computers that
22 check the information, from identifying people that we
23 know to possess firearms against the systems that list
24 people as potentially being prohibited, and conduct that
25 check. And what we have is called a triggering event

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1 for our analysts to work. Then you have the -- the talk
2 about the database is just the system that we have for
3 law enforcement to check, because you can still go into
4 a -- into a database and check the individual person's
5 name. The APPS list is the list that's generated of the
6 prohibited people from the database.

7 Q. Okay. So let me -- I think I can use an
8 example that will help clarify it for me. Someone who
9 has not necessarily been designated a prohibited person
10 by a full APPS review might still appear in the APPS
11 database?

12 A. I didn't follow that.

13 Q. Okay.

14 MS. GRANGER: Objection. Misstates.

15 Q. BY MR. FRANKLIN: So there's a -- and we'll get
16 into this more later as well. There is a process by
17 which data is reviewed to ultimately create an APPS
18 list; is that correct?

19 A. Yes.

20 Q. Someone whose name is not -- whose name is not
21 on the APPS list could be named somewhere in the APPS
22 database?

23 A. It depends on the time frame that you're
24 talking about. For instance, that goes with the
25 triggering events. So I'll use myself for an example.

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1 Let's say that Steve Lindley recently went into a mental
2 health facility. That same Steve Lindley has a handgun
3 listed in our automated firearm system that he
4 purchased, say, in 2002. So once I'm released from the
5 facility or that Steve Lindley is released from the
6 facility, the facility is mandated to document that and
7 send that to the Department of Justice electronically.
8 The following day, when the system checks everything,
9 that Steve Lindley should pop up as a potentially
10 prohibited person.

11 But Steve Lindley that was in the mental health
12 facility might not necessarily be the same Steve Lindley
13 that is in our automated firearm system in possession of
14 a firearm. And that's what we call a triggering event
15 for our analysts to determine if that actually is the
16 same Steve Lindley.

17 Q. Is the triggering event ever referred to as a
18 match?

19 A. I believe the match would be after the
20 triggering event has been investigated and identified
21 that that same Steve Lindley who was in the mental
22 health facility is the same Steve Lindley who purchased
23 a gun back in -- I don't know what I said -- 2002. That
24 would be then a match.

25 Q. Okay. Where it's actually the same, even

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1 though the triggering event we might think it's the same
2 Steve Lindley, the match would actually be determining
3 that it is indeed the same Steve Lindley?

4 A. And that's why the analysts who look at the
5 computer can only take it so far --

6 Q. Okay.

7 A. -- because it's based on -- and this is beyond
8 my scope, but algorithms, however that's dealt with, to
9 bring in date of birth, height, weight, name, name
10 similarities, so on.

11 Q. Okay. That's good.

12 Do you know when the APPS database became
13 operational?

14 A. Kind of had two birthdays. I believe it first
15 started around October/November of 2006. And then
16 Attorney General Brown wanted some things changed to it.
17 And it took us till July of 2007 to get those things
18 worked out. And it was kind of like reborn.

19 Q. Do you remember what the differences were that
20 the attorney general wanted to have the APPS database
21 incorporate?

22 A. Roughly.

23 Q. What were they?

24 A. Mainly that the system as it was first designed
25 was only a name-inquiry system. I can explain that as,

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1 in part, you can just run Steve Lindley in the system,
2 and then it would identify whether Steve Lindley was a
3 prohibited person or not. The Attorney General Brown at
4 the time wanted to go a little more proactive with that
5 and provide local law enforcement with a list of
6 individuals that are prohibited that reside in their
7 particular jurisdictions.

8 Q. Okay. Do you know if an APPS unit existed
9 prior to November 2006?

10 A. There were investigators or Agents that were
11 working on APPS, but I believe they called it SB 950
12 units when it was with the Division of Firearms.

13 Q. And were those units actually -- in terms of
14 size, were they like the APPS unit now or was that more
15 akin to a team?

16 A. I'm not following that.

17 Q. So you said there were SB 950 units?

18 A. Teams, units.

19 Q. Okay. This was my question: Would an SB 950
20 unit be a group of presumably predominantly if not all
21 Special Agents that would do APPS contacts?

22 A. Yes.

23 Q. Prior to November 2006, how many SB 950 units
24 or teams do you think there were?

25 A. Don't know.

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1 Q. Would you think it's safe to say there was less

2 than ten?

3 A. Yes.

4 Q. And would it be possible to approximate how
5 many people would be on average on an SB 950 team?

6 A. Again, that would vary depending on the
7 geography.

8 Q. Okay. So, for example, would you have more
9 people on a team in an area that had more population
10 density?

11 A. That would be a logical reference, but . . .

12 Q. No, didn't work that way? Okay.

13 Do you know if the SB 950 units, did they have
14 any type of accounting line item that was just for them?

15 A. Don't know at the time.

16 Q. Would they be -- would members of the SB 950
17 units, would they be -- well, strike that.

18 Based on your understanding, what -- now I have
19 to remember if we're talking about 2000 -- pre-2006,
20 this is all pre-board or Bureau going into the
21 department of -- the law enforcement.

22 A. You have --

23 Q. So . . .

24 A. You have a couple of things there.

25 Q. Yeah.

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1 A. One, it was a division, not a bureau.

2 Q. Right.

3 A. I wasn't here.

4 Q. Right.

5 A. And any enforcement of whether it's SB 950 or

6 APPS was a general fund process back then.

7 Q. And that is where I was going with that. It

8 was a general fund process.

9 And then the people who were actually

10 performing as part of the SB 950 units, generally

11 speaking, who would -- what -- who would they be

12 reporting to?

13 MS. GRANGER: Objection. Vague.

14 THE WITNESS: I'm not quite following you on

15 that -- on that one again.

16 Q. BY MR. FRANKLIN: So at this time we have the

17 firearms division; is that right?

18 A. Yes.

19 Q. And the firearms division had -- did it have

20 sub-entities below it, as part of it, I should say?

21 A. There's not much structural change between the

22 division and the Bureau.

23 Q. Okay.

24 A. The main two or the main few changes is it's

25 not a stand-alone division. At that time, there was

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1 Director Randy Rossi, and then there's a Deputy Director
2 or Assistant Director. There weren't any Bureau Chiefs.
3 There weren't separate bureaus within that division. So
4 that's one of the reasons it was moved, because
5 structurally it was more like a bureau than a division.
6 So they just downgraded the Director and Deputy Director
7 positions to Chief and Assistant Chief positions. And
8 everything else for the most part remained the same as
9 far as the structure of the Bureau with its hierarchy.

10 Q. Were the members of the SB 950 units, would
11 they have APPS enforcement as their primary work
12 responsibility?

13 A. I don't know what their primary responsibility
14 was back then under that structure.

15 Q. Would it be safe or fair to say that you're not
16 aware how much time members of the SB 950 units actually
17 spent on APPS enforcement activities?

18 A. Correct. I'm not aware of that.

19 Q. Were the SB 950 units geographically based?

20 A. They were in offices stationed around the
21 state.

22 Q. And just as an example, I'm assuming that there
23 was an office in Sacramento and an office in
24 Los Angeles. Agents from the Los Angeles office
25 wouldn't do enforcement activities in Sacramento County,

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1 during that time frame, it was a general fund.

2 Q. Is it your understanding that prior to 2013,
3 all costs regarding the maintenance and use of the APPS
4 database were funded out of the general fund?

5 MS. GRANGER: Objection. Vague as to
6 maintenance and use.

7 You can answer, if you understand.

8 THE WITNESS: Well, I don't think it's an
9 accurate statement.

10 Q. BY MR. FRANKLIN: Okay. Can you identify what
11 is not accurate?

12 A. I believe it was sometime in 2012 is when the
13 governor switched the funding source of APPS from
14 general fund to special fund under DROS.

15 Q. Okay. Was that switch that you just referred
16 to, was that a switch that was legislative?

17 A. It either was a legislative bill that -- I
18 believe that was Senate Bill 809 under Senator Leno,
19 that made some changes to the Penal Code to authorize
20 the use of DROS funding for firearm enforcement. And
21 then the governor himself -- I don't know the political
22 mechanism behind that -- made that switch sometime in
23 2012.

24 Q. Okay. So let's assume that it happened in
25 2012. Prior to 2012, was the -- well, strike that.

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1 Prior to 2012, were costs related to APPS
2 addressed with general fund money?

3 A. Yes.

4 Q. Is it your understanding that in that same
5 situation I just described, they, the APPS costs, were
6 funded solely with general fund money?

7 A. I believe so, yes.

8 Q. So I guess the flip side of that is prior to
9 2012, was the performance of APPS-related enforcement
10 funded in any part with the DROS fee money?

11 A. Not to my knowledge.

12 Q. So my understanding was that that change that
13 we were just discussing, the switch, actually happened
14 in 2013. But I don't want to hold up the deposition in
15 any way, because it doesn't matter whether or not it was
16 2012 or 2013. So I'm going to assume for the purpose of
17 the deposition that it is in fact 2012. Does that make
18 sense?

19 A. I believe it was -- the change was for fiscal
20 year '12-13 --

21 Q. Okay.

22 A. -- which implemented it July 1st --

23 Q. Okay.

24 A. -- of 2012.

25 Q. So we'll assume that's what it is.

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1 When that change happened, do you know how much
2 money was appropriated for use on APPS?

3 A. You mean how much money was switched from
4 general fund to special fund DROS?

5 Q. Well, let's ask a foundational question first.

6 Is it your understanding that at some point
7 DROS funds were allocated for the use of APPS? In APPS
8 rather.

9 MS. GRANGER: Objection. Vague as to the term
10 DROS funds. You mean the DROS special funds?

11 MR. FRANKLIN: I mean special DROS fee money.
12 But I understand that we have a technical slash
13 accounting problem about how you would actually trace
14 that. So let's take a step back.

15 Q. Is it your understanding that in 2012, there
16 was an appropriation of money from the DROS special fund
17 for the purpose of APPS?

18 A. Yes.

19 Q. Is it also your understanding that -- strike
20 that.

21 Do you know how much that appropriation was
22 that we were just discussing?

23 A. Roughly.

24 Q. And roughly how much was it?

25 A. Somewhere in the six million, 6.2, 6.5 million.

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1 THE WITNESS: I still don't exactly know -- you
2 might want to rephrase it so I can answer and give you
3 the answer that you're seeking.

4 Q. BY MR. FRANKLIN: So -- and I appreciate that.

5 The Bureau has, as we've discussed, roughly
6 speaking, section, unit, team.

7 A. Uh-huh.

8 Q. Setting aside the APPS unit, and I'm using the
9 defined term, can you identify any other section, unit
10 or team within the Bureau that performs work arising out
11 of the APPS system?

12 A. Okay. Let me -- not to answer the question
13 with a question, but are you asking what other employees
14 that aren't directly doing APPS investigations might be
15 paid out of the APPS fund or out of DROS fund?

16 Q. I do want to know that. That's not actually
17 what I was asking, though.

18 Are there any other sections, units or teams
19 other than the APPS unit that is dedicated to -- that is
20 or are dedicated to work that's based on the APPS
21 system?

22 MS. GRANGER: Objection. Vague.

23 You can answer to the extent you understand.

24 THE WITNESS: I think that kind of brings up a
25 larger issue about how we manage personnel services.

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1 MR. FRANKLIN: Uh-huh.

2 THE WITNESS: And how the state is structured
3 when it comes to paying for employees working.

4 MR. FRANKLIN: Uh-huh.

5 THE WITNESS: For instance, they have various
6 formulas that we have to have so much admin staff for so
7 many employees that handle the personnel stuff and the
8 purchasing and handling training issues. But they're
9 not directly going to be doing work in APPS or for APPS,
10 it's for the greater good of the entire Bureau. And
11 part of that is doing work for APPS or for CCWs or for
12 mental health. So I'm sure there are people that part
13 of their salary and benefits is paid for in support of
14 APPS.

15 MS. GRANGER: So I think it goes to how broadly
16 you're defining APPS, because --

17 MR. FRANKLIN: Right. Because this particular
18 question I'm asking right now is, I think we can agree
19 that the APPS unit is indeed primarily if not completely
20 responsible for tasks that arise from APPS.

21 THE WITNESS: Yes.

22 Q. BY MR. FRANKLIN: Are there any other units or
23 subdivisions that would fall within that same
24 description?

25 A. Well, obviously, APPS touches other databases.

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1 So you look at people that work in our mental health
2 unit, ensuring that that information is coming in from
3 the facilities properly, coming in from the courts,
4 coming in from the state mental facilities, gets into
5 our mental health system, which then dumps into APPS
6 system to help identify triggering events. Again, it's
7 -- a lot of things are very commingled as far as getting
8 the job done.

9 Q. Are there APPS enforcement units?

10 A. I think that would be the same thing as
11 enforcement teams.

12 Q. And there are APPS enforcement teams?

13 A. Yes.

14 Q. What would -- strike that.

15 Just so we're clear, what would the main duties
16 be of members on an APPS enforcement team?

17 A. To disarm people who are armed and prohibited.

18 Q. Would that be done via contacts?

19 MS. GRANGER: Objection. Vague as to contacts.

20 MR. FRANKLIN: Using it as defined this
21 morning.

22 THE WITNESS: That would be the predominant way
23 to do that, yes.

24 Q. BY MR. FRANKLIN: Are APPS enforcement teams
25 made predominantly of Special Agents?

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1 A. Special Agents and Special Agent Supervisors.

2 Q. Is there any other designation other than
3 Special Agent or Special Agent Supervisor that would be
4 part of a APPS enforcement team?

5 A. Well, even though they don't go onto the field,
6 the teams also have the office techs and the Criminal
7 Identification Specialists, and also the Prop
8 Controllers.

9 Q. Do the members of APPS enforcement teams have
10 APPS enforcement as their only work responsibility?

11 MS. GRANGER: Objection. Vague as to only,
12 vague as to time period.

13 You can answer to the extent you understand.

14 THE WITNESS: Their main mission and goal is
15 APPS investigations. However, they're still California
16 peace officers. And there's a very large Penal Code
17 that they still have to enforce if those arise. So, you
18 know, are they out there doing narcotics investigations?
19 No. But if they stumble upon an armed robbery happening
20 in front of them, they're not going to drive away saying
21 I only work APPS.

22 MR. FRANKLIN: That's good to know.

23 Q. Would you be able to estimate how many I guess
24 it's Bureau employees have work duties that are
25 primarily APPS-based?

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1 MS. GRANGER: Objection. Vague as to
2 primarily.

3 MR. FRANKLIN: If it helps, 85 percent of their
4 work is APPS-based, when I say primarily.

5 MS. GRANGER: And when you say APPS-based, as
6 we had mentioned before, we have people that work the
7 computer systems, that input the information that is
8 used for APPS --

9 MR. FRANKLIN: Right.

10 MS. GRANGER: I don't want to be ignorant that
11 there are people put work into the system. And I want
12 to make sure that we're answering your questions to the
13 best of our ability.

14 MR. FRANKLIN: Yeah. And that's fair. When I
15 say APPS-based, I'm -- my intention is that I see this
16 as there's basically two portions: There's the
17 enforcement side and then there's the non-sworn side of
18 APPS-based work tasks.

19 MS. GRANGER: But then even on the non-sworn
20 side, there's the front-end people who are putting the
21 information into the system, and then people who once
22 the information is in the system analyze it and then
23 send it off to enforcement.

24 MR. FRANKLIN: Okay.

25 MS. GRANGER: Do you understand that aspect as

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1 well?

2 MR. FRANKLIN: I do.

3 MS. GRANGER: Are you talking about the people

4 that are on the end that are entering information into

5 the system which is then used to generated APPS or . . .

6 MR. FRANKLIN: I guess that's a question for

7 the deponent.

8 Q. People on the front end who are actually

9 entering information, are they considered part of the

10 APPS unit?

11 A. They wouldn't necessarily be part of the APPS,

12 depending on where they're working, but oftentimes they

13 have a predominant support role of that program. But

14 like I said, you know, a mental health unit, that's

15 roughly 30 percent of the people that are listed in APPS

16 are there because of a mental health issue. So, you

17 know, that's very important that we have that work done.

18 So if we're looking at how many people -- I think your

19 term was 85 percent?

20 Q. Uh-huh. For primarily.

21 A. You're probably looking at 70 to 75 people

22 throughout the Bureau. And that includes a variety of

23 different job titles.

24 Q. Okay. With regard specifically just to the

25 employees that are termed the APPS unit that are within

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1 that unit, do they all work in Sacramento?

2 A. Yes. Are we talking about those 12 people that

3 work --

4 Q. Right.

5 A. They work in Sacramento, yes.

6 Q. I want to introduce a document. I will

7 represent that is another document I got off the

8 internet. I believe I got it off the Department of

9 Finance website. And it's not the entirety. I'm not

10 asking you to make any statement as to the accuracy or

11 verify that it is what I'm saying it is. It just

12 happens to include I believe some information I'd like

13 to ask you about.

14 (Exhibit 4 marked.)

15 Q. BY MR. FRANKLIN: So it's my understanding that

16 this is the 2013-2014 salary and wages document that's

17 prepared by the state. And among other things it lists

18 different employees of different departments within the

19 state. Specifically I'd like to look at -- it's the

20 second page in the document. It's numbered page 92.

21 And about a third of the way down the page there is the

22 words -- there are the words armed prohibited. Do you

23 see that?

24 A. Uh-huh.

25 Q. And just generally speaking, and I realize this

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1 is just a small excerpt, does this look to you like a
2 document you've seen before, this type of document? Not
3 this specific document.

4 A. Actually, I have not.

5 Q. Okay.

6 A. I mean, it looks like a typical state document.

7 Q. Right, right. Okay. So under the words armed
8 prohibited, there are a list of approximately a dozen
9 terms. Do you see that?

10 A. Yes.

11 Q. Do those terms appear to you to be job titles
12 that would perform APPS-related tasks?

13 A. Yes.

14 Q. Okay. I'd like to go through these job titles.
15 And I'll be asking basically the same questions for all
16 the titles. But as an overview, it's just to know how
17 these people work within the APPS system, if at all.

18 A. Uh-huh.

19 Q. So the first line says what I believe to be
20 Special Agent-in-Charge DOJ. Do you see that?

21 A. Yes.

22 Q. Is there a job at the Bureau that has that type
23 of title?

24 A. Yes.

25 Q. And what job is that?

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1 A. Special Agent In Charge.

2 Q. What level of -- strike that.

3 Are there specific training requirements for
4 that job?

5 A. You'd have to look at the state job
6 announcement. There's specific qualifications that you
7 have to meet in order just to take the test. And then
8 there's an interview process to select the most
9 qualified candidate.

10 Q. Probably a more pertinent question is: Is this
11 job description solely applicable to work related to
12 APPS?

13 MS. GRANGER: Objection. Vague. Work solely
14 applicable to APPS?

15 MR. FRANKLIN: Yeah. And it probably makes
16 sense to figure this out now, because I'm going to go
17 through all of these. It's my understanding that none
18 of these on this list would be job titles that only can
19 happen within the APPS context. Maybe I'll just ask it
20 that way to save some time.

21 Q. Based on this list of apparent job titles
22 starting with Special Agent-In Charge, and then all the
23 way down to Overtime-Agent, is it fair to state that
24 these job titles are not specific to the APPS program?

25 MS. GRANGER: Objection. Vague as to specific.

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1 They're not exclusive.

2 THE WITNESS: These job titles are general job

3 titles for the state and for the Department of Justice.

4 They can be used -- those job titles can be used in a

5 variety of different assignments.

6 MR. FRANKLIN: Okay.

7 THE WITNESS: We just have these assignments on

8 these positions assigned to APPS.

9 MR. FRANKLIN: Okay.

10 THE WITNESS: And paid for by APPS.

11 Q. BY MR. FRANKLIN: Okay. And assuming this is

12 is a true and correct document of what I said it is, is

13 it your understanding that the way this is listed is to

14 indicate that these are job titles that are within --

15 sorry, that are providing services with regard to APPS?

16 MS. GRANGER: Objection. Vague as to providing

17 services. I think you just asked and answered your

18 question as to what they do.

19 THE WITNESS: We have people in these job

20 titles that work in the APPS program.

21 MR. FRANKLIN: Okay.

22 THE WITNESS: Does that answer?

23 MR. FRANKLIN: It does. Thank you.

24 THE WITNESS: Okay.

25 Q. BY MR. FRANKLIN: Can you tell me what the

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1 Special Agent In Charge would do with regard to APPS?

2 A. They manage, lead and oversee a geographical
3 area that -- you know, we have Special Agents, the
4 CIS's, the Prop Controllers, the office techs, that are
5 performing firearms-related investigations. Predominant
6 amount of that is APPS investigations.

7 Q. And I see to the right of that that there's
8 a .8.

9 A. Uh-huh.

10 Q. Does that indicate to you anything?

11 A. That .8 percent or actually basically 80
12 percent of their salary for fiscal year '12-13 came or
13 was paid for by APPS. Again, fiscal year '11-12 --

14 Q. Uh-huh.

15 A. -- was a general fund year.

16 Q. And then the next line down has a title. Does
17 that appear to be a title of a job position within the
18 Bureau?

19 A. Yes.

20 Q. What position is that?

21 A. Special Agent Supervisor.

22 Q. Can you tell me what a Special Agent Supervisor
23 does with regard to APPS?

24 A. They lead a group of or team of Agents that go
25 out and conduct APPS investigations.

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1 Q. So are Special Agent Supervisors in the field?

2 A. Yes.

3 Q. And I see to the right of that there's a 3.0.

4 Does that indicate to you that three Special Agent
5 Supervisors have one hundred percent of their salary
6 earned in regards to APPS?

7 A. As per this document, yes.

8 Q. And I -- that's a fair comment that you don't
9 know the -- you don't necessarily know the source of
10 this document, other than what I've represented.

11 Are you familiar with this format of counting
12 employee salary percentages?

13 A. Not in this format.

14 Q. Okay. And the reason I ask is just because I
15 wanted to make sure. Is it possible that, for example,
16 Special Agent Supervisor DOJ with a 3.0 doesn't
17 represent six people at 50 percent as opposed to three
18 people at a hundred percent? So that's the only reason
19 mention that.

20 A. It could.

21 Q. Okay.

22 A. How this is normally broken down by the state
23 is that's how much the equivalent pay would be. So
24 let's say that a Special Agent Supervisor for their
25 salary benefits is \$100,000. The state is dictating,

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1 you know, three positions or \$300,000 towards that.

2 Q. So the next line down says DOJ Administrator I.

3 Do you see that?

4 A. Yes.

5 Q. Is that a job title within the Bureau that

6 could perform services related to APPS?

7 A. Yes.

8 Q. What APPS-related services would a DOJ

9 Administrator I provide?

10 A. In this context they provide -- it's a

11 non-sworn manager position overseeing the APPS analysts.

12 Q. The APPS analysts?

13 A. Yes.

14 Q. Are APPS analysts people who are on -- so --

15 A. They'd be working the triggering events.

16 Q. Okay. And is there a general term for the

17 people who are actually putting information into APPS on

18 the front side?

19 A. That would be your APPS unit.

20 Q. Okay.

21 A. Those 12 positions. That DOJ Administrator I

22 would be one of those 12.

23 Q. Is that a commonly-used term to explain the

24 front side and back side of APPS? Does that make sense

25 to you?

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1 A. It makes sense to me. I wouldn't use those
2 terms directly, but I understand what you mean by that.

3 Q. Okay. And all of the APPS units that we've
4 been discussing today is on the -- is on what I refer to
5 as the front side.

6 A. I wouldn't agree with that.

7 Q. Okay. That's -- that's why I was confused.

8 Okay. The next line down says Field Rep DOJ.
9 Do you see that?

10 A. Yes.

11 Q. Do you believe that's a reference to a title of
12 a position at the Bureau?

13 A. Yes. It's in reference to a field
14 representative.

15 Q. And do field representatives -- strike that.

16 What services would a field representative
17 provide in the scope of APPS?

18 A. They provide training to local law enforcement
19 agencies, to other state agencies, to federal agencies
20 on APPS, on the use of AFS, how it interacts with APPS,
21 also with the mental health facilities to make sure the
22 mental health facilities are sending the information to
23 us so we include that in APPS and in our DROS unit. So
24 it's a non-sworn position mainly dictated towards
25 training.

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1 Q. Okay. The next line down there is Criminal ID
2 Spec III. Do you see that?

3 A. Yes.

4 Q. Do you believe that refers to a job title
5 within the Bureau?

6 A. Yes.

7 Q. What type of service would a person with that
8 job title potentially provide with regard to APPS?

9 A. They supervise our criminal and intelligence
10 and identification specialists at the II level. It
11 would be a supervisory position.

12 Q. And is that the next item down on the list?
13 I'm sorry. That's Criminal Intelligence Spec III.

14 A. Yes.

15 Q. And is there a person with the title --

16 A. There is a slight variance in the job titles
17 between Criminal Identification Specialist and a
18 Criminal Intelligence Specialist. But roughly it's the
19 same duties.

20 Q. And these are both supervisory roles?

21 A. Supervisory positions, yes. Usually a Criminal
22 identification Specialist would be up here in
23 Sacramento; a Criminal Intelligence Specialist would be
24 in one of our field offices.

25 Q. And with regard to these two positions we've

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1 been discussing, in the APPS context, do they provide
2 any services regarding overseeing of the database
3 specifically?

4 A. Yes and no. Criminal Identification
5 Specialists, like we said, the ones that are up here in
6 Sacramento, they're the ones that work the triggering
7 events. The intelligence specialists are oftentimes in
8 the field offices, and they assist the Agents in
9 preparing cases to go work. Once an individual is
10 identified as someone that we want to make contact with,
11 we still have a lot of followup to do beforehand to
12 ensure the safety of our Agents, the public and the
13 individual we're going to be contacting, so that we know
14 as much about them as possible.

15 Q. Okay. The next line refers to Special Agent
16 DOJ. Is that a position within the Bureau that would
17 provide APPS-related services?

18 A. Yes.

19 Q. What services would a Special Agent provide?

20 A. They are our front-line Agents that are going
21 out working APPS cases.

22 Q. Do Special Agents do investigatory work prior
23 to contacts?

24 A. Yes.

25 Q. And do they work with Criminal ID Specialists

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1 in that regard?

2 A. Yes.

3 Q. Okay.

4 A. When you talk about enforcement teams, there's
5 a team concept that's both non-sworn and sworn
6 personnel, especially when it comes to our field
7 offices.

8 Q. Uh-huh. Okay. So the next line down refers to
9 Criminal ID Spec II. Is Criminal ID Spec II a job title
10 within the Bureau that provides APPS-related services?

11 A. Yes.

12 Q. What APPS-related service would that job title
13 provide?

14 A. They would be doing work with the Agents,
15 identifying individuals and working up what we call the
16 packages before the Agents go out in the field.

17 Q. What's the package that you refer to?

18 A. It would be just the information about the
19 individual to ensure the safety of our Agents, the
20 public and that individual before we contact them.

21 Q. The next line down has the phrase Property
22 Controller II. Do you see that?

23 A. Well, actually, the next line down is Criminal
24 D Specialist II.

25 Q. I thought that's what we were --

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1 A. No, criminal --

2 Q. Oh, intelligence -- I apologize.

3 A. The Criminal Identification Specialist is a
4 position that we use in APPS. And that would be a
5 position up here in Sacramento that conducts triggering
6 events and investigations to ensure that the proper
7 people go into the system.

8 Q. Okay. So next we have Property Controller II.
9 Is that a position within the Bureau that provides
10 APPS-related services?

11 A. Yes.

12 Q. What services would those be?

13 A. They manage all the evidence that's collected.

14 Q. Is that any different than a Property
15 Controller I, other than experience?

16 A. Experience, and the level of evidence that they
17 have within their vaults.

18 Q. And then I see the next line down is Criminal
19 D Spec I. Let's go through it.

20 A. Just a lower level of a Criminal Identification
21 Specialist II.

22 Q. And what would their normal APPS-related job
23 duties be?

24 A. Depends on their level of experience and what
25 they actually do at what level and what review process

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1 that they have actually over them. They might handle
2 the day-to-day ones. Obviously, as ones get more
3 complicated, we have people with more experience doing
4 that.

5 Q. And just so I'm clear, when you say the
6 day-to-day ones, are those triggering events?

7 A. Simple triggering events, yes.

8 Q. So I think we're on to Program Techn II,
9 T-e-c-h-n II, number two.

10 MS. GRANGER: Roman numeral two.

11 MR. FRANKLIN: Exactly.

12 Q. Do you believe that to be a reference to a
13 position within the Bureau?

14 A. Yes.

15 Q. Does that position provide APPS-related
16 services?

17 A. Yes.

18 Q. What services would those be?

19 A. They help with the lower-level investigations
20 as far as the triggering events, data entry, track down
21 other documents that the Criminal Identification
22 Specialist might need in order to make a determination.

23 Q. And the next line there's a reference to
24 Program Techn. Is that a position within --

25 A. Yes.

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1 Q. -- the Bureau?

2 A. Yes. That would be Tech I, actually. And they
3 would again just do lower-level work.

4 Q. The same question, the next line down says
5 Temporary Help-Regular.

6 A. Uh-huh.

7 Q. Do you believe that to be a reference to a job
8 position within the Bureau?

9 A. Those are a little more complicated. Those are
10 oftentimes retired annuitants, student interns, seasonal
11 clerks that aren't full-time employees that we have to
12 do a variety of different work in support of whatever
13 program. And regular would mean probably a non-sworn
14 position. And obviously, the Temporary Help-Agent would
15 be for a sworn position.

16 Q. And the Temporary Help-Agent you're referring
17 to is the next line down, correct?

18 A. Yes.

19 Q. Would Temporary Help-Agent be someone who has
20 work duties other than those related to APPS
21 enforcement?

22 MS. GRANGER: Objection. Calls for
23 speculation.

24 To the extent you understand . . .

25 THE WITNESS: I think you'll have to clarify

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1 that a little bit.

2 Q. BY MR. FRANKLIN: Well, take a step back.

3 Would these -- and it has to admittedly deal
4 with the accounting here. Are these full-time Agents
5 that are dedicated to APPS enforcement?

6 MS. GRANGER: Objection. Vague as to time
7 period. There's three fiscal years discussed here.

8 MR. FRANKLIN: I'll make a clarification. For
9 all questions I ask today, if I don't state a time
10 period, I'm asking for current time period.

11 THE WITNESS: Well, current time period would
12 be only .2, so 20 percent. Oftentimes we use retired
13 Special Agents and intern programs new supervisors,
14 intern programs for new Agents or for new job
15 assignments. They assist the Special Agents Supervisors
16 and other type of, oh, administrative duties, so we can
17 get the Special Agent Supervisors out in the field more.
18 And they also assist the Special Agents In Charge with
19 administrative duties so they can concentrate on higher
20 level issues.

21 Q. BY MR. FRANKLIN: So what I'm trying to
22 distinguish is, is a Temporary Help-Agent a person who
23 has one hundred percent of their time allocated to
24 APPS-related issues?

25 MS. GRANGER: Objection. Vague, calls for

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1 speculation.

2 THE WITNESS: Yeah, you would need to rephrase
3 it a little bit or I can rephrase it for you.

4 MR. FRANKLIN: Why don't you give it a shot.

5 THE WITNESS: Okay. They're not full-time
6 positions. They're retired annuitants. So by statute
7 they can only work 960 hours in any given fiscal year.
8 Most of our enforcement efforts are directed towards
9 APPS. So they would be assisting in other
10 administrative duties: Mentoring, training and support
11 of APPS.

12 MR. FRANKLIN: That is helpful. Thank you.

13 Q. So is it correct to say that Temporary Help
14 Agents would not include an Agent that has a specific
15 job duty within the Bureau that's unrelated to APPS who
16 may help with APPS on a specific project?

17 A. I didn't --

18 MS. GRANGER: Vague and compound.

19 Q. BY MR. FRANKLIN: So the question I'm asking
20 is: Does Temporary Help Agent include Agents who are
21 currently with the Bureau, currently employed, and
22 assist on an as-needed basis to APPS?

23 A. Temporary Help Agent?

24 Q. Uh-huh.

25 A. No. Those are retired Agents that we bring

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1 back to assist. For instance, it doesn't behoove us to
2 have a full-time Agent to be our range officer, to just
3 do range training.

4 Q. Right.

5 A. It's not cost-effective. I'd rather have the
6 person out in the field. So we bring back retired
7 annuitants that have that particular experience and
8 training just to do that. And the several times a year
9 that we use them, we have to pay for that. But in order
10 to keep proficient in training with defensive tactics
11 and less lethal force, you know, firearms training,
12 that's all in support of the Agents doing job out in the
13 field.

14 Q. Okay. Thank you.

15 And then the last two lines are comments
16 regarding Overtime-Regular and Overtime-Agents. Am I
17 correct in assuming that when you see these terms they
18 don't indicate a specific position to you?

19 A. No, it would be an allotment of funds normally.

20 Q. Okay. Thank you.

21 I'm done with that document.

22 It's my understanding that at one point in
23 either late 2012 or 2013, workers from the APPS unit had
24 to be pulled in to help the DROS processing unit.

25 Do you believe that occurred?

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1 A. We did need to use staff from our non-sworn
2 staff from APPS to assist in DROS, yes.

3 Q. Has that usage of APPS unit employees on DROS
4 issues ceased?

5 A. Yes and no. As a practice we've been able to
6 hire additional staff for the DROS unit, but in any
7 given day, depending on how gun sales go, we might have
8 to reevaluate that and use other resources. I think we
9 can agree that firearm sales fluctuate.

10 Q. Yeah.

11 A. We have ten days to get that done.

12 Q. Sure.

13 How do APPS unit workers record their time?

14 What is the form that they use to record their time, if
15 any?

16 A. We have an electronic system. It's TRS. I
17 believe that stands for time reporting system.

18 MR. HAKL: High-tech.

19 Q. BY MR. FRANKLIN: Does everyone within the
20 Bureau generally use TRS?

21 A. No.

22 Q. Who wouldn't use TRS?

23 A. I don't.

24 Q. Is it upper-level management doesn't use TRS?

25 A. For the most part, management and above does

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1 would you say is the most qualified to explain TRS?

2 A. I would not know. I would speculate someone
3 from our personnel department.

4 Q. Well, it's okay. You don't need to guess, if
5 you don't happen to know.

6 Do you ever review documents based on TRS
7 reporting?

8 A. I do not, no.

9 Q. Is there someone in the Bureau that does review
10 TRS?

11 A. That's part of the supervisor's duty. And that
12 goes up. So a Criminal Identification Specialist III
13 would check the work of a II or a I. Then that
14 supervisor's would be reviewed by the manager to make
15 sure that he's in compliance. And sometimes they also
16 check their -- the lower-level people to make sure
17 everything is correct. The same thing for our agents
18 and our supervisors out in the field. The supervisor
19 would review the Agent, the Special Agent In Charge
20 would redrew the supervisors.

21 Q. Without getting too deep into the weeds, is TRS
22 a computerized time tracking system?

23 A. Yes.

24 Q. I just ask only to make sure that people
25 aren't, you know, punching time cards and writing

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1 information on it. It's not -- it's not that type of
2 system?

3 A. No.

4 Q. And do Special Agents performing APPS contacts
5 also have a responsibility for creating any type of
6 reimbursement requests?

7 A. What do you mean?

8 MS. GRANGER: Objection. Vague as to
9 reimbursement requests.

10 MR. FRANKLIN: A request for reimbursement for
11 money they paid for incidentals, gasoline, hotel.

12 THE WITNESS: Yes. We call it different
13 things, but yes.

14 Q. BY MR. FRANKLIN: What types of names would you
15 say would fall in that category?

16 A. Basically it's called a travel expense claim
17 that dictates if they have to use a hotel for travel,
18 overtime, meals.

19 Q. Is it correct to say that only Special Agents
20 and Supervising Special Agents perform APPS contacts?

21 A. That's not entirely accurate. I would say they
22 conduct the predominant number of them.

23 Q. Who would be in that last sliver?

24 A. Special Agents In Charge, Assistant Chief for
25 enforcement and myself.

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1 Q. So is it correct that no one specifically in
2 the APPS unit would be -- ever be performing contacts?

3 MS. GRANGER: I'm sorry. Could you repeat
4 that?

5 MR. FRANKLIN: No one in the APPS unit, that
6 narrowly defined approximately --

7 MS. GRANGER: The non-sworn?

8 MR. FRANKLIN: The 12-person group, yeah, would
9 ever be performing APPS contacts?

10 THE WITNESS: Not to my knowledge.

11 Q. BY MR. FRANKLIN: Are people -- well, never
12 mind. Strike that.

13 MS. GRANGER: Sir, can I just be clear, when
14 you use APPS unit, you're talking about non-sworn, and
15 then when you say enforcement, you're saying APPS
16 enforcement unit, is that -- are those the two
17 designations that --

18 MR. FRANKLIN: I don't think I've used APPS
19 enforcement unit. But I certainly -- that's basically
20 the distinction, yeah.

21 MS. GRANGER: Okay.

22 MR. FRANKLIN: My understanding is that there
23 is an APPS unit; it's approximately 12 people. They are
24 basically office workers --

25 MS. GRANGER: Non-sworn.

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1 MR. FRANKLIN: -- and they're non-sworn.

2 Q. Is that fair?

3 A. Yes.

4 Q. And then there are also -- I think they're all
5 sworn -- personnel who actually on a regular basis
6 perform APPS contacts. And I would say those are, you
7 know, APPS enforcement or Special Agents performing
8 enforcement operations.

9 A. I would probably stick with enforcement,
10 because how we looked at those teams --

11 Q. Uh-huh.

12 A. -- is the team does have non-sworn personnel on
13 it as --

14 Q. Sure.

15 A. -- part of the team aspect, but they do not go
16 out into the field and make contacts. Only the Special
17 Agents and above in the sworn capacity do that.

18 Q. Right. That's helpful. Thank you.

19 Can you approximate how many Bureau employees
20 are sworn and spend -- strike that.

21 Can you estimate for me how many sworn Bureau
22 employees work full-time on APPS enforcement?

23 A. That's a good question. Are you talking about
24 bodies that we actually have in place or positions that
25 we pay for?

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1 Q. Right now bodies that we have in place.

2 A. Approximately 45, give or take a few.

3 Q. And then the obvious follow-up question is:

4 How many positions do you have available?

5 A. That are specifically for APPS?

6 Q. Specifically for APPS.

7 A. I believe the number is 69.

8 Q. And that's 69 total, including the 45 that are

9 currently filled?

10 A. Correct.

11 Q. Approximately.

12 A. Yes. And again, give or take a position or

13 two.

14 Q. Uh-huh. Is that -- is -- so that group of 45

15 that you just mentioned, is that made up of exclusively

16 Special Agents, including Supervising Special Agents?

17 A. It would be Special Agents, Special Agent

18 Supervisors, and I believe one Special Agent In Charge

19 is paid for out of that -- out of APPS.

20 Q. And prior to 2012, were there any Agents that

21 were full-time on APPS enforcement?

22 A. Yes.

23 Q. Could you approximate at 2012 how many

24 full-time APPS enforcement Agents there are?

25 A. Well, we try to look at what fiscal year it

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1 is --

2 Q. Uh-huh.

3 A. -- compared to just calendar year. So are you
4 talking about prior to fiscal year '12-13?

5 Q. Yes.

6 A. Trying to count the numbers down. Around 24.

7 Q. Okay.

8 A. Give or take.

9 Q. Okay. And then back when you had a position in
10 Northern California, which I believe was starting in
11 2007?

12 A. Uh-huh.

13 Q. And you were doing APPS enforcement work at
14 that time, correct?

15 A. I was responsible for APPS enforcement. And I
16 went out in the field occasionally, yes.

17 Q. Sure. Thank you. That's a good clarification.

18 At that time, how many Agents dedicated to APPS
19 were there, if you recall?

20 A. In the Bureau or --

21 Q. In the Bureau.

22 A. -- those I was responsible for?

23 Q. In the Bureau.

24 A. Somewhere in the high teens.

25 Q. Okay. And was that roughly the same number as

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1 when you held an APPS-related position in Southern
2 California?

3 A. Again, with some margin of error, yes.

4 MR. FRANKLIN: I'd like to mark as Exhibit 5 a
5 document that I obtained again from the state's
6 legislative website. That's a bill analysis dated April
7 11th, 2013.

8 (Exhibit 5 marked.)

9 MR. FRANKLIN: I'll give you a moment to review
10 it.

11 THE WITNESS: What specifically do you want me
12 to review?

13 MR. FRANKLIN: Specifically we're going to be
14 looking at page two, number one. And it's the third
15 paragraph in in number one.

16 THE WITNESS: Okay.

17 Q. BY MR. FRANKLIN: To the best of your
18 knowledge, is everything stated in that paragraph
19 correct regarding what the appropriation of SB 140 was
20 for?

21 A. Yes.

22 Q. Is it your understanding that all of the
23 positions listed in this paragraph would be dedicated to
24 APPS?

25 A. Yes.

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1 Q. Is there any organizational chart of employees
2 working on APPS?

3 A. We have Bureau organizational charts, yes.

4 Q. Do you know if that's a public document?

5 A. I don't believe it is.

6 Q. Was it your understanding that the funding
7 obtained from -- sought to be obtained, rather, via

8 Senate Bill 140 was primarily for funding employees as
9 opposed to costs unrelated to hiring a person?

10 MS. GRANGER: Objection. Vague.

11 If you understand, you can answer.

12 MR. FRANKLIN: I can clarify, if that will
13 help.

14 THE WITNESS: Please.

15 Q. BY MR. FRANKLIN: That wasn't meant for gas,
16 new trucks, you know, primarily wasn't meant for
17 anything; that the primary purpose of the expenditure
18 considered in Senate Bill 140 was to employee people?

19 MS. GRANGER: Objection. Vague as to
20 primarily.

21 THE WITNESS: In order to employ people, you
22 have to buy the requisite equipment in order to get them
23 out in the field. That includes gas, vehicles,
24 equipment, uniforms, training, guns, ammunition, pens,
25 pencils, paper, facility, electricity, water, sewer.

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1 All that is included in that.

2 Q. BY MR. FRANKLIN: There's a reference to six
3 new statewide APPS teams in existing DOJ offices. Do
4 you see that?

5 A. Yes.

6 Q. Would those be regional APPS teams?

7 A. We have teams positioned throughout the state
8 in our already existing DOJ offices. We were just going
9 to be adding six additional teams in those offices.

10 Q. How many APPS teams are there currently in the
11 Bureau?

12 A. 12. That includes the Agents that were
13 appropriated via SB 140.

14 Q. And do all of the APPS teams have the same
15 number of members?

16 A. No.

17 Q. Is each APPS team headed by a specific level of
18 employee?

19 A. I don't understand.

20 MS. GRANGER: Objection. Vague.

21 Q. BY MR. FRANKLIN: Like an Agent In Charge?

22 A. Each team is supervised by a Special Agent
23 Supervisor.

24 Q. Do the 12 APPS teams generally work regionally?

25 MS. GRANGER: Vague as to regionally.

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1 To the extent you understand . . .

2 THE WITNESS: For the most part, they work in
3 the area that they're assigned, based off their regional
4 or field office.

5 Q. BY MR. FRANKLIN: As to the positions that are
6 referred to in the paragraph we're looking at, and
7 specifically the 30 Special Agents, do you know how many
8 of those Special Agent positions have been filled?

9 A. I'm counting. Give me a second.

10 Q. Please.

11 A. Approximately 12.

12 I think the follow-up question would be how
13 many of the six Special Agents supervisors we've --

14 Q. You're on track, yeah.

15 A. That would be five.

16 Q. And as to the special -- I'm sorry -- the
17 Criminal Intelligence Specialists?

18 A. Again five. And the office techs, I believe
19 it's either four or five.

20 Q. Regarding the Special Agents that have been
21 hired, do you know if those are primarily people who
22 were previously let go by the department?

23 A. Yes.

24 MS. GRANGER: Objection. Vague as to time
25 period. Vague as to let go.

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1 To the extent you understand, you've already
2 answered.

3 THE WITNESS: Assuming you're referring to
4 people that were let go on February, I think it was 15th
5 of 2012 --

6 MR. FRANKLIN: Or earlier, but that's fine.

7 THE WITNESS: Yes. All the Agents that were
8 brought back.

9 Q. BY MR. FRANKLIN: Would that be the same -- so
10 of the approximately 12 people that have been hired thus
11 far, those would all be Agents who were brought back
12 after a previous lapse of employment?

13 A. Some were internal transfers from other areas
14 of the department, and the remaining ones were formerly
15 laid-off Agents or supervisors.

16 Q. And is the Bureau currently doing any type of,
17 you know, advertisement to fill out the remaining spots?

18 A. Yes.

19 Q. And as to the six Special Agent Supervisors,
20 the five positions that have already been filled, are
21 those returning or transferring employees primarily?

22 A. Two of them were re-employments. I'm sorry.
23 Three of them were re-employments, two were transfers.

24 Q. And then the same question about the six
25 Criminal Intelligence Specialists.

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1 A. Most of those are new hires as are the office
2 techs.

3 Q. Thank you.

4 And just to be clear, to the extent we're
5 talking about job descriptions here, and we've used the
6 same job descriptions before, it's the same position, it
7 doesn't have any different usage in this context,
8 correct?

9 MS. GRANGER: Objection. Vague.

10 Are you referring to the --

11 MR. FRANKLIN: The Exhibit 4.

12 MS. GRANGER: -- Exhibit 4?

13 MR. FRANKLIN: Exhibit 4 specifically.

14 THE WITNESS: They're the same job titles.

15 MR. FRANKLIN: Uh-huh. That's the only

16 question I was -- I was asking.

17 THE WITNESS: Yes.

18 Q. BY MR. FRANKLIN: All right. Well, just by the
19 numbers, are you having any difficulty filling the
20 Special Agent positions?

21 A. I'm not going to answer that question.

22 Q. Okay.

23 MS. GRANGER: Objection. Vague --

24 MR. FRANKLIN: Do you want --

25 MS. GRANGER: -- as to difficulty.

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1 MR. FRANKLIN: Just so I have a record, the
2 grounds for not answering?

3 MS. GRANGER: I don't even know what the
4 question was.

5 MR. FRANKLIN: Let me -- this is not a
6 particularly important issue. I just want to know, so I
7 make the record and move on.

8 Q. Is it fair to say that the Bureau is still
9 receiving applications for the unfilled Special Agent
10 positions?

11 A. Yes.

12 Q. Yeah, I mean, I probably need some kind of --
13 I'm not looking to push the issue, but I would need to
14 know the basis, what the reason is why you don't feel
15 comfortable answering that question.

16 MS. GRANGER: It seems argumentative.
17 Difficulty doesn't mean that --

18 MR. FRANKLIN: If it's a clarification, I'm
19 happy to do that. But I think it's just a bigger issue.
20 And once he let's me know what it is, I can move on.

21 THE WITNESS: It's a personnel issue. It's a
22 union issue. It's a collective bargaining issue, a
23 contract issue. On all four of those things I'm not
24 qualified to -- to identify.

25 Q. BY MR. FRANKLIN: Okay. On the newly created

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1 Was it a committee hearing?

2 A. I believe it was a joint session of the
3 assembly and senate public safety hearing.

4 Q. And do you remember what year that was?

5 A. 2013.

6 Q. Okay.

7 A. Not sure what month.

8 Q. The reason I ask about the written version is I
9 just want to know if there was a written version of your
10 original calculations, if that existed. But it sounds
11 like as to the very original calculations, there's no
12 written analysis.

13 A. No. Then they came up with a figure themselves
14 of 24 million. And they asked if that would be
15 workable. We worked up the numbers, and there was a way
16 we could do that.

17 Q. Going back to page two, that paragraph we were
18 looking at earlier. Have all six of the statewide APPS
19 teams mentioned here started operating?

20 A. All the teams have started operating.

21 Q. Is it fair to say that some may not be fully
22 staffed?

23 A. That would be accurate.

24 Q. Okay.

25 MS. GRANGER: Are you okay to go on?

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1 THE WITNESS: I'm fine.

2 MR. FRANKLIN: You know, it's -- if you want to
3 take a short lunch, we can do that. I don't know what
4 your schedule is.

5 MS. GRANGER: We can take like a half hour.
6 There's something downstairs, if you want to get
7 something down there.

8 MR. FRANKLIN: We can go off the record.

9 (Lunch recess from 1:15 to 1:54 p.m.)

10 Q. BY MR. FRANKLIN: When we left off, we were
11 talking about six new teams that were designated out of
12 the SB 140 funding. Would the six new teams operate in
13 any significant way differently than APPS enforcement
14 teams that existed prior?

15 A. Not really.

16 Q. Is it my memory that there's approximately 12
17 APPS teams now?

18 A. There are 12 APPS teams, yes.

19 Q. There are 12 APPS teams.

20 So effectively, through the senate bill in
21 2013, that doubled the amount of APPS teams; is that
22 right?

23 A. Roughly, yes. It was more than double. 33 to
24 69.

25 Q. I'm still not totally clear on how sweeps

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1 relate to day-to-day activities of enforcement
2 personnel, specifically Agents. Prior to 2013, would
3 the APPS enforcement teams' day-in-and-day-out duties be
4 to perform contacts?

5 A. Good question. Day-to-day operations is we do
6 APPS investigations. A sweep or a concentrated
7 enforcement effort is usually towards either a
8 particular segment of the database, say, mental health
9 prohibitions, maybe a particular regional or
10 geographical area they want us to concentrate in, let's
11 say, Oakland, Long Beach, Stockton, L.A., or a
12 particular type of firearm. Let's say people who have
13 assault weapons as compared to just their handguns.

14 Q. Okay.

15 A. Now, that doesn't mean that we stop doing
16 investigations in other areas of the state.

17 Q. Sure.

18 A. Just we concentrate on those areas for a
19 particular period of time.

20 Q. Okay. So sweeps could be based on -- oh, I
21 think I've seen that there have been mental health
22 sweeps, at least one. And it sounds like there are also
23 regional sweeps. Is that right?

24 A. Correct.

25 Q. When you do a -- when there is a

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1 MR. FRANKLIN: I mean, I can use the term as
2 defined under state law or however you'd like. Okay.

3 MS. GRANGER: Fine. State law defines what an
4 assault weapon is. We don't --

5 Q. BY MR. FRANKLIN: You explained a little bit
6 before about why the focus on the -- why mental health
7 was the focus of one sweep. Do you recall why the sweep
8 on weapons considered assault weapons under California
9 law, why that was the focus of a sweep?

10 MS. GRANGER: Objection to the extent that it
11 calls for attorney-client privilege, deliberative
12 process in your discussions with the executive unit.

13 To the extent that you don't release that
14 information, you may answer.

15 THE WITNESS: I'm not going to answer.

16 Q. BY MR. FRANKLIN: And for the reason she
17 stated?

18 A. (Nods head.)

19 Q. Okay. At this time, are there any Special
20 Agents who are not part of an APPS unit but that perform
21 APPS contacts?

22 A. Yes.

23 Q. And can you explain to me how that would happen
24 in practice?

25 A. Like anything, it's a product of resources.

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1 And sometimes we need additional Agents to work in
2 particular areas.

3 Q. Is it fair to say that the vast majority of
4 Special Agents performing APPS contacts are indeed
5 members of an APPS team?

6 MS. GRANGER: Objection. Vague as to majority.

7 MR. FRANKLIN: I can put a percentage. 85
8 percent.

9 THE WITNESS: I would say more than 85 percent
10 of the Agents we have out in the field conducting APPS
11 investigations are paid for by APPS funding.

12 Q. BY MR. FRANKLIN: Thank you. And then just as
13 a general background question, when you say it's paid
14 for by APPS funding, would that in practice mean that
15 the Agents performing the contacts are billing their
16 work to the APPS code?

17 A. Correct.

18 Q. Okay. As part of your duties as Chief, do you
19 ever evaluate the productivity of employees working on
20 APPS matters?

21 MS. GRANGER: Objection. Goes beyond the scope
22 of this lawsuit.

23 You can answer.

24 THE WITNESS: Well, again, I don't really see
25 the -- if you want to know how I manage the Bureau as

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1 far as the APPS resources, or are we talking about how
2 we manage the money? It seems that we're talking more
3 about how we do investigations out in the field and how
4 I evaluate those resources, compared to how we deal with
5 the money aspect of it.

6 Q. BY MR. FRANKLIN: Yeah. The specific purpose
7 behind this question and the next couple of questions is
8 to identify documents that we could utilize to look at
9 what's being spent on specific actions in the APPS unit
10 and more generally as to APPS. One way to do that would
11 be to look at what documents do you utilize, to the
12 extent that they're available through litigation, to
13 evaluate that same question?

14 A. Those would be more investigative-related
15 files. So I won't answer that question.

16 MS. GRANGER: Yeah, I think it gets to be
17 confusing. Are you saying like how he manages the
18 money, but then -- or are we evaluating our personnel on
19 how they're performing the cases?

20 MR. FRANKLIN: Well, it's an efficiency
21 question, a productivity question.

22 MS. GRANGER: Like how many cases they're
23 assigned to do or --

24 MR. FRANKLIN: For example, yeah, that would be
25 a good example. You know, if their completion rates are

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1 Q. BY MR. FRANKLIN: At the time the proposal was
2 made, do you recall any requests from the public that
3 the amount of the fee be evaluated?

4 A. Before the --

5 MS. GRANGER: Objection. Vague as to the
6 amount of the fee.

7 MR. FRANKLIN: What's vague about the amount of
8 the fee?

9 MS. GRANGER: Which fee are we talking about,
10 the 19 or the 14 or what? Or what it was, what we
11 proposed it to be?

12 Q. BY MR. FRANKLIN: Did you understand the
13 question?

14 A. I believe so.

15 Q. I can rephrase it if you didn't.

16 A. I was actually going to ask a question just to
17 clarify.

18 Q. Uh-huh.

19 A. During the rule-making process or prior to the
20 rule-making process?

21 Q. Prior to the rule-making process.

22 A. Not that I was aware of.

23 Q. Okay. Now, I'm not asking for what the result
24 of this --

25 A. Well, actually, let me clarify. I think we

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1 always get requests on a daily basis about whether there
2 even should be a fee or it should be reduced. So -- but
3 as a particular request that was I request this to be
4 done (shakes head).

5 Q. You don't recall that?

6 A. No.

7 Q. Okay.

8 A. I remember lots of complaints even to this day
9 about the fee.

10 Q. Do you know if within the year prior to the fee
11 reduction being proposed if DOJ performed an analysis on
12 the appropriateness of the fee?

13 MS. GRANGER: Objection. Vague and ambiguous
14 as to analysis and appropriateness.

15 To the extent that you understand, you may
16 answer.

17 THE WITNESS: I don't know of any analysis that
18 went on about the appropriateness of the fee.

19 Q. BY MR. FRANKLIN: Is that -- do you know if the
20 DOJ has ever performed an analysis on the
21 appropriateness of the DROS fee?

22 A. I know that back in 2003 or 2004 when they
23 raised the fee from 14 to \$19, I believe there was some
24 analysis done on that. I don't know where that document
25 is or exactly what it says. And as part of the

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1 rule-making process, we did do an analysis. And that
2 was kind of laid out in the rule-making process of what
3 our analysis would be on an annual basis about either
4 reducing or elevating the fee based on the cost of doing
5 business for the Bureau.

6 Q. Do you remember what costs were incorporated in
7 the cost of doing business?

8 A. Again, we can talk about, you know, just the
9 personnel, facilities, electricity and retirements,
10 pens, pencils, papers --

11 Q. Sorry, I wasn't clear. I meant the specific
12 tasks that had to be completed.

13 A. I'm not following.

14 MR. FRANKLIN: Okay. Can you read back the
15 last full question I asked?

16 (Record read.)

17 MR. FRANKLIN: I'm going to leave that question
18 and move on.

19 Q. Do you recall a specific person taking charge
20 of the promulgation of the rule-making on the fee
21 reduction we've been discussing?

22 A. There were several people that were involved in
23 it. And a couple of people were more the top of the
24 process.

25 Q. Who would that be on top of the process?

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1 A. At that time, I brought in the retired chief,
2 Will Cid, to help out on that. We also had one of our
3 field reps, Jeff Amador, and our non-sworn Assistant
4 Chief, Steve Buford. B-u-f-o-r-d.

5 Q. Do you recall if the rule-making on the
6 proposed reduction of the DROS fee ever occurred?

7 A. It did not.

8 Q. Do you know why?

9 A. During the public hearing comments, both in
10 person and written, everyone thought it was a bad idea
11 for various reasons.

12 Q. And so, to the best of your knowledge, the
13 reason that rule-making didn't occur is because the
14 public was against it?

15 A. Everyone who made a comment.

16 Q. Okay. That's a fair clarification.

17 So to the best of your memory, the reason the
18 rule-making we're talking about didn't occur is because
19 everyone who expressed an opinion on it from the public
20 was against it?

21 MS. GRANGER: Objection to the extent that it
22 misstates his testimony. But you can --

23 THE WITNESS: I was trying to -- I mean, I
24 don't remember anybody saying anything differently. I
25 mean, for different reasons, people did not like the

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1 idea.

2 MR. FRANKLIN: Uh-huh.

3 THE WITNESS: From that we should use it for
4 enforcement of APPS to there shouldn't be a fee, period,
5 and the use of that is unconstitutional in and of
6 itself. So . . .

7 Q. BY MR. FRANKLIN: Do you remember who it was
8 that suggested it should be used for APPS?

9 A. The people, right off top of head, would be the
10 Brady Campaign and the Law Center to Prevent Gun
11 Violence, I think they're called.

12 Q. And those are the only people you can recall or
13 entities that you can recall right now that wanted to
14 use the funds we've been discussing for APPS?

15 A. Off the top of my head right now, yes.

16 Q. Do you know if the DOJ ever issued a statement
17 about why this particular rule-making did not ultimately
18 result in a rule?

19 A. Can you say that again?

20 Q. I'm sorry?

21 A. Say that again.

22 Q. Oh. I'll have him read it back, please.

23 (Record read.)

24 THE WITNESS: Not to my knowledge.

25 Q. BY MR. FRANKLIN: Do you know if DOJ has ever

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1 issued a written -- strike that.

2 Do you know if the DOJ has ever created a
3 written analysis of whether the \$19 fee is commensurate
4 with the costs it's intended to cover?

5 A. Not under my watch. Like I said, possibly back
6 in 2004.

7 Q. Is it fair to say that you're not specifically
8 aware of that type of writing?

9 A. That would be accurate.

10 Q. Does the DOJ have a program for regularly
11 considering whether or not the DROS fee is set at the
12 level they want it to be at?

13 MS. GRANGER: Objection. Vague and ambiguous,
14 calls for speculation, vague as to time, beyond the
15 scope of this lawsuit. The lawsuit does not challenge
16 the fee itself.

17 To the extent you understand the question, you
18 can answer.

19 THE WITNESS: I'm thinking. I'm not aware of
20 any analysis that is routinely done.

21 MR. FRANKLIN: Based on that objection, I
22 probably need to make it clear for the record that even
23 though I'm not responding every time, whatever defense
24 counsel expresses as their conception of what the
25 lawsuit is or isn't, that's defense counsel's position

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1 only and I am not adopting that.

2 Q. Were you directly involved in the decision to
3 abandon the rule-making we've been discussing?

4 MS. GRANGER: Objection. Argumentative as to
5 the term abandon.

6 You can answer to the extent you understand.

7 THE WITNESS: It was forwarded through my chain
8 of command.

9 Q. BY MR. FRANKLIN: And I can use any term you
10 want, because abandon doesn't really matter to me. But
11 are you aware of this situation ever happening before
12 where a rule-making is proposed by the DOJ and no rule
13 is ever issued, nor is a public statement on the
14 non-issuance put out to the public?

15 MS. GRANGER: Objection. Compound, calls for
16 speculation.

17 To the extent you can answer, you may.

18 THE WITNESS: I would only know on the
19 rule-making process that we've done within the Bureau.

20 Q. BY MR. FRANKLIN: Okay. Could you respond
21 within the Bureau?

22 A. Specifically during the time frame that I've
23 been here, we've only done a few rule-making processes;
24 think maybe four or five, including the one for the
25 fee reduction.

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1 paginated, but it's basically the bottom of page eight
2 and the top of page nine.

3 (Exhibit 6 marked.)

4 THE WITNESS: We're talking about how the
5 database will work?

6 MR. FRANKLIN: Uh-huh. If I could have you
7 read that section.

8 THE WITNESS: Out loud or just to myself?

9 MR. FRANKLIN: Just to yourself. I think it's
10 a), b) and c) or one, two and three.

11 MS. GRANGER: You only wanted a), b) and c)?

12 MR. FRANKLIN: That whole section three, I
13 think.

14 THE WITNESS: Okay.

15 Q. BY MR. FRANKLIN: Generally speaking, broad
16 strokes, is what's described in that section three how
17 APPS works?

18 A. No. We don't go back to 1991. We go back to
19 1996. And that's actually a thing that's being put to
20 the legislature, whether or not we're going to go back
21 to 1996 compared to 1991.

22 The system that they asked us to base that
23 analysis off of --

24 Q. Uh-huh.

25 A. -- for how we're going to attain that

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1 information didn't exist till 1996. So it's kind of
2 hard to go back and get information that's accurate that
3 doesn't really exist.

4 Q. Okay. Other than that question -- because I
5 have seen that as well. Other than the start date, is
6 other -- is this how APPS operates in a broad macro
7 sense?

8 A. Well, it's incomplete because, one, it doesn't
9 -- it only talks about the automated criminal history
10 system. It checks a number of other systems besides
11 that. It does compare that information to the files
12 that we have in place in the automated firearm system,
13 and then we have the triggering events.

14 Q. Is that b)?

15 A. When they talk about a match, again, the
16 criteria that we use is a little bit broader than that
17 as far as a triggering event. And when we -- we're
18 trying to get a match based off of various information
19 in order to put somebody into the armed prohibited
20 persons system, or in this case, they say file.

21 Q. Uh-huh.

22 A. The file is then supplied to the law
23 enforcement agencies. The law enforcement agencies have
24 access to the system, and we send them information on a
25 monthly basis as well.

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1 Q. In this particular document, the file that's
2 being referred to -- we've discussed this a little bit
3 before -- do you think that is intended to be the
4 database, the APPS list or some other item?

5 A. It would only be speculation on what they were
6 thinking --

7 Q. Okay.

8 A. -- about in 2001. And again, bill analysis
9 changed based on --

10 Q. Uh-huh.

11 A. -- on what the end result of the legislation
12 actually is, and changes that we make to the system.
13 So, you know, depending on which analysis this might be,
14 if this was the final one, the first one, mid one, it
15 would be hard to speculate about which one this actually
16 is.

17 Q. How does it actually work in practice; what
18 does the local law enforcement have access to with
19 regard to APPS?

20 A. On a monthly basis they are supplied with a
21 spreadsheet and a PDF file that incorporates all the
22 APPS offenders that are listed in the database or the
23 system or file, however you want to call it --

24 Q. Uh-huh.

25 A. -- in their jurisdiction. So I'll use -- let's

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1 say we'll use Orange County for an example. In Orange
2 County, the police chief for Santa Ana will only get the
3 people that are in APPS that live in his jurisdiction or
4 her jurisdiction, depending on the police chief there at
5 the time. The sheriff gets everybody who lives in the
6 county, regardless if it's a contract city or just a
7 regular county --

8 Q. Uh-huh.

9 A. -- or even they'll get it for cities like
10 Anaheim, you know, Santa Ana, Orange, they get the
11 entire file. And what they can do with that is off the
12 Excel spreadsheet, it's searchable.

13 Q. Uh-huh.

14 A. PDF just lists the information about the
15 offender.

16 Q. And these monthly productions, is it correct to
17 say that the people listed in them are only those who
18 have been identified through the entire APPS process?
19 And by that I mean both that there was a triggering
20 event and further review, and the person is determined
21 to be prohibited?

22 A. If I follow you correctly, yes.

23 Q. If you can help me clarify.

24 A. Well, it's a snapshot in time for that
25 particular day. So the following day there might be a

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1 person added to that list or subtracted from that list.

2 But that's why we call it a pointer system. And this is
3 what we've talked about on many occasions is that it is
4 a pointer system. You still have to do your due
5 diligence in order to identify and ensure that person --
6 that there is that prohibiting factor still there.
7 Because, again, things change rather rapidly.

8 Sometimes when you locate domestic restraining
9 orders, you might have one today that's off tomorrow.
10 Next week you have another one. So you have to do your
11 due diligence for that. On top of it, local law
12 enforcement has the ability to run any particular
13 individual's name that they want so. So we encourage
14 them before they take any enforcement action to just
15 ensure that they're still in the system.

16 Q. Local law enforcement can run any name against
17 the APPS list?

18 A. Yes. Just very similar to the sex registrant
19 list. You can go in and run Steve Lindley, and either
20 I'm in there or I'm not. If I am in there, it can
21 provide you more information about what my prohibiting
22 status is, some information about my firearm that I
23 may -- that I might have purchased at one time, gives
24 them that information. If I'm not in it, it just says
25 no hits.

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1 Q. And if you're in there, does that mean that at
2 least some human has reviewed your presence on the list?

3 A. Correct. That there was a triggering event,
4 we've done our due diligence at our level, everything
5 seems to match, so the person goes into the system.

6 Q. Does local law enforcement have to take any
7 steps to start receiving these emails?

8 MS. GRANGER: Objection. Beyond the scope of
9 the lawsuit.

10 You can answer. To the extent it gets
11 cumulative . . .

12 THE WITNESS: All they have to do is apply with
13 us so we can verify who's actually asking for the
14 information, to make sure that they're entitled to it,
15 you know, a sworn peace officer or someone who is
16 working with sworn peace officers, and then provide them
17 the mailbox free of charge. And it's an electronic
18 mailbox, not a physical one.

19 Q. BY MR. FRANKLIN: Is the APPS list updated
20 daily?

21 A. The APPS list is updated daily, yes, minus a
22 couple of holidays.

23 Q. Sure. So the first step in the process that's
24 referred to as APPS is collecting data; is that right?

25 MS. GRANGER: Objection. Vague. Collecting

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1 data.

2 You can answer to the extent you understand.

3 THE WITNESS: I'm not quite sure what you want

4 me to refer to.

5 Q. BY MR. FRANKLIN: The APPS database is
6 populated with data, correct?

7 A. It's provided with information that we have on
8 hand.

9 Q. Right. What information is that?

10 A. Well, it contains the information of people who
11 have purchased a handgun since 1996 or registered an
12 assault weapon since 1989 or anybody who is on the
13 firearm ownership record on any type of a long gun.
14 That is then compared against individuals in our
15 automated criminal history system, looking for any
16 felonies or the 37 violent misdemeanors that could be
17 classified as being prohibiting, the wanted persons
18 file, the domestic violence restraining order system and
19 the mental health system.

20 Q. And the software used for APPS cross-references
21 those documents or cross-checks?

22 MS. GRANGER: Objection. Vague as to
23 cross-checks. Cross-checks what, the databases he just
24 referenced?

25 MR. FRANKLIN: The data sources he just

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1 referenced.

2 THE WITNESS: Yes. Our system looks at all
3 those systems and comes up with the matches. If there's
4 a match, that's what we call a triggering event, which
5 prompts a human eye to look at the information to
6 verify.

7 Q. BY MR. FRANKLIN: And the system looks for
8 triggering events how often?

9 A. Daily.

10 Q. Daily.

11 So is it correct to say that the APPS system is
12 run once a day to look for triggering events?

13 A. It's automatically run once a day. We can have
14 it run differently, but, again, we need to get the
15 information that's coming in from those other sources as
16 well. All those systems are being updated on a daily
17 basis as well.

18 Q. Okay. So on a daily basis is it correct to say
19 that some form of triggering event report is created?

20 A. We don't necessarily have a report, but we have
21 triggering events, you know -- how should I describe it?
22 It's almost like in a working queue.

23 Q. Uh-huh.

24 A. It's there to be worked, and it lists the
25 triggering events. The analysts pull that up and start

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1 processing it.

2 Q. Okay: What would the job title be of a person
3 who is doing the analysis you just mentioned?

4 A. Would be a CIS I, CIS II or CIS III.

5 MS. GRANGER: What does CIS stand for?

6 THE WITNESS: It would be a Criminal
7 Identification Specialist.

8 MR. FRANKLIN: Good point. Thank you.

9 THE WITNESS: I, II, III is just the level of
10 their classification, based on their experience and
11 knowledge.

12 Q. BY MR. FRANKLIN: Uh-huh. Perhaps this is
13 obvious: Why is there a human review at this point?

14 A. I'm not a computer programmer, so I don't know
15 if I can talk about the different algorithms, but from
16 what I can tell, there's no real artificial intelligence
17 system out there that can run all the different checks
18 that we can.

19 Q. Is it fair to say that the Bureau does not rely
20 solely on the computer system to verify whether or not a
21 person should be on the APPS list?

22 A. That's why we call it a hit. It's a hit. So
23 on any given day, we might get between 200 and a
24 thousand triggering events; maybe only 30 or 40 people
25 out of those actually go into the system. And don't

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1 questions about how the program operates and drilling
2 down into some minutiae about how certain decisions are
3 made.

4 So I'm just -- and I'm saying this just in an
5 effort to, like, keep us focused. I mean, I understand,
6 like, some discovery, you know, you have some leeway.
7 But I want that on the record because, I mean, I have
8 serious concerns that we're really far afield as to what
9 this lawsuit is about.

10 And I know you've stated that you don't
11 necessarily agree with our characterization of the
12 lawsuit. But, I mean, I'm reading from the complaint.
13 So -- and counsel here has stated a number of objections
14 based on relevancy and the scope of the lawsuit. And so
15 think that needs to be in the record about the claim,
16 the single claim in this case.

17 So I would just ask, to the extent possible,
18 please remain focused on the claims, and the discovery
19 tailored to the claims of the case.

20 MR. FRANKLIN: Okay. I'll just briefly respond
21 that this issue was raised prior to the deposition. The
22 options were considered, including does this -- is this
23 an objection that needs to be addressed before the
24 deposition was held. That option was not taken.

25 The operation of APPS is point in fact

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1 completely relevant to what money is spent on APPS,
2 specifically what money is spent on through the APPS
3 system but that could be considered general law
4 enforcement.

5 In that regard, we do contend that this is not
6 only proper and relevant discovery, but this issue was
7 broached before the deposition and the deposition went
8 forward.

9 So having said that, to the extent that I
10 believe I can address counsel without trampling on the
11 interests of my clients, I will do so.

12 MR. HAKL: We can proceed.

13 MR. FRANKLIN: Okay. Well, I guess maybe let's
14 have a discussion off the record, because I have a
15 question that we should probably discuss off the record.

16 (Discussion off the record.)

17 Q. BY MR. FRANKLIN: So at some point after the
18 CIS reviews triggering events in the queues, some events
19 are determined to represent persons that should be on
20 the APPS list, correct?

21 A. Yes.

22 Q. And does the -- is it the CIS employee's
23 responsibility to actually indicate on the list that the
24 particular person is prohibited?

25 A. Well, through the program, once they identify a

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1 positive match, that person is then moved into the APPS
2 database.

3 Q. Does the CIS employee do anything else with
4 regard to that particular person that's been moved into
5 the database?

6 A. Once the match has been completed; no.

7 Q. Does the CIS personnel, when they complete a
8 match, do they do any kind of physical file hand-off to
9 someone else?

10 A. I'm not sure what you mean.

11 MS. GRANGER: Objection. Vague as to physical
12 hand-off.

13 Q. BY MR. FRANKLIN: Do they -- yeah, do they turn
14 that particular person over to another person in any
15 way?

16 A. Well, it goes into the system and the system is
17 updated. And then local law enforcement, DOJ, can work
18 that individual. It goes into the, you know, 21,000
19 people that are in the -- currently in the list.

20 Q. Are there any -- other than the daily updates
21 that we've already talked about, are there any types of
22 reports that are generated as part of APPS operation?

23 And when I say APPS operation, I mean
24 specifically the computer program.

25 MS. GRANGER: I'm sorry. Could you repeat the

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1 question?

2 MR. FRANKLIN: If you wouldn't mind.

3 (Record read.)

4 MS. GRANGER: Thank you.

5 To the extent you understand, you can answer.

6 THE WITNESS: There are various reports that
7 are generated; most of those for internal investigative
8 reasons.

9 Q. BY MR. FRANKLIN: Without getting specific, can
10 you tell me what you mean by that or explain it? When
11 you say internal investigation, do you mean internal to
12 APPS?

13 A. They're internal to us working the system
14 itself. The system generates reports that DOJ uses in
15 order to enforce APPS throughout the state.

16 Q. Do those reports have a specific name?

17 A. Not that I'm willing to disclose, because
18 that's internal as to how we work the offenders.

19 MR. FRANKLIN: Is there an instruction not to
20 answer that?

21 MS. GRANGER: Yes.

22 MR. FRANKLIN: And the grounds?

23 MS. GRANGER: Law enforcement privilege.

24 MR. FRANKLIN: Okay. If that's okay with you,
25 when it's this type of objection --

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1 at this information, law enforcement prioritizes all
2 sorts of things. Local law enforcement prioritize their
3 calls for service. So, you know, this is no different.
4 How they do it and under what criteria they do that,
5 depending on the nature of the investigation, would
6 cause a safety issue for our Agents out in the field.

7 Q. BY MR. FRANKLIN: Okay. And I guess I should
8 clarify. I do believe this document is talking
9 specifically about the APPS software. But I'll ask you,
10 that fact doesn't change your answer, does it?

11 A. No.

12 Q. Okay.

13 A. Because I don't think we've ever really hidden
14 the fact there's -- there's ways that we can prioritize
15 things.

16 Q. Okay.

17 A. The highlights are on the next page.

18 Q. They're here, right?

19 And -- yeah, and just note that there are some
20 highlights in the document and that I did them.

21 Do CIS employees deal with more than one queue
22 of information coming from the APPS computer system?

23 A. I don't believe so.

24 Q. Do you know if there's a -- go ahead.

25 A. They have access to all the information from

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1 the relevant databases, but it comes into one central
2 point.

3 Q. Do you know if there's a separate queue -- my
4 understanding is that -- well, strike that.

5 Is it conceptually correct that there are both
6 backlog and current matters to be addressed within APPS?

7 MS. GRANGER: Objection. Vague as to the term.

8 To the extent you understand . . .

9 THE WITNESS: Are you referring to our
10 historical backlog?

11 MR. FRANKLIN: Yeah.

12 THE WITNESS: Yes, that's a separate issue and
13 a separate queue. But those aren't worked part of the
14 triggering events, queue.

15 Q. BY MR. FRANKLIN: Okay. Maybe if you could
16 help me clarify that. The historical backlog is not
17 part of the consideration for triggering events?

18 A. It's not part of your daily triggering events.

19 Q. Okay.

20 A. It's your backlog of stuff that needs to get
21 completed. That's older information based off of stuff
22 that happened prior to the system -- excuse me -- prior
23 to the system becoming online.

24 Q. Are there certain APPS unit employees that are
25 specifically responsible for dealing with historical

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1 backlog?

2 A. No. If that is done, that's done maybe on a
3 daily basis by the supervisor. But everyone's kind of
4 responsible for working everything. Our main priority
5 is to take care of the daily triggering events because
6 those are new prohibitions that have come forward. Once
7 those are done, then we can work on historical.

8 Q. Okay. That makes sense.

9 How do the CIS employees determine what to work
10 on every day?

11 A. The system itself kind of prioritizes it for
12 them. The first in, the first one -- how should I
13 explain that?

14 Q. Is it like a first in, first out?

15 A. Pretty much. It -- the system, it goes into
16 the queue, and when you log on, you get one. Once
17 you're done with that one, you get another one.

18 Q. Okay.

19 A. So it just -- it's just in chronological order.

20 Q. It's my memory that DOJ at one point estimated
21 it was hopeful that within a three-year time frame it
22 would be able to resolve the backlog. Had you heard
23 that?

24 A. If you're talking about the historical
25 backlog --

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1 Q. Uh-huh.

2 A. -- based off of when the system was put into
3 place and funding, DOJ was asked to have that backlog
4 completed by December of 2016. Regardless of what
5 people say, we will meet that 2016 date.

6 Q. That's good. Answered my next question.

7 So we've discussed what CIS employees do, and
8 that was -- what was the full title on those that did
9 the initial review?

10 A. They're called Criminal Identification
11 Specialists. And then there's three categories: Level
12 I, II and III.

13 Q. Is there any other Bureau employee that
14 performs analysis on the APPS list other than the
15 Criminal Identification Specialists?

16 A. I would ask at what point?

17 Q. So let me tell you the way I understood this or
18 envisioned this, and you can tell me how I'm incorrect
19 or not right on. You know, the CIS folks do a review.
20 They determine whether or not the person should be
21 listed. And then I would think there's got to be some
22 next step that ultimately leads to a contact being made.
23 I was looking at what's that next step.

24 A. Okay. So once the person goes into the system
25 and DOJ -- say the local agencies decide to work a

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1 particular individual, whether it's in a geographical
2 area, a targeted field enforcement, what have you,
3 they'll look through the system or the database to
4 identify the offenders they're going to go after for
5 that particular week, that particular month, what have
6 you. Then we have what's called a Criminal Intelligence
7 Specialist, again, those are level I, II and III, in our
8 field offices that work directly with the Agents and the
9 Special Agent Supervisors in doing background
10 information, intelligence gathering on those particular
11 APPS offenders. That's to, one, ensure that the
12 information is still accurate that was put into the APPS
13 system, restraining order still in place, the 5150 still
14 in place, there hasn't been some other disposition on a
15 person's criminal history, the prohibition is still
16 active, what have you. And then a variety of other
17 intelligence information to ensure the safety of the
18 Agents, the public, and the offender themselves when we
19 make contact with them.

20 Q. So the Criminal Intelligence Specialist does
21 not decide what specific person to pull out of the APPS
22 list?

23 A. It's usually relegated to the supervisor or the
24 Agents.

25 Q. Can you give me a general description about how

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1 a supervisor or Agent in the past would identify someone
2 to be pulled from APPS in the APPS list in this context?

3 A. Well, we talked about, you know, what we
4 identified as sweeps or targeted field enforcement;
5 maybe mental health individuals or people with an
6 assault weapon or, say, a convicted felon. If we're
7 going into-- if we're asked by a particular community or
8 city to come in and do APPS offenders or work the APPS
9 cases in their jurisdiction, we'll identify all the APPS
10 offenders there and start working them.

11 Q. Does that happen -- well, strike that.

12 Could you tell me an estimate of how much the
13 current APPS workload is that situation where you just
14 mentioned where a local jurisdiction asks for the DOJ to
15 assist?

16 A. Probably 50 percent.

17 Q. Oh, really.

18 Okay. Okay. So the Criminal Intelligence
19 Specialist when looking at a particular person on the
20 APPS list, it could be that it's been some number of
21 weeks since that person was entered by the Criminal
22 Identification Specialist; is that right?

23 A. Yeah. It was very --

24 Q. Let me --

25 A. -- not smooth, but I understand. It could be

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1 weeks before the case is actually worked.

2 Q. Okay. It's not like the Criminal
3 Identification Specialist just hands it off directly to
4 the Criminal Intelligence Specialist?

5 A. No.

6 Q. Okay. So do the Criminal Intelligence
7 Specialists make some kind of a document or report or
8 spreadsheet for the Supervising Agent or Agent who
9 requests information from APPS?

10 A. They will provide them with a package.

11 Q. You mentioned that previously.

12 And again, without getting into unnecessary
13 detail, the package concerns information that the Agents
14 would need to know to perform a contact?

15 A. Yes.

16 Q. And then at that point where we're talking
17 about a Criminal Intelligence Specialist handing over a
18 packet to a Supervising -- I'm sorry -- to an Agent, do
19 the Agents and the Criminal Intelligence Specialists do
20 any further research as to the package?

21 A. Well, the package is the research.

22 Q. Uh-huh. So does -- once the Agent gets the
23 package, does the Agent do any additional research?

24 A. If there's anything specifically they want
25 done, possibly. But that might be on a case-by-case

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1 basis.

2 Q. Okay. And is that -- strike that.

3 Is the next step after receiving the package

4 the performance of the contact?

5 A. For the most part, yes.

6 Q. Is it the responsibility of the Agents to

7 assess the number of Agents that are needed for a

8 particular contact?

9 A. Could be the Agents, could be the Supervisor

10 could be the Special Agent In Charge.

11 Q. And the number of Agents on a contact varies?

12 A. Yes.

13 Q. And speaking generally, is the number of Agents

14 utilized related to the concern for the Agents' safety?

15 A. There's a variety of concerns that they put

16 into place in determining how many people are going to

17 go to a particular contact.

18 Q. Is that something you can give me further

19 information on?

20 A. I mean, just common sense would be the level of

21 violence the person has had in the past, the level of

22 psychosis that they may or may not have or level of

23 mental illness, the geographic location. Obviously, if

24 it's, you know, in the middle of no place, backup's not

25 coming readily, so we have to rely on the Agents that we

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1 have there. There's a lot of different factors that go
2 in. The level of crime that's in a particular area.

3 Q. So we've been kind of moving somewhat
4 chronologically or at least in order. And at this point
5 where the package has been transferred to an Agent,
6 would it be common for the Agents to contact local law
7 enforcement at that time regarding a potential future
8 contact?

9 A. Again, it depends on the individual, depends on
10 the location, depends on a lot of different factors.
11 But before we go out on any operation, at least the day
12 or the night of, we will contact local law enforcement
13 and let them know we're going to be operating in their
14 jurisdiction.

15 Q. Does the local law enforcement ever ask the
16 Bureau to review the APPS database as to a specific
17 person?

18 A. I didn't understand the question.

19 Q. It's my understanding that local law
20 enforcement gets access to monthly updates regarding
21 persons who are on the APPS list in their given
22 jurisdiction. Aside from that, do local law enforcement
23 ever ask for additional information about a specific
24 person from DOJ that -- regarding information that would
25 be taken from the APPS database?

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1 A. Okay. I was following you for a second, and --

2 Q. Sorry.

3 A. -- you lost me again.

4 It's kind of hard to answer. What type of
5 other information do you think they're going to be
6 asking? To what extent? Kind of lost me on that.

7 Q. Right, right. I'm trying to --

8 MS. GRANGER: Are you trying to ask if we give
9 them a package on a person?

10 MR. FRANKLIN: I wasn't.

11 Q. Have you ever had -- strike that.

12 Is it common that local law enforcement would
13 request a package on a person?

14 A. No, it's not common they would do that, no.

15 Q. Can you ever think of that happening, without
16 giving me any specific details?

17 A. It has happened on some rare occasions.

18 Q. Do Agents go in the field to examine a
19 potential location of a contact before actually
20 performing the contact?

21 A. Sometimes.

22 Q. And does a whole team go out to do that
23 inspection, for lack of a better term?

24 A. It really depends on a lot of different
25 factors. And it would be unusual for an entire team to

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1 go out to do it, if for no other reason, the more people
2 you have there, the more likely you'll be seen.

3 Q. Is there a name for -- I think in my notes I
4 call it a pre-contact. But is there a name for that?

5 A. Address check.

6 Q. And normally, if I understood you correctly,
7 you wouldn't do an address check with the whole APPS
8 team?

9 A. That would be highly unusual.

10 Q. Are APPS -- sorry. Are address checks usually
11 performed by just one Agent?

12 MS. GRANGER: Objection. Asked and answered.

13 If you want to repeat it, go ahead.

14 THE WITNESS: It really depends. That activity
15 is not routine in and of itself.

16 Q. BY MR. FRANKLIN: Okay. Taking half a step
17 back, when packages are handed over, are they normally
18 handed over to supervising Agents?

19 A. Depends on the team.

20 Q. Are packets assigned -- well, strike that.

21 Are specific Agents responsible for specific
22 packages?

23 A. I don't quite understand what you mean.

24 Q. I'll try and make an example. So you get John
25 Doe comes up as an APPS hit, you know, a mental health

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1 prohibition. The supervisor Agent gets the package.

2 Would he say, you know, Agent Y, this is your

3 responsibility, Agent F, this is your responsibility.

4 Does it work like that?

5 A. Are the cases assigned out by the supervisor?

6 Is that what you're asking?

7 Q. Yes.

8 A. Some teams do it that way.

9 Q. But it's not something all teams have to do?

10 A. There's my preferred way for doing it. But
11 again, you also have to allow the freedom of the people
12 out in the field to conduct their job as they best see
13 fit, based on the needs of the community.

14 Q. Which one is your preferred way?

15 A. Just from my background, I prefer the cases to
16 be assigned out.

17 Q. In the situation where cases are assigned out,
18 on average, how many packets would an Agent be
19 responsible at one time?

20 I guess my question is: Is it one or is it
21 more than one that they would normally be responsible --

22 A. It would be multiple.

23 Q. Okay. Can you give me an estimate of how many
24 would be average for an Agent to have at any one time?

25 A. We look for them to do about 140 per year, per

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1 Agent.

2 Q. Are you aware of an APPS Agent ever doing a
3 contact off the clock?

4 MS. GRANGER: Objection. The description of
5 off the clock.

6 To the extent you understand, you may answer.

7 THE WITNESS: Are you saying while not being
8 paid?

9 MR. FRANKLIN: Right.

10 THE WITNESS: That's unlikely.

11 Q. BY MR. FRANKLIN: You're not aware of that ever
12 happening --

13 A. No.

14 Q. -- specifically?

15 Are APPS contacts generally performed in the
16 evening?

17 MS. GRANGER: Objection. To the extent it
18 doesn't call for a violation of the law enforcement
19 privilege, you can answer.

20 THE WITNESS: We make APPS contacts all hours
21 of the day and night.

22 Q. BY MR. FRANKLIN: Okay. I mean, if it helps, I
23 can represent that I know that there have been news
24 reports, at least two, where they talk about APPS
25 contacts are primarily done at night. I don't know if

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1 that helps. I probably have copies of them somewhere,
2 if you want to see them.

3 A. I'm aware of that, but, again, there's lots of
4 different things that we do in order to try and identify
5 the people and get the guns back. Some people are
6 better contacted at night; others are better contacted
7 during the day.

8 Q. So is it fair to say that there's no preference
9 for doing APPS contacts at night unless dictated by the
10 specific case?

11 A. And the geography. I mean, let's say you're
12 out in Needles or Blythe --

13 Q. Sure.

14 A. -- in August, you're not going out at twelve
15 o'clock in the day.

16 Q. Yeah.

17 A. So there are environmental issues out there.

18 Just like if you're up in the Sierra, you're
19 probably not going to want to be doing that at night
20 when it's snowing.

21 Q. But it's a case-by-case determinations?

22 A. And what they feel is the best chance to -- to
23 make contact with the offender.

24 Q. Do you know if there is any tracking of whether
25 or not contacts are performed by Agents who are on

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1 overtime?

2 A. We track that.

3 Q. Can you estimate the percentage of APPS
4 contacts that are performed by Agents on overtime?

5 A. Not off the top of my head.

6 Q. And regarding contacts, the work performed in
7 the contact process, that would all be recorded in the
8 same system we've been discussing today, the
9 computerized system?

10 MS. GRANGER: Vague as to system.

11 Are you referring to TRS?

12 MR. FRANKLIN: TRS, yeah.

13 THE WITNESS: No. Their time reporting would
14 be documented there; their investigative reporting would
15 be in a different system.

16 MR. FRANKLIN: Okay. Let me give you a
17 background. Hopefully it will make the question easier
18 to answer.

19 Q. Do APPS Agents have flexibility in scheduling
20 their workday?

21 And the reason I'm asking is so they don't have
22 to come in, do a nine-to-five job, and then do
23 enforcement activities for four, six or eight more hours
24 after that.

25 So the question is: Do APPS Agents, APPS

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1 enforcement Agents have the ability to schedule their
2 days around contacts?

3 A. I kind of get where you're going at. And
4 generally no. Their time is set. Their supervisor
5 leads their activities and dictates how they do things.
6 You know, if you're talking about them working overtime
7 at night to make contacts, one of the reasons they might
8 be doing stuff in the office is they still have all the
9 reports to write, they still have to go testify in
10 court, they have to present cases to the District
11 Attorney, they have to impound evidence and help prepare
12 cases with the CIS's, and schedule their next
13 in-the-field activity. It's all confined within a few
14 hours a day. They stay very, very busy.

15 Q. Okay. So it can be the case that -- strike
16 that.

17 It is the case that sometimes Agents work a
18 full day and then go out and do APPS enforcement
19 contacts?

20 A. Sometimes they're working on APPS enforcement
21 from nine o'clock in the morning to 12 o'clock at night.
22 And then they're back at it again the next day. Very
23 busy Agents.

24 Q. When you were directly overseeing -- I think
25 you were directly overseeing APPS activities in

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1 approximately 2007 and 2008; is that correct?

2 A. Correct.

3 Q. Was that day-to-day enforcement work as opposed

4 to sweeps?

5 A. It was both.

6 Q. It was both.

7 Okay. So would it be fair to state that, to

8 your knowledge, from at least 2007 to the present, APPS

9 enforcement teams did a mix of sweeps and day-to-day

10 enforcement?

11 A. The way that I would word that is every day

12 they're doing APPS investigations. Sometimes you can

13 consider that just normal workload. Other times you can

14 consider they're sweeps. But, you know, they don't get

15 -- we don't do sweeps for, you know, eight weeks, then

16 we take eight weeks off --

17 Q. Okay.

18 A. -- and do nothing. They're constantly working.

19 Q. And more specifically, constantly working on

20 APPS?

21 A. Constantly working on APPS, yes. And that's

22 why I don't like the term sweeps as much as targeted

23 enforcement activity.

24 Q. Does local law enforcement ever directly

25 participate in sweeps?

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1 I'm sorry. Does local law enforcement ever
2 directly participate in APPS contacts that are organized
3 by Bureau Agents?

4 A. Yes.

5 Q. Is that common?

6 A. Depends on the jurisdiction.

7 Q. Are there certain jurisdictions where it's
8 common?

9 A. I would say there's certain jurisdictions where
10 it's more frequent.

11 Q. Would it be possible to give me an example?

12 A. Santa Barbara sheriff's office, Marin County
13 DA's office and sheriff's office, Stockton PD, Oakland
14 PD. Again, oftentimes when they're requesting us to
15 come assist them with those enforcement operations, you
16 know, they might only supply one, two or three law
17 enforcement officers, where we're supplying, you know,
18 two full teams there. But the end goal is to remove
19 guns from APPS people.

20 Q. When that occurs where you have local law
21 enforcement working with APPS Agents on enforcement
22 activities, is the local law enforcement agency
23 responsible for funding all of its own employees
24 participating in the enforcement activities?

25 A. Yes. They are not reimbursed by DOJ at all.

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1 Q. Are you aware of DOJ ever reimbursing a local
2 enforcement agency regarding an APPS enforcement
3 operation?

4 A. Not for APPS, and not since I've been the
5 Chief.

6 Q. Do you know if it's a common practice once an
7 Agent gets a package to determine if the subject of the
8 package is on searchable probation?

9 A. That would probably be part of the package
10 itself.

11 Q. Oh, it would.

12 And is being on searchable probation relevant
13 to APPS enforcement?

14 A. It's relevant to all sorts of law enforcement
15 activity, APPS included.

16 Q. When actually performing an APPS contact, does
17 each Agent drive a vehicle to the contact location?

18 MS. GRANGER: Objection. To the extent that it
19 calls for law enforcement privilege or investigatory
20 operations, I instruct you not to answer. But to the
21 extent you can answer or it doesn't call for
22 speculation, you may.

23 THE WITNESS: I prefer not to answer that.

24 Q. BY MR. FRANKLIN: Okay. Just to have a clear
25 record, are you not answering on advice of counsel?

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1 A. Yes.

2 Q. Okay. Are you aware of contacts where Agents
3 are required to have drive more than 50 miles to reach
4 the contact location?

5 A. Yes.

6 Q. Are you aware of contacts where the Agents have
7 to drive more than a hundred miles to reach the contact
8 location?

9 A. Those are less frequent, but it has happened.

10 Q. Guessing those would be the Needles, those
11 type?

12 A. (Nods head.) Statewide jurisdiction.

13 Q. Yeah.

14 A. Big state.

15 Q. Yeah.

16 Can you estimate for me the percentage of
17 contacts where the person of interest is actually
18 contacted on the first attempt?

19 A. I'm thinking. 20 percent of the time.

20 Q. And I guess I should be clear, although I think
21 you understand what I mean. When I say person of
22 interest, I'm identifying the person who the package
23 concerns.

24 A. Right.

25 Q. Okay. I figured as much.

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1 MS. GRANGER: Not their wife or mother that's
2 at the house.

3 MR. FRANKLIN: No. That's specifically the
4 distinction I was looking to make.

5 THE WITNESS: People tend to move around a lot,
6 especially those with criminal histories or mental
7 health issues or are wanted by law enforcement.

8 Q. BY MR. FRANKLIN: Can you estimate the
9 percentage of contacts where the Agent performing the
10 contact is informed that the person of interest moved
11 away from a location where the contact occurred?

12 A. That would be hard to speculate to give you a
13 percentage of that.

14 Q. Do you think it's less than 50 percent?

15 A. Possibly.

16 Q. But you're not comfortable making any further
17 clarification?

18 A. No. I mean, there's so much that goes into
19 that.

20 Q. Is it fair to say as a general proposition that
21 it does happen often?

22 A. It happens.

23 MS. GRANGER: Objection as to often. He
24 can't --

25 MR. FRANKLIN: Right.

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1 MS. GRANGER: He didn't know.

2 THE WITNESS: But you also have to consider
3 that people do lie to us.

4 Q. BY MR. FRANKLIN: To your knowledge, has
5 someone other than a DOJ employee ever discharged a
6 firearm in the context of an APPS contact?

7 MS. GRANGER: Objection to the extent that this
8 is going way beyond the confines of the complaint. We
9 have indulged, you know, now for several hours on this
10 topic. And whether or not someone discharged a firearm
11 seems to be reaching the absurd.

12 To the extent that you know or you . . .

13 THE WITNESS: Have they ever discharged a
14 firearm with our Agents? No. But it has happened on
15 APPS investigations.

16 MS. GRANGER: Could you read back his question?

17 (Record read.)

18 Q. BY MR. FRANKLIN: Generally speaking, what kind
19 of equipment is used for an APPS contact?

20 MS. GRANGER: Objection to the extent that it
21 calls for law enforcement investigatory information, I
22 would instruct you not to answer. To the extent you can
23 answer without revealing anything that endanger our
24 Agents when they're out in the field, you may answer.

25 MR. FRANKLIN: Maybe this will help. And I

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1 probably can pull the article. I have read a news
2 article that referred to Agents wearing some type of
3 bulletproof vest and using Glock 480 calibers.

4 THE WITNESS: If you want me to go over their
5 entire complement of normal equipment that they have,
6 we're going to be here for a while. But just like any
7 other peace officer in the State of California, they
8 have their standard complement of equipment they need in
9 order to perform their duties. Does that include a
10 bulletproof vest, a flashlight, a taser, a handgun?
11 Yes.

12 Q. BY MR. FRANKLIN: What's the first objective --
13 strike that.

14 What's the objective when an Agent makes first
15 contact at a location for trying to identify a
16 prohibited person?

17 A. Make sure the contact is safe.

18 Q. And that's safe for everyone involved?

19 A. Everybody. The Agent, the offender, the
20 surrounding neighborhood.

21 Q. Is it possible for you to tell me what normally
22 happens when the target of a contact immediately
23 provides a firearm upon meeting with the APPS Agent?

24 A. So can I answer that more in a scenario than
25 anything else?

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1 Q. Please.

2 MS. GRANGER: Fine.

3 THE WITNESS: The Agent goes up to the door,
4 makes contact. Whatever is said is said. They ask the
5 person if they have weapons inside the house. The
6 person says that they do. I'm sure the Agent will
7 explain why they're there. And they deal with it from
8 there. If the person allows the Agent inside the house
9 to do a search and confiscate the firearms, it will be
10 based on the Agent's discretion at the time of what
11 action they're going to take, but they will be taking
12 the firearms.

13 Q. BY MR. FRANKLIN: And when you say it's the
14 Agent's discretion, what options are within that
15 discretion?

16 A. They're going to be taking the firearms.
17 Depending on the issues at hand, the level of
18 prohibition, whether it's a misdemeanor or a felony
19 possession, as to whether or not that person goes to
20 jail that night or not.

21 Q. And if they were to go to jail, would that
22 require the APPS Agents to contact local law
23 enforcement?

24 A. Not necessarily. We'd be taking them to the
25 county jail.

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1 Q. And did I understand correctly that part of
2 that discretion also could be that the Agents would take
3 all the firearms they saw and do nothing further?

4 A. Again, we could talk about every potential
5 scenario that an Agent might be dealt with there. So
6 again, that's why we have peace officers; that's why we
7 provide them training; that's why we provide them
8 discretion in order to do their job.

9 Every case depends on a unique set of
10 circumstances for them to analyze and take the best
11 appropriate action.

12 Q. What I was trying to understand is, is that an
13 option they have that's on the table?

14 A. They have lots of options on the table. Again,
15 every case is based off of those unique circumstances.

16 Q. Well, I --

17 A. I've spent 22 years in law enforcement. I've
18 made probably tens of thousands of contacts. And not a
19 single one of them was the same.

20 Q. The specific question, actually, is: Is it an
21 option to -- for the APPS Agents performing a contact,
22 can they take a firearm that's voluntarily provided and
23 not take the person to jail?

24 A. That's a possibility. If a person's 80 years
25 old and dying of cancer and has other issues. There's a

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1 multitude of different things. That's why we allow law
2 enforcement officers to have discretion in doing their
3 job. And that's just not DOJ. That's all law
4 enforcement officers.

5 Q. In the past only, are you aware of contacts
6 resulting in a person voluntarily bringing firearms to
7 the contacting Agent?

8 A. I'm sure it's happened.

9 Q. In that scenario, would it still be within the
10 discretion of the contacting Agent to perform -- to
11 request consent to perform a search of the contact's
12 home?

13 MS. GRANGER: Objection. This is getting
14 cumulative. This is far beyond the scope of even what
15 you claim is relevant, what you stated is relevant. The
16 decisions made by our Agents in the field are not up for
17 discussion at this time. This is getting -- this has
18 been asked and answered. He has told you repeatedly the
19 Agents have discretion as to what to do with the
20 contacts in the field.

21 MR. FRANKLIN: Is that an instruction not to
22 answer?

23 MS. GRANGER: How much more do you have on
24 this?

25 MR. FRANKLIN: On this, not a lot. I mean, I

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1 don't have that much more generally.

2 MS. GRANGER: You can repeat the answer for the
3 20th time.

4 THE WITNESS: Every case is different. Every
5 contact is different. They have discretion based on
6 their experience and knowledge.

7 Q. BY MR. FRANKLIN: Is it correct to say that
8 Agents performing APPS contacts are not limited to
9 confiscating only the weapons that are identified in
10 APPS?

11 A. Well, that's kind of obvious, because it
12 doesn't contain information for long guns.

13 Q. So just --

14 A. It doesn't contain information from people who
15 bought a gun in the '70s or '80s or early '90s.

16 Q. So just to have a clear record, guns other than
17 a gun listed in APPS can be confiscated?

18 A. Yes.

19 Q. Would it be possible for you to estimate the
20 percentage of prohibited persons who when contacted
21 state they didn't know that they were prohibited?

22 A. No.

23 Q. Does the Bureau track what percentage of
24 contacts result in the confiscation of a firearm that's
25 listed on APPS?

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1 A. Yes.

2 Q. Do you know if that information is available to
3 the public?

4 A. No, it's not.

5 Q. Are you able to estimate what percentage of
6 contacts end with a contact person simply refusing to
7 cooperate?

8 A. No.

9 Q. Is it possible that refusal to cooperate can
10 lead to further investigation?

11 MS. GRANGER: Objection. Your lawsuit
12 specifically says it is not challenging the legality of
13 imposing the DROS fee nor that of the APPS system. You
14 are asking for details on this APPS system and attacking
15 the integrity of the system. This is not the basis for
16 the lawsuit.

17 We will stay here for the remainder of this
18 deposition and not -- we will not stay here for the
19 remainder of this deposition if this line of questioning
20 continues.

21 MR. FRANKLIN: Are you instructing him not to
22 answer?

23 MS. GRANGER: This is getting ridiculous.

24 THE WITNESS: I'm not going to answer.

25 MR. FRANKLIN: Is that pursuant to an

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1 Q. Well, I do want to say for the record that I
2 certainly did not mean to impugn anyone. That was not
3 the intent of the question. I did not state the
4 question with the mindset that further investigation
5 would be in any way improper. That was not my intent.

6 After a contact is attempted, is a report
7 created for the attempted contact?

8 A. Depends.

9 Q. Would it be possible for you to tell me what
10 situation would a contact report be created?

11 A. If that's the last lead that we have to go on,
12 and no further investigation can be conducted, then we
13 will write a report documenting what we've done. If
14 there's further investigation that can be done, we will
15 do it.

16 Q. Is a report created when a contact is
17 successful and a person who was legally prohibited
18 provides firearms to the Agents?

19 A. Yes. A police report would be -- would
20 document that.

21 Q. Is the police report in addition to a report
22 that is made by the APPS enforcement Agents?

23 A. That's a police report or an investigative
24 report.

25 Q. Well, I have a series of questions here about

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1 what happens with the firearms once they're confiscated,
2 but I think I can make it -- ask it much more simply.

3 To the extent that APPS Agents confiscate
4 firearms, do they treat them as any other law
5 enforcement would treat confiscated firearms?

6 MS. GRANGER: Objection to the extent it's
7 vague and calls for speculation as to how other agencies
8 deal with confiscated firearms.

9 Are you asking are inventories kept for safety
10 or evidence lockered or whatever, chain of custody?

11 THE WITNESS: We follow the standard practices
12 of evidence, whether it's a firearm, narcotics, a piece
13 of property, regardless.

14 Q. BY MR. FRANKLIN: And do you know what happens
15 to firearms that are seized that are not returned to an
16 owner?

17 A. Once they've been adjudicated by the court, we
18 destroy them. On rare occasions, we put them into law
19 enforcement use, only after a judge has agreed to that.
20 And that's very rare.

21 Q. I think you mentioned earlier today that you
22 have participated in APPS contacts, correct?

23 A. Yes.

24 Q. Approximately how many do you think you've
25 participated in?

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1 A. How many different days or just how many
2 contacts?

3 Q. Contacts.

4 A. Well over a hundred.

5 Q. Is there a way for a person to get their name
6 off of APPS?

7 A. Yes. Surrender their firearms.

8 Q. And if you turn in your firearms and you're on
9 APPS, you will be removed from APPS, the APPS list I
10 should say?

11 A. There's various ways they could do that. But
12 once it's properly done, they'll be removed from APPS
13 programically.

14 Q. Is there a way -- sorry. Is there a mechanism
15 for a person to contest their placement on the APPS list
16 specifically through the Bureau?

17 MS. GRANGER: Objection. This goes way beyond
18 the scope of this lawsuit.

19 To the extent that you can answer, go ahead.

20 THE WITNESS: That would be up to the courts.

21 Q. BY MR. FRANKLIN: Since the appropriation, the
22 most recent appropriation that we talked about, has the
23 Bureau's total number of employees gone up?

24 A. If you're referring to the SB 140 funding --

25 Q. Yes, I am.

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1 A. Yes. We've increased the size of the Bureau.

2 Q. I have a little bit left. By little bit, I

3 mean 15 minutes or less.

4 MR. HAKL: 15 minutes?

5 MR. FRANKLIN: Yeah. Can we go off the record

6 to talk about closing the deposition?

7 MS. GRANGER: Sure.

8 (Discussion off the record.)

9 MR. FRANKLIN: There's a few more questions to
10 be asked, but during the break, counsel for the parties
11 had a discussion about how to handle the handful of
12 questions where there was an instruction not to answer.
13 Instead of suspending the deposition to have that issue
14 resolved, I'm proposing the following stipulation as to
15 this issue: That the deposition will be closed, and
16 that plaintiffs will have the right to seek an order
17 from the court determining whether or not the
18 instructions not to answer were justified and allowable.
19 If the court finds any of the instructions not to answer
20 were not sufficient and orders responses to be given to
21 those questions, the responses will be given in the form
22 of a deposition by written question pursuant to Federal
23 Rules of Civil Procedure, Rule 31. And any procedural
24 issues related to that process will be worked out in
25 good faith between counsel for the parties.

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1 So stipulated?

2 MS. GRANGER: So stipulated.

3 MR. HAKL: I agree with that.

4 MR. FRANKLIN: Back to the questioning.

5 Q. Are there specific training courses that are
6 required for a person to become an APPS Agent?

7 A. There's no really training courses, because
8 it's a very unique program, only one in the world. But
9 we do provide each of our Agents before they go out into
10 the field a litany of training to ensure they conduct
11 themselves in the field in this particular area.

12 Q. Do you know if an assignment to an APPS team as
13 a Special Agent is considered to be complex by those who
14 apply for that job?

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

17 To the extent you can answer . . .

18 THE WITNESS: I don't understand the question.

19 MR. FRANKLIN: Let's see if I can rephrase it.
20 'll take a different tack.

21 Q. Are there other positions within the Bureau of
22 Firearms for Special Agents that require more training
23 than participating in the APPS program?

24 A. There are a few assignments that might, but
25 it's not so much more training, just maybe different

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1 training.

2 Q. I guess what I'm trying to identify is if it's
3 more or less difficult to do APPS work than other
4 assignments. But I understand that's really too
5 imprecise of a question.

6 Would it be fair to state that within the
7 Bureau, assignment to an APPS team is considered no more
8 or less complex than any other assignment?

9 MS. GRANGER: Objection. Vague as to complex.

10 To the extent you understand the question, you
11 can answer.

12 THE WITNESS: I think that's an individual
13 process. Everyone has to make their own determination
14 about what they think is more or less complex.

15 Q. BY MR. FRANKLIN: Does a person stay on the
16 list if they are contacted as part of an APPS contact
17 but no firearms are recovered?

18 MS. GRANGER: Objection to the extent that it's
19 vague and an improper hypothetical, incomplete
20 hypothetical.

21 If you can understand the question and not
22 speculate, you can answer.

23 THE WITNESS: It would depend.

24 Q. BY MR. FRANKLIN: Would it be possible for you
25 to tell me what it would depend on?

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. ANTHONY W. ISHII

JEFF SILVESTER, et al.,)	1:11-cv-2137-AWI
Plaintiff,)	
vs.)	COURT TRIAL
KAMALA D. HARRIS, Attorney)	Day 2
General of California, and)	
DOES 1 to 20,)	
Defendants.)	

Fresno, California

Wednesday, March 26, 2014

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Volume 2, Pages 159 to 366, inclusive

REPORTED BY: GAIL LACY THOMAS, RMR-CRR
Official Court Reporter
CSR NO. 3278

APPEARANCES OF COUNSEL:

For the Plaintiffs:

OTTEN & JOYCE, LLP
Attorneys at Law
3620 Pacific Coast Highway
Suite 100
Torrance, California 90505
By: **Victor J. Otten**

and

LAW OFFICES OF DONALD KILMER
Attorneys at Law
1645 Willow Street
Suite 150
San Jose, California 95125
By: **Donald E. J. Kilmer, Jr.**

For the Defendants:

KAMALA D. HARRIS
Attorney General of California
By: **Jonathan M. Eisenberg**
Deputy Attorney General
300 South Spring Street
Suite 1702
Los Angeles, CA 90013
By: **Peter H. Chang**
Deputy Attorney General
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102

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1 contracts, and so they noticed us that they were dropping the
2 contract, and that the State would be required -- you know,
3 that we would either have to go out and rebid with somebody
4 else, or the State would have to bring in the process with
5 in-house. So we brought the process in-house. So we began
6 development of the new system to bring the process in-house.

7 Q. Have you yourself ever performed background checks?

8 A. Yes.

9 Q. When did you do that work?

10 A. In the past, as my past manager and supervisor roles in
11 the firearms section, I had worked -- you know, during peak --
12 peak DROS season and other times to assist in the background
13 check process when we were overridden with lots of DROS
14 transactions. And now more recently, I am pretty much only
15 involved when there's a high-profile shooting or something,
16 and the AG's office or the press office has interest and
17 they're trying to respond to press contacts regarding
18 people's -- you know, involvement in those crimes.

19 Q. I want to ask for a clarification of an acronym. You used
20 the word "DROS." What is DROS?

21 A. DROS is the acronym for Dealers Record of Sales. And it's
22 the -- formally it's essentially the -- the application and
23 the process that kicks off the background check for people
24 that are engaged in the purchase of firearms.

25 Q. How many background checks of DROS applications would you

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1 estimate that you've done in your career?

2 A. Probably thousands.

3 Q. What is a DROS application? Is it a paper form that is
4 filled out, or is it some other kind of means of communicating
5 information?

6 A. Well, prior to 1996, it was a paper form. After 1996,
7 it's an electronic transaction. The dealer uses a personal
8 computer that's placed at their business. The application is
9 an electronic form. It asks for information about the
10 purchaser. It has information about the gun and information
11 about the dealership.

12 Q. Does the purchaser fill out the DROS application?

13 A. No, not necessarily. The dealer usually fills it out, but
14 has -- but has the purchaser there to ask questions.

15 Q. Where would a DROS application be filled out?

16 A. Usually at the dealer's place of business. Occasionally
17 at gun shows.

18 Q. After the DROS application is filled out and the dealer
19 handles it, what happens next to that application?

20 A. The application is electronically submitted to the
21 department. The department begins the background check
22 process, which -- which incorporates -- the first thing that
23 we do is we pull off the purchaser's name information and DMV
24 information, and we verify that against the Department of
25 Motor Vehicles files -- California Department of Motor

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1 Vehicles files to ensure that the purchaser's identification
2 information is accurate. We know who we're doing the
3 background check on.

4 Q. Is it ever the case that a person applying for a firearm
5 uses an incorrect DMV license or a personal identification?

6 A. Every day.

7 Q. And if an applicant uses a mismatched or an incorrect
8 identification, what does that mean for the application?

9 A. That means that the application has to be rejected. And
10 so we reject the application and notify the dealer not to
11 deliver the firearm.

12 Q. Is the -- is the DMV check, is it against the computer
13 database, is it against written records? How is it --

14 A. It goes against the DMV electronic database, the
15 Department of Motor Vehicles files electronic database.

16 Q. Is the initial comparison done by a computer or by a
17 person?

18 A. The initial comparison is done by the computer.

19 Q. Is a human being ever involved in checking on the DMV
20 record?

21 A. When there is a mismatch.

22 Q. Why is a human being involved in that part of the process?

23 A. Because we would not be able to keep up with the work.

24 There's just so many of them that happen. Every day we
25 receive between -- at this point in time between 2 to 3,000

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1 gun purchase applications a day. So that was the process
2 because we collect the identification information, because
3 that information is automated within the Department of Motor
4 Vehicles. It makes it easy for us to use the systems to run
5 that match because basically you're just matching numbers and
6 the information exactly.

7 Q. Is there -- are there any other databases that are checked
8 at that initial point along with or near in time to the DMV
9 check?

10 A. Yes. We also strip off the information relating to the
11 firearm, and we run that information against the Department of
12 Justice Automated Firearms System to see if the firearm had
13 been previously reported lost or stolen by a law enforcement
14 agency.

15 Q. Why does the Bureau of Firearms check if a firearm is
16 reported lost or stolen?

17 A. Well, I believe it's Penal Code Section 11106 or -- yes,
18 Penal Code Section 11106 basically says that's the Attorney
19 General's role is to maintain a database to return lost or
20 stolen firearms. And so part of the DROS process, a lot of
21 the firearms that are involved in that process potentially
22 could be used -- had been reported lost or stolen, and
23 occasionally we do bump into something, and we try to make
24 sure those guns are returned back to the rightful owners.

25 Q. Is the AFS check done completely by a computer, or are

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1 THE COURT: Yes.

2 MR. EISENBERG: Thank you.

3 BY MR. EISENBERG:

4 Q. Assistant Chief Buford, may I have you turn to Exhibit Tab
5 AP, with the Bates number AG-002394.

6 THE CLERK: Sorry, Counsel, which exhibit is it
7 again?

8 MR. EISENBERG: AP as in "Peter." And the Bates
9 number is AG-002394.

10 THE WITNESS: Got it.

11 BY MR. EISENBERG:

12 Q. Okay, have you ever seen this document before?

13 A. Yes.

14 Q. Where have you seen this document?

15 A. This document is generated from the Consolidated Firearms
16 Information System report screen.

17 Q. And you see that the left side columns have headers or
18 subheaders with the word "denial" in them?

19 A. Yes.

20 Q. What does a denial mean in this context?

21 A. It means that the subject was matched to a prohibiting
22 record. The purchaser was matched to a prohibiting record,
23 and the transaction was denied, and the dealer was contacted
24 and told not to deliver the firearm.

25 Q. And on the right side of the left side column, there are

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1 numbers. What do those numbers represent?

2 A. The number of denials.

3 Q. Are there any categories, any rows here that reflect
4 denials that the NICS system doesn't check for?

5 A. Yes.

6 Q. Can you identify them for the Court, please?

7 A. Yes. The 30-day reject -- and this report is from January
8 through December 2013. So for the 30-day reject, which would
9 enforce California law in that area, there have been 2,814
10 subjects. For the mental health, 5150 and Tarasoff folks
11 individuals, there were 802. For the violent juveniles, there
12 were 329.

13 Q. Do each of these denials represent people who were
14 prohibited from getting firearms because of the California
15 check?

16 A. Yes. And, again, there were 926 violent misdemeanors as
17 well.

18 Q. Are there other categories -- I didn't mean to cut you off
19 there.

20 A. No, that was it.

21 Q. Let me ask you to look at the -- the left side column, the
22 first entry is total DROS's received, and the number is
23 960,179? What does that number reflect?

24 A. That's the number of DROS applications that we received
25 during the calendar year 2013.

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1 Q. And they were all processed through this system that we've
2 been talking about?

3 A. Yes.

4 Q. If I could turn your attention to Exhibit AQ. "Q" as in
5 "queen." Page 2407. Bates number 2407 at the bottom of the
6 page. Actually the first page of AQ.

7 A. Did you say 2407, AQ-002407.

8 Q. Right, it should be the first page?

9 A. I have 2406, and then it skips to 2408.

10 Q. Oh, boy. Okay.

11 A. You said AQ, right?

12 Q. AQ, yes.

13 A. I'm in the wrong section.

14 Q. There may be a little bit of a misstatement in some of the
15 numbering here.

16 A. I have it.

17 Q. Oh, you do have it?

18 A. Yes.

19 Q. The Bates number is AG-002407, and this document actually
20 has the AQ stamp right on there at the bottom.

21 A. I have it.

22 Q. Have you ever seen this report before?

23 A. Yes.

24 Q. What is this report in context -- in the context of the
25 Bureau of Firearms?

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1 A. This report is generated out of the Consolidated Firearms
2 Information System, the reports menu. It's the -- it's an
3 on-demand report for DROS information -- DROS statistical
4 information.

5 Q. What time period does this report cover?

6 A. This report covers 1/1 of 2014 through January 31, 2014.
7 So the month of January only.

8 Q. Let's look at the right side column. First entry, Total
9 DROS Received, and there's a number 64,312. What does that
10 number reflect?

11 A. That's the number of DROS applications received during the
12 month of January 2014.

13 Q. And was each of those applications processed by one of the
14 CIS's?

15 A. Yes.

16 Q. So there 64,000 just in the month of January this year.

17 A. Yes.

18 Q. Are the categories of denials that were made under the
19 California system, but that would not have even been checked
20 for under the NICS system, present on this report?

21 A. Yes.

22 Q. Could you point out to the line numbers and the numbers of
23 denials, please?

24 A. Yeah, for the 30-day rejects, it's 122. For the violent
25 misdemeanors, it's 44. For the mental health, it's 30. For

1 check the identification.

2 Q. I believe you testified earlier that a NICS check can take
3 up to three days. That's your understanding?

4 A. It can take no more than three days.

5 Q. So what happens if a NICS check has not been completed
6 after three days?

7 A. The dealer is advised that they may release the firearm at
8 their discretion.

9 Q. So what would happen if the NICS system finds out on the
10 fifth or sixth day that the applicant is prohibited?

11 A. NICS has to contact ATF and ask ATF to go out and retrieve
12 the firearm.

13 Q. I'm going to move on to another topic, which is the APPS
14 system. Have you heard of something called APPS within the
15 Bureau of Firearms?

16 A. Yes. It means Armed and Prohibited Persons System.

17 Q. Have you heard of something called a PAPF?

18 A. Prohibited Armed Persons File.

19 Q. Right?

20 A. Yes.

21 Q. What is APPS?

22 A. APPS is a database of persons that have been determined to
23 have a record on file with the department as being the last
24 person to be in possession of a particular firearm -- used
25 typically based on a Dealer Record of Sale that's subsequently

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1 been determined to have become prohibited due to one of the
2 prohibiting categories that we talked about earlier.

3 Q. And how does PAPF relate to APPS?

4 A. PAPF and APPS are the same. PAPF is the legislative name
5 given to the process. APPS is the name that the department
6 gave to the system.

7 Q. How do you know about APPS?

8 A. I was involved in APPS since the inception. I provide
9 paper on APPS. I made presentations to DOJ management about
10 APPS. I participated in the budget change proposals that
11 obtain state resources to implement and administer APPS, the
12 feasibility study report for the electronic data system
13 associated with the APPS; participated in the development of
14 the business requirements and system requirements that needed
15 to implement the system; wrote a lot of the information
16 bulletins that went to law enforcement advising them about
17 APPS and how to use APPS; and participated in a development of
18 a lot of APPS training materials around the state. I actually
19 traveled with AG Brown to some zone meetings to present on to
20 law enforcement agencies about the APPS database.

21 Q. When APPS was being envisioned, what was it supposed to
22 do?

23 A. APPS was envisioned as a preemptive crime-fighting tool,
24 sort of to preempt crime. It was something -- the thought was
25 is that we would -- we would locate those folks that were

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1 prohibited that had firearms and get to them before they had a
2 chance to use those firearms in a way that would harm the
3 public or harm themselves.

4 Q. Was APPS developed in order to do instant background
5 checks?

6 A. No.

7 Q. Why doesn't the Bureau of Firearms just use APPS for its
8 background checks?

9 A. Because the information in APPS is -- at this point, it's
10 just information. In fact, when law enforcement does an
11 inquiry in APPS, there's an admonishment notice that says do
12 not arrest based solely on this information. That information
13 has to be looked at again, refreshed on a constant basis. So
14 it's sort of a pointer tool, if nothing else. It's just a
15 pointer that says this person is -- could be armed and
16 prohibited in your jurisdiction, but before you go out and do
17 any enforcement action, you need to refresh that information,
18 because as I said earlier, that restraining order may not be
19 active anymore. That warrant may not be active anymore. That
20 criminal conviction could have been reduced, could have been
21 subsequently dismissed through a court proceeding, so it's
22 just a pointer tool.

23 Q. Could you use APPS as an instant background check at least
24 for people who purchase firearms in California before, would
25 it be an instant check for those people?

1 A. No.

2 Q. Why not?

3 A. Again, the information is not necessarily up-to-date and
4 refreshed. So we could be -- we could either be prohibiting
5 people from getting guns that are no longer prohibited, or we
6 could be giving guns to people that have become prohibited,
7 but have not been identified in APPS yet. APPS does not have
8 every person in California that have owned a firearm, that it
9 has become prohibited. It's not completely 100 percent
10 populated with that information.

11 Q. Does information -- does up-to-date information -- does
12 accurate information get populated into the APPS database
13 instantaneously or nearly instantaneously?

14 A. No.

15 Q. Why isn't information not put in there instantaneously?

16 A. The same reason, we don't have instant information for
17 DROS background checks. A lot of times we have to go chase
18 down the disposition. There is missing information. We have
19 a huge gap in our records, not only on a state basis, but on a
20 national basis.

21 Q. I'd like to move on to another topic.

22 THE COURT: Before do you that, it's about 10:30.

23 We'll take our morning recess, 15 minutes.

24 MR. EISENBERG: Thank you, Your Honor.

25 (Recess.)

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1 processed 900,000 DROS's?

2 A. 960,000 DROS's were processed.

3 Q. Okay. As you sit here right now, do you know how many
4 resulted after all of your hard work resulted in an actual
5 final denial?

6 A. No.

7 MR. KILMER: Do you have your AP exhibit?

8 (Pause in the proceedings.)

9 MR. KILMER: May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 BY MR. KILMER:

12 Q. Mr. Matsumoto, I've just shown you a document that's
13 previously been admitted into evidence. And it is part of
14 Exhibit AP, but it's a little bit further down in the stack.
15 It's actually Bates numbered AG-002394. Do you see that in
16 front of you?

17 A. Yes.

18 Q. All right, the Bates number is in the lower right-hand
19 side. And the upper right-hand corner, it talks about total
20 DROS's received. I'm sorry, at the top of the page, it says
21 "Dealer Record of Sales statistics for 1/1/2013 through
22 12/31/2013."

23 A. Correct.

24 Q. And do you see that?

25 A. Yes.

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1 Q. And in the upper right-hand corner, it talks about total
2 DROS's received. Is that the number that you remember?

3 A. Yes, 960,000.

4 Q. And on the left-hand column down at the bottom, it looks
5 like there is a title of "Summary of Denials," and it shows a
6 total denial of 7,371.

7 A. Yes.

8 Q. Does that sound right to you? I'm not asking you for an
9 exact memory.

10 A. Yes.

11 Q. So would it be accurate to say that denials end up being
12 pretty close to 1 percent or less than 1 percent of all DROS's
13 processed by your office?

14 A. Yes.

15 Q. Thank you.

16 One of the reasons of why you have to do further
17 investigations into arrests is because you can't deny a
18 firearm on the basis of just an arrest, a mere arrest; is that
19 right?

20 A. That's correct.

21 Q. Why is that?

22 A. There must be a conviction in order for us to deny a
23 prospective purchaser.

24 Q. All right.

25 MR. KILMER: Nothing further, Your Honor. May I take

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1 the exhibit back from the witness?

2 THE COURT: Yes.

3 MR. CHANG: Nothing further from the defense,
4 Your Honor.

5 THE COURT: All right, either party wish this witness
6 remain subject to recall?

7 MR. CHANG: The defense would, Your Honor.

8 THE COURT: All right. Either party may still call
9 you back to testify. You're still under oath, but you can go
10 ahead and leave the courtroom. I'll leave it to counsel to
11 let you know the date and time if necessary to return.

12 THE WITNESS: Okay.

13 THE COURT: All right, thanks.

14 MR. EISENBERG: Your Honor, the next witness will be
15 Blake Graham. He is in the building, and we are trying to
16 locate him.

17 THE COURT: All right, fine.

18 MR. EISENBERG: Your Honor, here is the witness,
19 Mr. Graham.

20 THE CLERK: Raise your right hand.

21 **BLAKE GRAHAM,**
22 called as a witness on behalf of the Defendants, having been
23 first duly sworn, testified as follows:

24 THE CLERK: Take the witness stand right over there
25 and give us your full name, please.

EXHIBIT C

1 KAMALA D. HARRIS
 Attorney General of California
 2 PETER K. SOUTHWORTH
 Supervising Deputy Attorney General
 3 ANTHONY R. HAKL
 Deputy Attorney General
 4 State Bar No. 197335
 1300 I Street, Suite 125
 5 P.O. Box 944255
 Sacramento, CA 94244-2550
 6 Telephone: (916) 322-9041
 Fax: (916) 324-8835
 7 E-mail: Anthony.Hakl@doj.ca.gov
Attorneys for Defendants
 8 *Attorney General Kamala D. Harris and Chief*
of the Bureau of Firearms Stephen Lindley
 9

10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 **BARRY BAUER, STEPHEN**
 13 **WARKENTIN, NICOLE FERRY,**
 14 **LELAND ADLEY, JEFFREY HACKER,**
 15 **NATIONAL RIFLE ASSOCIATION OF**
 16 **AMERICA, INC., CALIFORNIA RIFLE**
 17 **PISTOL ASSOCIATION FOUNDATION,**
 18 **HERB BAUER SPORTING GOODS, INC.,**

Case No. 1:11-cv-1440-LJO-MJS

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S REQUEST FOR
PRODUCTION OF DOCUMENTS,
SET ONE**

Plaintiffs,

v.

19 **KAMALA HARRIS, in Her Official**
 20 **Capacity as Attorney General For the State**
 21 **of California; STEPHEN LINDLEY, in His**
 22 **Official Capacity as Chief of the Bureau of**
 23 **Firearms for the California Department of**
 24 **Justice, and DOES 1-10,**

Defendants.

24 **PROPOUNDING PARTY: PLAINTIFF BARRY BAUER**

25 **RESPONDING PARTY: DEFENDANT KAMALA D. HARRIS**

26 **SET NUMBER: ONE**

27
28

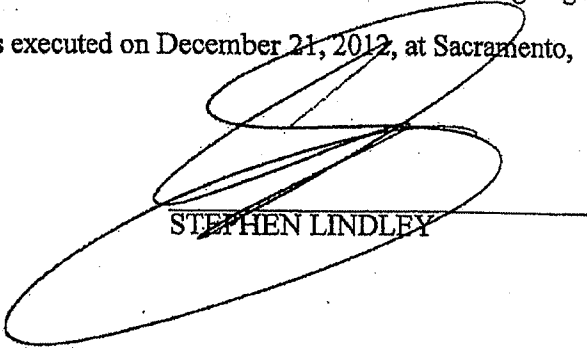
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VERIFICATION

I, Stephen Lindley, declare:

I am the Chief of the Bureau of Firearms of the California Department of Justice. I have read Defendant's Response to Plaintiff's Special Interrogatories, Set One. I know their contents and the same are true to my knowledge, information and belief.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Verification was executed on December 21, 2012, at Sacramento, California.



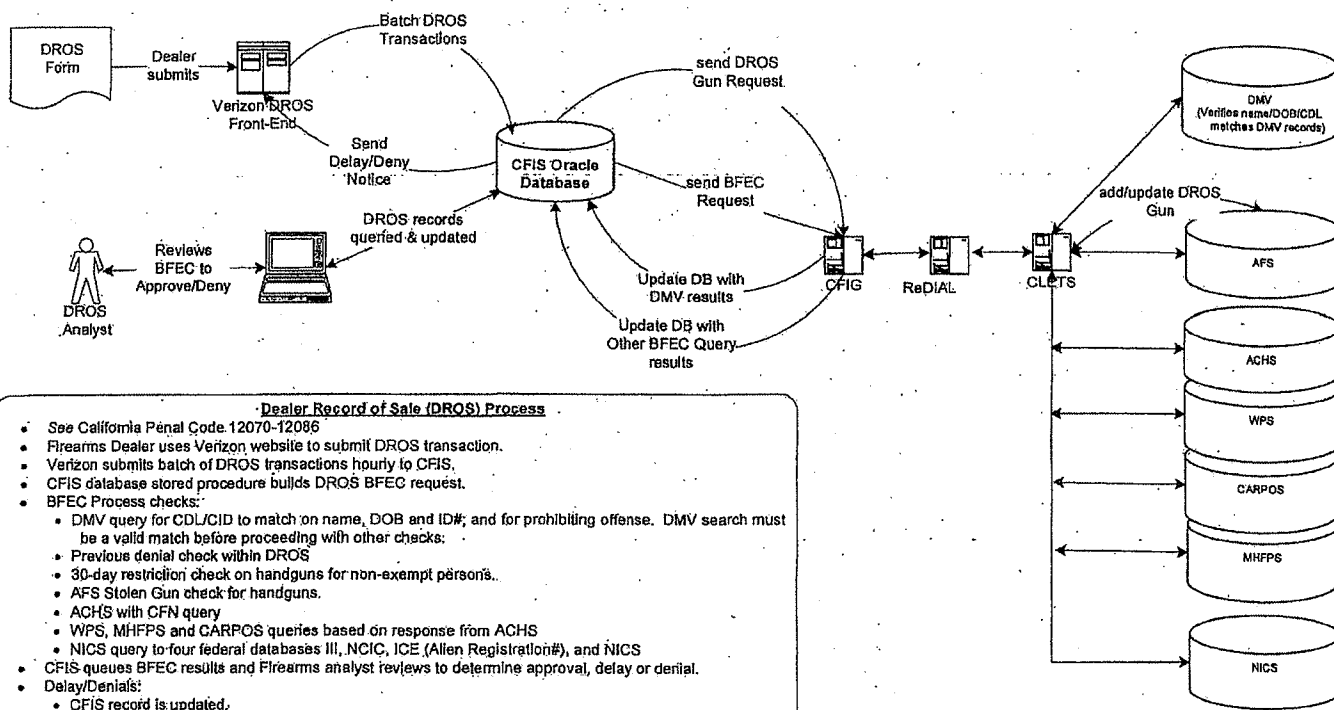
STEPHEN LINDLEY

EXHIBIT A

AG-00108

FR384

Bureau of Firearms Consolidated Firearms Information System Dealer Record of Sale (DROS) Processing



Dealer Record of Sale (DROS) Process

- See California Penal Code 12070-12086
- Firearms Dealer uses Verizon website to submit DROS transaction.
- Verizon submits batch of DROS transactions hourly to CFIS.
- CFIS database stored procedure builds DROS BFEC request.
- BFEC Process checks:
 - DMV query for CDL/CID to match on name, DOB and ID#, and for prohibiting offense. DMV search must be a valid match before proceeding with other checks.
 - Previous denial check within DROS
 - 30-day restriction check on handguns for non-exempt persons.
 - AFS Stolen Gun check for handguns.
 - ACHS with CFN query
 - WPS, MHFPS and CARPOS queries based on response from ACHS
 - NICS query to four federal databases III, NCIC, ICE (Alien Registration#), and NICS
- CFIS queues BFEC results and Firearms analyst reviews to determine approval, delay or denial.
- Delay/Denials:
 - CFIS record is updated.
 - CFIS sends delay/denial notice to Verizon
 - Dealer checks website: if DROS denied or delayed, firearm is NOT delivered
 - When DROS is Delayed, Firearms Analyst conducts manual research to determine approval or denial
- Approvals:
 - CFIS record is updated.
 - DROS gun request is generated to ReDIAL which sends DROS record to AFS

AG-00109

Printed on 4/12/2012

DOJ Programs Funded with DROS Special Fund

FY 2009/10
BUREAU OF FIREARMS

Unit Code	Program Title	Appropriation	Actual Year-End Expenditures	DROS Funding %
510	Dealers Record of Sale	\$ 8,696,016	\$ 8,054,470 "	100%
FIREARMS TOTAL DROS FUNDING		\$ 8,696,016	\$ 8,054,470	

DIVISION OF CRIMINAL JUSTICE INFORMATION SERVICES

Unit Code	Program Title	Appropriation	Actual Year-End Expenditures	DROS Funding %
861	Technology Support Bureau	\$ 570,733	\$ 553,040	2%
795	DROS - Long Gun	\$ 408,332	\$ 278,657	79%
732	Firearms Program - DROS	\$ 218,000	\$ 254,556	98%
DCJIS TOTAL DROS FUNDING		\$ 1,197,065	\$ 1,086,253	
DOJ TOTAL DROS FUNDING		\$ 9,893,081	\$ 9,140,722	

1/ Actual year-end expenditures include \$276,613 in statewide ProRata charges.

NOTICE OF PROPOSED RULEMAKING

PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Department of Justice (DOJ) proposes to adopt Title 11, Division 5, Chapter 1, section 4001, 4002, 4003, 4004, 4005, 4006, and 4007, and amend Title 11, Division 1, Chapter 13, section 984.1 of the California Code of Regulations (CCR) after considering all comments, objections, and recommendations regarding the proposed action. These regulations were previously adopted and amended as "emergency regulations" that became effective November 1, 2004. This notice commences the regular rulemaking process as required to make the regulations permanent.

PUBLIC HEARING

The DOJ will hold a public hearing starting at 10:00 a.m. on Tuesday, February 22, 2005, at the EDD/Sacramento Works Mark Sanders Complex (training room #2) located at 2901 50th Street, 4949 Broadway, Sacramento, California. The hearing room is wheel chair accessible. At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The DOJ requests but does not require that persons who make oral comments also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DOJ. The written comment period closes at 5:00 p.m., on February 22, 2005. Only comments received at the DOJ offices by that time will be considered. Please submit written comments to:

Mail: Jeff Amador, Field Representative
Department of Justice
Firearms Licensing and Permits Section
PO Box 820200
Sacramento, CA 94203-0200
or

Email: jeff.amador@doj.ca.gov

AUTHORITY AND REFERENCE

Authority: Penal Code sections 832.15(c), 12054(a), 12071(a)(5), 12076(f)(i)(j), 12423, 12424, 13511.5 and Business and Professions Code section 7583.26(a).

Reference: Penal Code sections 832.15, 12054, 12071, 12071.1, 12072, 12076, 12078, 12083, 12084, 12086, 12289, 12420, 12423, 12424, 12424.5, 12425, 12426, 13511.5; Health & Safety Code section 12101; and Business and Professions Code section 7583.26.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing laws mandate the DOJ to charge fees sufficient to reimburse its costs for processing various licenses, reports, certifications and firearm (purchase, loan, sale or transfer) transactions. The proposed regulations raise fees at an amount commensurate with increases in the DOJ's processing costs in order to allow for the continued operation of these important programs.

Penal Code Section 12076(f) provides the DOJ with statutory authority to charge \$14 per Dealer Record of Sale (DROS) transaction to reimburse the DOJ for costs specified in statute. This section also allows for adjustment of the fee at a rate not to exceed any increase in the California Consumer Price Index (CCPI). Additionally, fees specified under Penal Code Sections 13511.5, 832.15, 1207, 12054, and 12424, and Business and Professions Code Section 7583.26 also need to be raised to meet the costs of these statutorily mandated programs. Revenue from these fees is deposited into the Dealer Record of Sale Special Account. The DROS fee of \$14 has not been raised since 1991. Despite the gradual decline in revenue and a steady increase in workload, DOJ has continued to provide consistent and quality service to the public, law enforcement and firearms dealers through economies of scale.

Section 948.1. Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to administer the Certificate of Eligibility (COE) program. The proposed amendment raises the current \$17 fee to \$22, commensurate with the Firearms Division's processing costs of \$22 per COE.

Section 4001. DROS Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its Dealer's Record of Sale (DROS) processing costs, not to exceed \$14. Fee increases may not exceed any increase in the California Consumer Price Index (CCPI). The proposed regulation raises the current \$14 DROS fee to \$19. The proposed \$19 fee is commensurate with the Firearms Division's processing costs of \$19 per DROS, and does not exceed increases in the CCPI which equate to \$20.02 per DROS.

Section 4002. Miscellaneous Report Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its processing costs related to various firearms related forms and reports, not to exceed \$14. Fee increases may not exceed any increase in the California Consumer Price Index (CCPI). The proposed regulation raises the current \$14 fee to \$19. The proposed \$19 fee is commensurate with the Firearms Division's processing costs of \$19 per report or firearm, and does not exceed increases in the CCPI which equate to \$20.02 per report or firearm.

Section 4003. POST Certification Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its costs for determining whether a POST candidate is prohibited from possessing a firearm. The proposed regulation raises the current \$14 fee to \$19, commensurate with the Firearms Division's processing costs of \$19 per POST firearms eligibility certification.

Section 4004. Peace Officer Candidate Firearms Clearance Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its costs for determining whether a peace officer candidate is prohibited from possessing a firearm. The proposed regulation raises the current \$14 fee to \$19, commensurate with the Firearms Division's processing costs of \$19 per peace officer candidate firearms clearance.

Section 4005. Security Guard Firearm Clearance Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its costs for furnishing firearm eligibility information upon submission of a Security Guard Firearm Card application/renewal. The proposed regulation raises the current \$28 fee to \$38, commensurate with the Firearms Division's processing costs of \$38 per security guard firearms clearance.

Section 4006. CCW Fees.

Current statutory language authorizes the Firearms Division of the DOJ to charge a fee sufficient to reimburse its costs for furnishing firearm eligibility information upon submission of an application or renewal of a firearm license to carry a concealed weapon (CCW). Fee increases may not exceed legislatively approved cost-of-living adjustments. The proposed regulation raises the current initial permit application fees ranging from \$17-\$68 to \$22-\$88. The proposed fees are commensurate with the Firearms Division's processing costs of \$22-\$88 and do not exceed annual cost-of-living adjustments which equate to \$24.03-\$97.22.

Section 4007. Tear Gas Permit Application Fees.

Current statutory language authorizes the DOJ to charge a fee sufficient to reimburse its costs for processing tear gas permit applications. Fee increases may not exceed legislatively approved annual cost-of-living adjustments for the department's budget. The proposed regulation raises the initial permit application fee from \$177 to \$229 and the annual renewal fee from \$43 to \$61. The proposed fees are commensurate with the DOJ's processing costs of \$229 (initial) and \$61 (renewal) and do not exceed annual cost-of-living adjustments which equate to \$252.92 and \$61.44 respectively.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following determinations:

Mandate on local agencies or school districts: None

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts that a representative person or business would incur in reasonable compliance with the proposed action: Fee increases will have a cost impact on individuals seeking to obtain for the first time, or renew, various licenses, permits, and certifications issued by the DOJ, as well as persons acquiring a firearm(s). The \$5.00 DROS fee increase in Section 4001, could potentially have a minimal cost impact on gun dealers if there is a reduction in firearm sales. The fee increases do not exceed the DOJ's respective processing costs and do not exceed the respective increases in the California Consumer Price Index.

Significant effect on housing costs: None.

Small business determination: The DOJ has determined the fee increases will have a cost impact on individuals seeking to obtain for the first time, or renew, various licenses, permits, and certifications issued by the DOJ, as well as a cost impact on persons acquiring a firearm(s). The fee increases do not exceed the DOJ's respective processing costs and do not exceed the respective increases in the California Consumer Price Index.

Assessment regarding effect on jobs/businesses: The DOJ has determined the fee increases will have minimal, if any, impact on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business with the State of California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the DOJ must determine that no reasonable alternative considered by the DOJ, or that has otherwise been identified and brought to the attention of the DOJ would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations. Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to Jeff Amador at (916) 227-3661. The backup contact person is Steven Teeters at (916) 227-0163. The mailing address for Jeff Amador and Steven Teeters is:

Department of Justice
Firearms Licensing and Permits Section
PO Box 820200
Sacramento, CA 94203-0200

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, and all information upon which the rulemaking is based are available at the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain copies by contacting Jeff Amador at the telephone number or address above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the DOJ may adopt the proposed regulations substantially as described in this notice. If the DOJ makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the DOJ adopts the regulations as advised. The DOJ will accept written comments on the modified text for 15 days after the date on which they are made available. Copies of any modified text will be available at the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain a written copy of any modified text by contacting Steven Teeters at the telephone number or address above.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the final statement of reasons will be available at the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain a written copy of the final statement of reasons by contacting Steven Teeters at the telephone number or address above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in strikeout format, as well as the Final Statement of Reasons once it is completed, can be accessed through our website at <http://caag.state.ca.us/firearms/regs/>.

Case 1:11-cv-01440-LJO-MJS Document 52-8 Filed 01/20/15 Page 155 of 200

- 28. How is the waiting period for firearm purchases calculated?
- 29. I've been working in a firearms store for several years. My duties include showing potential buyers various types of firearms. My employer recently told me I have to get a COE. Does he have a right to require that?
- 30. Does sales tax apply to the DROS fees?
- 31. My firearm is in the possession of a court or law enforcement agency. What do I need to do to get it back?

Back To

Top

1. Where do I find information on laws regarding the possession of firearms (excluding assault weapons)?

The Dangerous Weapon Control Laws are found in the Penal Code beginning at Section 12000. These laws define the various types of dangerous weapons, including firearms, and restrictions and crimes relating to their manufacture, sale, possession and transportation. PC Sections of special interest include 12001 (definitions), 12025 (carrying concealed), 12026 (possession at home/private property), 12031 (carrying loaded), and 12035-36 (firearms storage / access by children).

The DOJ's guide to California Firearms Laws, pdf may be downloaded from this website.

2. I'm not sure whether I can legally possess and/or purchase firearms. Is there a way to find out before I attempt to purchase one?

Yes. You may request the Department of Justice to conduct a firearms eligibility background check by submitting a Personal Firearms Eligibility Check (PFEC) application to the Department of Justice. For more information about how to request a PFEC, please visit our PFEC FAQ section. Applications are also available through your local firearms dealer.

Back To

Top

3. What is the process for purchasing a firearm in California?

All firearms purchases and transfers, including private party transactions and sales at gun shows, must be made through a licensed dealer under the Dealer Record of Sale (DROS) process. California imposes a 10-day waiting period before a firearm can be released to a buyer or transferee. A person must be at least 18 years of age to purchase a rifle or shotgun. To buy a handgun, a person must be at least 21 years of age, and either 1) possess an HSC plus successfully complete a safety demonstration with the handgun being purchased or 2) qualify for an HSC exemption.

As part of the DROS process, the buyer must present "clear evidence of identity and age" which is defined as a valid, non-expired California Driver's License or Identification Card issued by the Department of Motor Vehicles. A military identification accompanied by permanent duty station orders indicating a posting in California is also acceptable.

If the buyer is not a U.S. Citizen, then he or she is required to demonstrate that he or she is legally within the United States by providing to the firearms dealer with documentation that contains his/her Alien Registration Number or I-94 Number.

Purchasers of *handguns* are also required to provide proof of California residency, such as a utility bill, residential lease, property deed, or government-issued identification (other than a drivers license or other DMV-issued identification).

(PC Section 12071)

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Top

4. How can I obtain a Carry Concealed Weapon (CCW) license?

Contact your county's Sheriff's Office or, if you are a resident of an incorporated city, your city's Police Department, for information on obtaining a CCW license. They can answer your questions and provide you with copies of their CCW policy statement and the State's Standardized CCW Application. If you live within a jurisdiction of a city Police

EXHIBIT D

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KAMALA D. HARRIS
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General
SUSAN K. SMITH
Deputy Attorney General
State Bar No. 231575
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2105
Fax: (213) 897-1071
E-mail: Susan.Smith@doj.ca.gov
*Attorneys for Defendants Attorney General Kamala
D. Harris and Chief of the Bureau of Firearms
Stephen Lindley in Their Official Capacities*

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**BARRY BAUER, STEPHEN
WARKENTIN, NICOLE FERRY,
LELAND ADLEY, JEFFREY
HACKER, NATIONAL RIFLE
ASSOCIATION OF AMERICA,
INC., CALIFORNIA RIFLE PISTOL
ASSOCIATION FOUNDATION,
HERB BAUER SPORTING GOODS,
INC.,**

Plaintiffs,

v.

**KAMALA HARRIS, in Her
Official Capacity as Attorney General
For the State of California;
STEPHEN LINDLEY, in His Official
Capacity as Chief Bureau of Firearms
for the California Department of
Justice, and DOES 1-10,**

Defendants.

1:11-cv-1440-LJO-MJS

**INITIAL DISCLOSURES UNDER
FED. R. CIV. P. Rule 26(a)(1) OF
DEFENDANTS ATTORNEY
GENERAL KAMALA D. HARRIS
AND CHIEF OF THE BUREAU OF
FIREARMS STEPHEN LINDLEY
IN THEIR OFFICIAL
CAPACITIES**

1 Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, defendants
 2 Attorney General Kamala D. Harris and Chief of the Bureau of Firearms Stephen
 3 Lindley (“defendants”) hereby provide the initial disclosures set forth below. The
 4 issues in this case involve subjects of broad public interest, including issues that
 5 have been widely covered in the press and academic discourse. As a result, in
 6 many instances identification information for individuals who may be likely to have
 7 discoverable information and for documents that the defendants may ultimately use
 8 in support of their claims and defenses is not presently known, is known equally to
 9 the other parties, and/or may be unfairly burdensome to compile. Defendants’
 10 investigation and discovery in this case are ongoing. Accordingly, in some
 11 instances it is feasible to identify potential witnesses and documents only by
 12 reference to categories of such witnesses or documents.¹

13 At this threshold state of the action, the defendants make the following initial
 14 disclosures:

15 **A. Individuals likely to have discoverable information that the**
 16 **Defendants may use to support their defense in this action:**

17 1. Individuals with knowledge pertaining to the (1) policy and details of the
 18 Dealer’s Record of Sale fees, (2) special firearm licensing and miscellaneous
 19 services, (3) concealed weapon permit applications, (4) assault weapon permit fees,
 20 (5) the handgun safety certificate exam fee, and (6) the firearm safety account fee,
 21 and (7) the expenditure of moneys from the various fees challenged by plaintiffs:

22 Stephen Lindley	Topics 1, 2, 3, 4, 6 & 7
23 Steve Buford	Topics 1, 2, 5, 6 & 7
24 Karen Milami	Topics 1, 2, 4, 5, 6 & 7
25 Dave Harper	Topics 1 & 6

27 ¹ Address information for those listed individuals connected with defendants
 28 is c/o of the undersigned counsel.

Jennifer Byington	Topics 1 & 6
Allison Mendoza	Topics 1 & 6
Wilfredo Cid	historical knowledge regarding Topics 1, 2, 3, 4, 6 & 7

B. Documents that the Defendants may use to support their defense in this action:

1. Document titled "Bureau of Firearms Fee Schedule/ Authorizations," copy attached.
2. Document titled "Summary of DROS Actual Revenues and Expenditures," copy attached.
3. Document titled "Summary of Firearms Safety Account Actual Revenues and Expenditures," copy attached.
4. Document titled "State of California Manual of State Funds, Firearm Safety Account," copy attached.
5. Document titled, "State of California Manual of State Funds, Firearm Safety and Enforcement Special Fund," copy attached.
6. Document titled, "State of California Manual of State Funds, Firearm Safety Training Fund Special Account," copy attached.
7. Bureau of Firearms internal reports and/or e-mail messages relating to or deriving from Dealer's Record of Sale processing date and/or statistics.
8. Document dated November 1, 2002, letter from Attorney Bill Lockyer to Members of the Legislature with attached report titled, "California Department of Justice Legislative Analysts Office Supplemental Report of the 2002 Budget Act, Item 0820-001-0460, Dealer's Record of Sale Fund (DROS)."
9. Document dated September 8, 2003 from Attorney General Bill Lockyer to The Honorable Bill Morrow.

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C. Computation of Each Category of Damages Claimed by the Disclosing Party.

Not applicable.

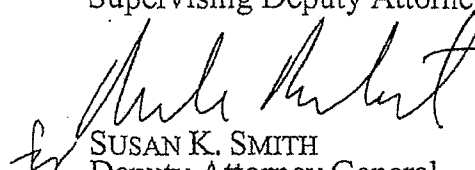
D. Any insurance Agreement at issue as per Rule 26(a)(1)(A)(iv).

Not Applicable.

Dated: July 11, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General


SUSAN K. SMITH
Deputy Attorney General
*Attorneys for Defendants Attorney
General Kamala D. Harris and Chief
of the Bureau of Firearms Stephen
Lindley in Their Official Capacities*

SA2011102315
Document in ProLaw

INITIAL STATEMENT OF REASONS

Specific purpose of the regulations

The purpose of these regulations is to adjust the Department of Justice (DOJ) fee for processing firearms purchase/transfer applications commonly referred to in statute as Dealer's Record of Sale (DROS). The proposed regulations lower the current \$19 DROS fee to \$14, commensurate with the actual cost of processing a DROS. The proposed regulations would also establish a process for DOJ to administratively adjust the DROS fee.

Factual basis

DOJ is statutorily authorized to charge a fee to cover its costs for processing Dealer's Records of Sale (DROS). The fees are collected by firearms dealers, from firearm purchasers/transferees and are subsequently submitted to DOJ.

The current DROS fee was set back in November 2004 at \$19, which at the time was believed to be sufficient to cover the cost of the program and maintained an acceptable level of reserve in the DROS account. The estimate of \$19 was based on reviewing the totals from previous year's firearm sales and calculations of anticipated sales within the state. DOJ recently completed a review of the revenues into and expenditures out of the DROS account, and the total number of firearm sales between 2007 and present date. The analysis revealed that the projected gun sale amounts relied upon back in 2004 to set the DROS fee at \$19, were much lower than the actual total of gun sales realized.

Over the past three fiscal years there has been a 30 percent increase in DROS volume. In fiscal year (FY) 06/07 DOJ processed 367,494 DROS compared to 479,772 DROS processed in FY 08/09. The "economy of scale" dictates that the processing cost per DROS decreases as the volume increases. Going back even further, a comparison between FY 03/04 and FY 08/09 reveals a 60 percent increase in DROS volume which demonstrates the extreme volatility in the firearms market and DROS processing costs. DROS volume is extremely difficult to predict and is driven by a variety of factors including civil unrest, natural disasters, crime rates, proposed legislation, and the economy. For example, the Los Angeles riots contributed to an increase in DROS volume to 559,608 in 1992 and a record level of 642,197 the following year. In comparison, in calendar year 2003 the DROS volume dipped to an all-time low of 290,376.

In processing a DROS, DOJ must conduct a Basic Firearms Eligibility Check (BFEC) to ensure that subjects are not prohibited from owning/possessing firearms pursuant to Penal Code sections 12021 and 12021.1, Welfare and Institutions Code sections 8100 and 8103, and Title 18 of the United States Code, section 922, subdivision (t). Depending on various factors, a BFEC may be processed programmatically by the Consolidated Firearms Information System (CFIS) or it may require a more time consuming manual review which is conducted by BOF staff. The percentage of DROS that require a manual review has decreased slightly in recent years due to minor system/program enhancements. Consequently, within the past three fiscal years, although the volume of DROS transactions has increased, the average time spent on each DROS, and thus the processing cost, has decreased. Based on the increased level of gun sales, achieved savings in conducting firearms eligibility background checks, and the increases in the revenue reserves

within the DROS account, DOJ is proposing to reduce the DROS fee from \$19 to \$14. The proposed fee reduction will begin reducing the revenue level in the DROS account and more closely align the program's cost with its revenue source in the future.

Because of the aforementioned volatility in firearm sales and DROS volume from year to year, the process proposed by DOJ for the administrative adjustment of the DROS fee, would require the department to review its DROS revenues and DROS-related expenses at the end of each fiscal year to determine whether it is necessary to adjust the DROS fee. By November 1, 2010 and by November 1st each year thereafter, the department shall publish its determination on the DOJ public website. If the department determines it is necessary to administratively adjust the DROS fee, the department shall provide notice of the amount and date of the adjustment at least 30 days before the adjustment takes effect to all interested parties.

Technical, theoretical, and/or empirical study, report or documents

DOJ did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of the amended regulations.

Specific technologies and new equipment

These regulations do not mandate the use of specific technologies or new equipment.

Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting Them

No other reasonable alternatives were presented to or considered by DOJ that would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome.

Reasonable Alternatives to the Proposed Regulatory Action That Would Lessen Any Adverse Impact on Small Businesses and the Agency's Reasons for Rejecting Them

DOJ finds that the proposed regulations would not have an adverse impact on small businesses.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business

DOJ determined the proposed regulations will not have a significant adverse economic impact. On the contrary, the proposed regulations may have a positive economic impact on firearms dealers in the form of increased firearm sales due to the \$5 decrease in the DROS fee.



STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL

BILL LOCKYER
ATTORNEY GENERAL

September 8, 2003

The Honorable Bill Morrow
California State Senate
State Capitol
Sacramento, California 95814

Re: DROS Fee Special Account

Dear Senator Morrow:

I am writing to respond to your letter dated September 2, 2003, concerning uses of the Dealers' Record of Sale (DROS) Special Account of the General Fund. I disagree with your assertion that we have not been responsive to the 2002 Budget Bill Conference Committee requests. On the contrary, the Department of Justice (Department) has been both honest and responsive, and has provided all available records for collections and expenditures. The Department was unable to provide the requested workload study due to a lack of funding. As the Department indicated in our report to the Conference Committee, such a study is estimated to cost approximately \$260,000. In the face of severe budget reductions, this year and last, and with staff already working multiple program tasks, the Department cannot conduct the study without additional funding, and we have no staff of our own trained and available to conduct such a study. If additional funding is provided, the Department will gladly complete a workload study; otherwise however, the only available funding source to pay for such a study would be the DROS fund itself.

The Department will, of course, gladly submit to an audit of the DROS revenues and expenditures as the Legislature deems necessary.

I would point out that the DROS fund has decades of history and has been administered and authorized in the same manner by legislative majorities, attorneys general and governors of both political parties. I can assure you that the Department is spending DROS fund dollars lawfully and only as appropriated by the Legislature and approved by the Governor.

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It might be helpful to understand the history of the DROS fund and why each and every administration has taken the same approach on the management of this fund. The DROS fund has long consisted of an amalgam of revenue sources intended to fund programs that serve Californians through state-level regulation and enforcement of laws concerning the manufacture, sale, ownership, safety training and transfer of firearms and dangerous weapons. The largest revenue source in this fund is the "background check fee," or DROS fee, paid by firearm purchasers. This background check process utilizes the same systems, management and administration infrastructure as other programs funded by the DROS fund. Most of the other programs operating out of this fund are virtually identical in complexity of the background check, the systems utilized and the expertise needed to be responsive to the public. For example, in addition to firearm purchasers, others benefit from the same administration, management, systems, infrastructure and legal expertise by having all of the resources funded and managed under the same fund. These include peace officers, security guards who carry firearms, dangerous weapon and explosive permittees, new residents with firearms and gun show promoters.

The biggest benefactor of this approach is the firearm purchaser. The pooling of resources with virtually the same expertise, equipment, supervision and management provides the ability to utilize resources in a way that addresses spikes and downturns in workload. Nowhere is this more evident than in the firearm sales background check process. During the past five (5) years, the number of background checks annually has varied an average of 102% between high and low months. The ability to redirect staff who have expertise on different systems, as well as the law, greatly reduces overhead expenditures that would otherwise be shouldered by firearms purchasers.

In our discussions with representatives of the National Rifle Association, they fully recognize the value of this longstanding use of the DROS fund resources that utilize economies of scale, rather than the costly alternative of duplicating administration, system, equipment, infrastructure and expertise that would be required with full segregation of funding.

I can assure you that to ignore this well-established practice of pooling funding and sharing resources will lead to an increase in firearm purchase check background fees. I intend to continue this efficient, tried-and-true practice, which has been utilized for decades by each and every Attorney General, with the concurrence of both the Department of Finance and the Legislature.

The Department of Justice has always considered the DROS charge a fee, and not a tax, as plainly indicated when Attorney General Dan Lungren sponsored the legislation fully authorizing the DROS fee in 1995 (SB 670, Lewis). I am happy to say that I have not increased the DROS fee since I took office and have no plans to increase the fee, which has been \$14 since

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1991, in spite of the fact that my office has statutory authority to raise the fee by the amount of the increase in the Consumer Price Index. Had we done so, the fee would be at least \$17 today. Only the Department's improvements in efficiency, including more automation and the pooled resources described above, have made it possible to keep the fee at its current rate, in spite of rising personnel and other costs.

With respect to the uses of the DROS fund, we are simply following the clear and unambiguous direction of the Legislature. The Legislative Counsel's opinion notwithstanding, the Legislature passed and the Governor signed three bills last year (AB 2080, AB 2580, and AB 2902) specifying DROS as the source of funding for implementation. Further, the Legislature appropriated DROS funds to the Department of Justice for implementation of AB 2580 and AB 2902 in the 2003 Budget Act with a 2/3 vote.

If you have additional questions, please do not hesitate to call on me.

Sincerely,



BILL LOCKYER
Attorney General

EXHIBIT E



California
LEGISLATIVE INFORMATION

AB-809 Firearms. (2011-2012)

Assembly Bill No. 809

CHAPTER 745

An act to amend Section 21628.2 of the Business and Professions Code, to amend Sections 17000, 26600, 26610, 26615, 26805, 26820, 26840, 26845, 26850, 26865, 26890, 26905, 26955, 26960, 26965, 27050, 27060, 27065, 27130, 27400, 27410, 27415, 27540, 27560, 27565, 27590, 27600, 27610, 27615, 27655, 27660, 27665, 27730, 27860, 27875, 27880, 27920, 28000, 28060, 28100, 28160, 28170, 28180, 28210, 28215, 28220, 28230, 28240, 28245, 28400, 28410, 28415, 30105, 30150, 30160, 30165, 31705, 31715, 31720, 31735, 33850, 33860, 33865, 34355, 34365, and 34370 of, to amend and repeal Sections 27110, 27710, 27870, 27915, 27965, 28165, 31775, 31795, and 33890 of, to amend, repeal, and add Section 11106 of, and to add Section 27966 to, the Penal Code, relating to firearms.

[Approved by Governor October 09, 2011. Filed with Secretary of State
October 09, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 809, Feuer. Firearms.

Existing law generally regulates the transfer of firearms and provides for retaining specified information regarding firearm transfers by the Department of Justice. Existing law establishes different requirements regarding reportable information for handguns and firearms that are not handguns. Under existing law, the Department of Justice requires firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions, as specified. Existing law exempts from these requirements certain transactions involving firearms that are not handguns.

This bill would conform those provisions so that the transfers and information reporting and retention requirements for handguns and firearms other than handguns are the same. This bill would provide that those exemptions become inoperative on January 1, 2014.

Existing law, subject to specified exceptions, prohibits peace officers, Department of Justice employees, and the Attorney General from retaining or compiling certain information relating to transactions regarding firearms that are not handguns, as specified. A violation of these provisions is a misdemeanor.

This bill would provide that those provisions are repealed on January 1, 2014, and thereafter would require those peace officers to retain and compile information regarding firearms that are not handguns, as specified.

Existing law requires a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified. Violation of these provisions is a misdemeanor.

This bill would, commencing January 1, 2014, apply these reporting requirements instead to a "personal firearm importer," as defined, and would expand the reporting requirements to apply to the importation of firearms that are not handguns. The bill would further prohibit a personal firearm importer from importing a firearm that is a .50 BMG rifle or a destructive device.

By expanding these provisions, the violation of which is a crime, this bill would impose a state-mandated local

program.

This bill would incorporate changes to Section 27590 of the Penal Code made by AB 109, which is chaptered but not yet operative.

The bill would make additional conforming changes and would make additional technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 21628.2 of the Business and Professions Code, as amended by Section 17 of Chapter 178 of the Statutes of 2010, is amended to read:

21628.2. (a) For purposes of this section, the "department" shall mean the Department of Justice.

(b) Every secondhand dealer described in Section 21626 shall, in a format prescribed by the department, and on the day of the transaction, electronically report to the department each firearm purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning. The secondhand dealer shall retain a copy of the report submitted to the department and make it available for inspection by the department, any peace officer, or any local law enforcement employee who is authorized by Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code to inspect a firearms transaction record.

(c) The department may retain secondhand dealer reports to determine whether a firearm taken in by a secondhand dealer has been reported lost or stolen. If the department's records indicate that the firearm is lost or stolen, the department shall notify the law enforcement agency that entered the information in the department's records and a law enforcement agency with jurisdiction over the secondhand dealer's business location about the status of the firearm. The Dealers' Record of Sale shall be retained by the department pursuant to Section 11106 of the Penal Code.

(d) All information in the secondhand dealer report of each firearm described in subdivision (a) shall be electronically provided by the department to the secure mailbox of the local law enforcement agency described in Section 21630 within one working day of receipt by the department.

SEC. 2. Section 11106 of the Penal Code, as amended by Section 89 of Chapter 178 of the Statutes of 2010, is amended to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section 26225, dealers' records of sales of firearms, reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed, reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) Except as provided in subdivision (d), the Attorney General shall not retain or compile any information from reports filed pursuant to any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns, from forms submitted pursuant to Section 12084, as that section read prior to being repealed, for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084, as that section read prior to being repealed, for firearms that are not handguns, or of the dealers' records of sales for

firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearm transaction record, as defined in Section 16550, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to handguns and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 26225, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, (A) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, (B) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, (C) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, (D) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, (E) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or (F) any provision listed in subdivision (a) of Section 16585, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2.5. Section 11106 is added to the Penal Code, to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section 26225, dealers' records of sales of firearms, reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed, reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(c) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 26225, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or any provision listed in subdivision (a) of Section 16585, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is

the subject of the record.

(d) This section shall become operative January 1, 2014.

SEC. 3. Section 17000 of the Penal Code is amended to read:

17000. (a) As used in this part, until January 1, 2014, any reference to the term "personal firearm importer" shall be deemed to mean "personal handgun importer" and, on and after January 1, 2014, any reference to the term "personal handgun importer" shall be deemed to mean "personal firearm importer." A "personal handgun importer," until January 1, 2014, and commencing January 1, 2014, a "personal firearm importer" means an individual who meets all of the following criteria:

(1) The individual is not a person licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4.

(2) The individual is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) The individual is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) The individual is the owner of a firearm.

(5) The individual acquired that firearm outside of California.

(6) The individual moved into this state on or after January 1, 1998, in the case of a handgun, or in the case of a firearm that is not a handgun, on or after January 1, 2014, as a resident of this state.

(7) The individual intends to possess that handgun within this state on or after January 1, 1998, or in the case of a firearm that is not a handgun, he or she intends to possess that firearm within this state on or after January 1, 2014.

(8) The firearm was not delivered to the individual by a person licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4, who delivered that firearm following the procedures set forth in Section 27540 and Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4.

(9) The individual, while a resident of this state, had not previously reported ownership of that firearm to the Department of Justice in a manner prescribed by the department that included information concerning the individual and a description of the firearm.

(10) The firearm is not a firearm that is prohibited by any provision listed in Section 16590.

(11) The firearm is not an assault weapon.

(12) The firearm is not a machinegun.

(13) The person is 18 years of age or older.

(14) The firearm is not a .50 BMG rifle.

(15) The firearm is not a destructive device.

(b) For purposes of paragraph (6) of subdivision (a):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of a member of the Armed Forces of the United States, residency shall be deemed to be established when the individual was discharged from active service in this state.

SEC. 4. Section 26600 of the Penal Code is amended to read:

26600. (a) Section 26500 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written

authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 5. Section 26610 of the Penal Code is amended to read:

26610. (a) Section 26500 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 6. Section 26615 of the Penal Code is amended to read:

26615. (a) Section 26500 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 7. Section 26805 of the Penal Code is amended to read:

26805. (a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license.

(b) (1) A person licensed pursuant to Sections 26700 and 26705 may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subdivision shall be entitled to conduct business as authorized herein at any gun show or event in the state, without regard to the jurisdiction within this state that issued the license pursuant to Sections 26700 and 26705, provided the person complies with all applicable laws, including, but not limited to, the waiting period specified in subdivision (a) of Section 26815, and all applicable local laws, regulations, and fees, if any.

(2) A person conducting business pursuant to this subdivision shall publicly display the person's license issued pursuant to Sections 26700 and 26705, or a facsimile thereof, at any gun show or event, as specified in this subdivision.

(c) (1) A person licensed pursuant to Sections 26700 and 26705 may engage in the sale and transfer of firearms other than handguns, at events specified in Sections 26955, 27655, 27900, and 27905, subject to the prohibitions and restrictions contained in those sections.

(2) A person licensed pursuant to Sections 26700 and 26705 may also accept delivery of firearms other than handguns, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in Section 27900.

(d) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(1) The building designated in the license.

(2) The places specified in subdivision (b) or (c).

(3) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

SEC. 8. Section 26820 of the Penal Code is amended to read:

26820. No handgun or imitation handgun, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

SEC. 9. Section 26840 of the Penal Code is amended to read:

No dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

SEC. 10. Section 26845 of the Penal Code is amended to read:

26845. (a) No handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that the person is a California resident.

(b) Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice.

(c) The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

SEC. 11. Section 26850 of the Penal Code is amended to read:

26850. (a) Except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun.

(b) The safe handling demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(1) If the handgun is a semiautomatic pistol, the steps listed in Section 26853.

(2) If the handgun is a double-action revolver, the steps listed in Section 26856.

(3) If the handgun is a single-action revolver, the steps listed in Section 26859.

(c) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(d) The firearms dealer shall sign and date an affidavit stating that the requirements of subdivisions (a) and (b) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

- (e) The recipient shall perform the safe handling demonstration for a department-certified instructor.
- (f) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.
- (g) Department-certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (b) of Section 31635.
- (h) The persons who are exempt from the requirements of subdivision (a) of Section 31615, pursuant to Section 31700, are also exempt from performing the safe handling demonstration.

SEC. 12. Section 26865 of the Penal Code is amended to read:

26865. A licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 34205, and may add the cost of the pamphlet, if any, to the sales price of the firearm.

SEC. 13. Section 26890 of the Penal Code is amended to read:

26890. (a) Except as provided in subdivisions (b) and (c) of Section 26805, any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

- (1) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.
- (2) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.
- (3) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(b) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in subdivision (a).

(c) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of subdivision (a) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(d) Subdivision (a) or (b) shall not apply to a licensee organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, or as a mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code, if both of the following conditions are satisfied:

- (1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.
- (2) The firearms are not handguns.

SEC. 14. Section 26905 of the Penal Code is amended to read:

26905. (a) On the date of receipt, a licensee shall report to the Department of Justice, in a format prescribed by the department, the acquisition by the licensee of the ownership of a handgun, and commencing January 1, 2014, of any firearm.

(b) The provisions of this section shall not apply to any of the following transactions:

- (1) A transaction subject to the provisions of Sections 26960 and 27660.
- (2) The dealer acquired the firearm from a wholesaler.
- (3) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(4) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code, acquires a handgun, and, commencing January 1, 2014, any firearm, and reports its acquisition pursuant to Section 21628.2 of the Business and Professions Code.

SEC. 15. Section 26955 of the Penal Code is amended to read:

26955. (a) The waiting period described in Section 26815 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28160 or 28165, as applicable.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165, as applicable.

SEC. 16. Section 26960 of the Penal Code is amended to read:

26960. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of a handgun, and commencing January 1, 2014, a firearm that is not a handgun, by a dealer in either of the following situations:

(1) The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer's business, and the requirements of subdivisions (b) and (c) are satisfied.

(2) The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer's business, and the requirements of subdivision (c) are satisfied.

(b) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that the receiving dealer is licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800). This shall be done by complying with Section 27555.

(c) (1) Regardless of whether the dealer is selling, delivering, or transferring the firearm to another dealer or to himself or herself, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

SEC. 17. Section 26965 of the Penal Code is amended to read:

26965. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10.

(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165, as applicable.

SEC. 18. Section 27050 of the Penal Code is amended to read:

27050. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 19. Section 27060 of the Penal Code is amended to read:

27060. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 20. Section 27065 of the Penal Code is amended to read:

27065. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 21. Section 27110 of the Penal Code is amended to read:

27110. Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

(b) The firearms are not handguns.

(c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 22. Section 27130 of the Penal Code is amended to read:

27130. Until January 1, 2014, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

SEC. 23. Section 27400 of the Penal Code is amended to read:

27400. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 24. Section 27410 of the Penal Code is amended to read:

27410. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 25. Section 27415 of the Penal Code is amended to read:

27415. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 26. Section 27540 of the Penal Code is amended to read:

27540. No dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) No handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(f) No handgun shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase involved none of the entities specified in subdivision (b) of Section 27535.

SEC. 27. Section 27560 of the Penal Code is amended to read:

27560. (a) Within 60 days of bringing a handgun, and commencing January 1, 2014, any firearm, into this state, a personal firearm importer shall do one of the following:

(1) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(2) Sell or transfer the firearm in accordance with the provisions of Section 27545 or in accordance with the provisions of an exemption from Section 27545.

(3) Sell or transfer the firearm to a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(4) Sell or transfer the firearm to a sheriff or police department.

(b) If all of the following requirements are satisfied, the personal firearm importer shall have complied with the provisions of this section:

(1) The personal firearm importer sells or transfers the firearm pursuant to Section 27545.

(2) The sale or transfer cannot be completed by the dealer to the purchaser or transferee.

(3) The firearm can be returned to the personal firearm importer.

(c) (1) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law.

(2) However, an act or omission punishable in different ways by this article and different provisions of the Penal Code shall not be punished under more than one provision.

(d) The department shall conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions of this section.

(e) As part of the public education and notification program described in this section, the department shall do all of the following:

(1) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this section is advised of the provisions of this section, and provided with blank copies of the report described in paragraph (1) of subdivision (a), at the time when that person applies for a California driver's license or registers a motor vehicle in accordance with the Vehicle Code.

(2) Make the reports referred to in paragraph (1) of subdivision (a) available to dealers licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(3) Make the reports referred to in paragraph (1) of subdivision (a) available to law enforcement agencies.

(4) Make persons subject to the provisions of this section aware of all of the following:

(A) The report referred to in paragraph (1) of subdivision (a) may be completed at either a law enforcement agency or the licensed premises of a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(B) It is advisable to do so for the sake of accuracy and completeness of the report.

(C) Before transporting a firearm to a law enforcement agency to comply with subdivision (a), the person should give notice to the law enforcement agency that the person is doing so.

(D) In any event, the handgun should be transported unloaded and in a locked container and a firearm that is not a handgun should be transported unloaded.

(f) Any costs incurred by the department to implement this section shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of subdivisions (d) and (e) of this section pursuant to Section 28235.

SEC. 28. Section 27565 of the Penal Code is amended to read:

27565. (a) This section applies in the following circumstances:

(1) A person is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) The licensed premises of that person are within this state.

(3) The licensed collector acquires, outside of this state, a handgun, and commencing January 1, 2014, any firearm.

(4) The licensed collector takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports the firearm into this state.

(5) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(b) Within five days of transporting a firearm into this state under the circumstances described in subdivision (a), the licensed collector shall report the acquisition of that firearm to the department in a format prescribed by the department.

SEC. 29. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment in the state prison for two, three, or four years.

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or

should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

- (1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.
- (2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.
- (3) A violation of Section 27510 involving the delivery of a handgun.
- (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.
- (5) A violation of Section 27545 involving a handgun.
- (6) A violation of Section 27550.

(d) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

- (1) A violation of Section 27510 or subdivision (b) of Section 27500.
- (2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.
- (e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars (\$50).
- (2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars (\$100).
- (3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) For purposes of this subdivision each application to purchase a handgun in violation of Section 27535 shall be deemed a separate offense.

SEC. 29.5. Section 27590 of the Penal Code, as amended by Section 545 of Chapter 15 of the Statutes of 2011, is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

- (1) If the violation is of subdivision (a) of Section 27500.
- (2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.
- (3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.
- (4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.
- (5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a

county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

- (1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.
 - (2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.
 - (3) A violation of Section 27510 involving the delivery of a handgun.
 - (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.
 - (5) A violation of Section 27545 involving a handgun.
 - (6) A violation of Section 27550.
- (d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.
- (1) A violation of Section 27510 or subdivision (b) of Section 27500.
 - (2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.
- (e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars (\$50).
- (2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars (\$100).
 - (3) A third or subsequent violation of Section 27535 is a misdemeanor.
 - (4) For purposes of this subdivision each application to purchase a handgun in violation of Section 27535 shall be deemed a separate offense.

SEC. 30. Section 27600 of the Penal Code is amended to read:

27600. (a) Article 1 (commencing with Section 27500) does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 31. Section 27610 of the Penal Code is amended to read:

27610. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this

information via this system.

SEC. 32. Section 27615 of the Penal Code is amended to read:

27615. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 33. Section 27655 of the Penal Code is amended to read:

27655. (a) The waiting period described in Section 27540 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28160 or 28165, as applicable.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165, as applicable.

SEC. 34. Section 27660 of the Penal Code is amended to read:

27660. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a handgun, and commencing January 1, 2014, any firearm, by a dealer in either of the following situations:

(1) The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer's business, and the requirements of subdivisions (b) and (c) are satisfied.

(2) The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer's business, and the requirements of subdivision (c) are satisfied.

(b) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that the receiving dealer is licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800). This shall be done by complying with Section 27555.

(c) (1) Regardless of whether the dealer is selling, delivering, or transferring the firearm to another dealer or to himself or herself, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

SEC. 35. Section 27665 of the Penal Code is amended to read:

27665. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10.

(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165, as applicable.

SEC. 36. Section 27710 of the Penal Code is amended to read:

27710. Section 27540 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

- (a) The firearms are unloaded.
- (b) The firearms are not handguns.
- (c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
- (d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 37. Section 27730 of the Penal Code is amended to read:

27730. Until January 1, 2014, Section 27540 does not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

SEC. 38. Section 27860 of the Penal Code is amended to read:

27860. Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm is deactivated or rendered inoperable prior to delivery.
- (c) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.
- (d) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.
- (e) If title to a handgun, and commencing January 1, 2014, any firearm, is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that entity shall, within 30 days of taking possession of that firearm, forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, which includes all of the following information:
 - (1) Information identifying the person representing the public or private historical society, museum, or institutional collection.
 - (2) Information on how title was obtained and from whom.
 - (3) A description of the firearm in question.
 - (4) A copy of the written statement referred to in subdivision (d).
- (f) The report forms that are to be completed pursuant to this section shall be provided by the Department of Justice.
- (g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

SEC. 39. Section 27870 of the Penal Code is amended to read:

27870. Section 27545 does not apply to the transfer of a firearm, other than a handgun, by gift, bequest,

intestate succession, or other means from one individual to another, if both of the following requirements are satisfied:

- (a) The transfer is infrequent, as defined in Section 16730.
- (b) The transfer is between members of the same immediate family.
- (c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 40. Section 27875 of the Penal Code is amended to read:

27875. Section 27545 does not apply to the transfer of a handgun, and commencing January 1, 2014, any firearm, by gift, bequest, intestate succession, or other means from one individual to another, if all of the following requirements are met:

- (a) The transfer is infrequent, as defined in Section 16730.
- (b) The transfer is between members of the same immediate family.
- (c) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the Department of Justice.
- (d) The person taking title to the firearm shall first obtain a handgun safety certificate, if the firearm is a handgun.
- (e) The person receiving the firearm is 18 years of age or older.

SEC. 41. Section 27880 of the Penal Code is amended to read:

27880. Section 27545 does not apply to the loan of a firearm between persons who are personally known to each other, if all of the following requirements are satisfied:

- (a) The loan is infrequent, as defined in Section 16730.
- (b) The loan is for any lawful purpose.
- (c) The loan does not exceed 30 days in duration.
- (d) If the firearm is a handgun, the individual being loaned the handgun shall have a valid handgun safety certificate.

SEC. 42. Section 27915 of the Penal Code is amended to read:

27915. Section 27545 does not apply to a person who takes title or possession of a firearm by operation of law if both of the following requirements are satisfied:

- (a) The firearm is not a handgun.
- (b) The person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.
- (c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 43. Section 27920 of the Penal Code is amended to read:

27920. Section 27545 does not apply to a person who takes title or possession of a handgun, and commencing January 1, 2014, any firearm, by operation of law if the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and all of the following conditions are met:

- (a) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or

680.260 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subdivision (g), (i), or (j) of Section 16990, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(b) If the person taking title or possession is receiving the firearm pursuant to subdivision (g) of Section 16990, the person shall do both of the following:

(1) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(2) Prior to taking title or possession of the firearm, the person shall obtain a handgun safety certificate, if the firearm is a handgun.

(c) Where the person receiving title or possession of the handgun, and commencing January 1, 2014, any firearm, is a person described in subdivision (i) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(d) Where the person receiving title or possession of the handgun, and commencing January 1, 2014, any firearm, is a person described in subdivision (j) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, if the firearm is a handgun, that law enforcement agency shall not deliver that handgun to the person referred to in this subdivision unless, prior to the delivery of the handgun, the person presents proof to the agency that the person is the holder of a handgun safety certificate.

(e) The reports that individuals complete pursuant to this section shall be provided to them by the Department of Justice.

SEC. 44. Section 27965 of the Penal Code is amended to read:

27965. (a) If all of the following requirements are satisfied, Section 27545 does not apply to the sale, loan, or transfer of a firearm:

(1) The sale, loan, or transfer is infrequent, as defined in Section 16730.

(2) The firearm is not a handgun.

(3) The firearm is a curio or relic manufactured at least 50 years prior to the current date but is not a replica, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 45. Section 27966 is added to the Penal Code, to read:

27966. Commencing January 1, 2014, if all of the following requirements are satisfied, Section 27545 shall not apply to the sale, loan, or transfer of a firearm:

(a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

- (b) The firearm is not a handgun.
- (c) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.
- (d) The person receiving the firearm has a current certificate of eligibility issued pursuant to Section 26710.
- (e) The person receiving the firearm is licensed as a collector pursuant to Chapter 44 of Title 18 of the United States Code and the regulations issued thereto.
- (f) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the department.

SEC. 46. Section 28000 of the Penal Code is amended to read:

28000. A person who is exempt from Section 27545 or is otherwise not required by law to report acquisition, ownership, or disposal of a handgun, and commencing January 1, 2014, a firearm that is not a handgun, or who moves out of this state with the person's handgun, and commencing January 1, 2014, a firearm that is not a handgun, may report that to the Department of Justice in a format prescribed by the department.

SEC. 47. Section 28060 of the Penal Code is amended to read:

28060. The Attorney General shall adopt regulations under this chapter to do all of the following:

(a) Allow the seller or transferor or the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to preserve the confidentiality of those records and to comply with the requirements of this chapter and all of the following:

- (1) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.
- (2) Article 1 (commencing with Section 27500) of Chapter 4.
- (3) Article 2 (commencing with Section 28150) of Chapter 6.
- (4) Article 3 (commencing with Section 28200) of Chapter 6.

(b) Record sufficient information for purposes of Section 11106 in the instance where a firearm is returned to a personal firearm importer because a sale or transfer of that firearm by the personal firearm importer could not be completed.

(c) Ensure that the register or record of electronic transfer shall state all of the following:

- (1) The name and address of the seller or transferor of the firearm or the person loaning the firearm.
- (2) Whether or not the person is a personal firearm importer.
- (3) Any other information required by Article 2 (commencing with Section 28150) of Chapter 6.

SEC. 48. Section 28100 of the Penal Code is amended to read:

28100. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Article 2 (commencing with Section 28150).

(b) This section shall not apply to any of the following transactions:

- (1) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.
- (2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.

(3) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

(4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells, delivers, or transfers the firearm to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler's business.

(6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555, if the firearm is intended as merchandise in the receiving dealer's business.

(7) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

(8) The loan of an unloaded firearm by a dealer who also operates a target facility which holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or club or organization, if the firearm is kept at all times within the premises of the target range or on the premises of the club or organization.

(9) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the loan does not exceed 45 days from the date of delivery of the firearm by the dealer to the consultant-evaluator.

(10) The return of an unloaded firearm to the owner of that firearm by a dealer, if the owner initially delivered the firearm to the dealer for service or repair.

(11) The sale, delivery, or transfer of an unloaded firearm by a dealer to a person licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(c) A violation of this section is a misdemeanor.

SEC. 49. Section 28160 of the Penal Code is amended to read:

28160. (a) Until January 1, 2014, for handguns, and thereafter for all firearms, the register or record of electronic transfer shall include all of the following information:

(1) The date and time of sale.

(2) The make of firearm.

(3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.

(4) Auction or event waiting period exemption pursuant to Sections 26955 and 27655.

(5) Dealer waiting period exemption pursuant to Sections 26960 and 27660.

(6) Dangerous weapons permit holder waiting period exemption pursuant to Sections 26965 and 27665.

(7) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.

(8) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(9) For transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article read at any time from when it became operative on January 1, 2003, to when it was repealed by the Deadly Weapons Recodification Act of 2010.

(10) Manufacturer's name if stamped on the firearm.

- (11) Model name or number, if stamped on the firearm.
- (12) Serial number, if applicable.
- (13) Other number, if more than one serial number is stamped on the firearm.
- (14) Any identification number or mark assigned to the firearm pursuant to Section 23910.
- (15) If the firearm is not a handgun and does not have a serial number, identification number, or mark assigned to it, a notation as to that fact.
- (16) Caliber.
- (17) Type of firearm.
- (18) If the firearm is new or used.
- (19) Barrel length.
- (20) Color of the firearm.
- (21) Full name of purchaser.
- (22) Purchaser's complete date of birth.
- (23) Purchaser's local address.
- (24) If current address is temporary, complete permanent address of purchaser.
- (25) Identification of purchaser.
- (26) Purchaser's place of birth (state or country).
- (27) Purchaser's complete telephone number.
- (28) Purchaser's occupation.
- (29) Purchaser's sex.
- (30) Purchaser's physical description.
- (31) All legal names and aliases ever used by the purchaser.
- (32) Yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.
- (33) Signature of purchaser.
- (34) Signature of salesperson, as a witness to the purchaser's signature.
- (35) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.
- (36) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.
- (37) The establishment number, if assigned.
- (38) The dealer's complete business telephone number.
- (39) Any information required by Chapter 5 (commencing with Section 28050).
- (40) Any information required to determine whether subdivision (f) of Section 27540 applies.
- (41) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(b) The purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

SEC. 50. Section 28165 of the Penal Code is amended to read:

28165. (a) For firearms other than handguns, the register or record of electronic transfer shall include all of the following information:

- (1) The date and time of sale.
- (2) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
- (3) Dangerous weapons permit holder waiting period exemption pursuant to Sections 26965 and 27665.
- (4) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.
- (5) Auction or event waiting period exemption pursuant to Sections 26955 and 27655.
- (6) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.
- (7) Full name of purchaser.
- (8) Purchaser's complete date of birth.
- (9) Purchaser's local address.
- (10) If current address is temporary, complete permanent address of purchaser.
- (11) Identification of purchaser.
- (12) Purchaser's place of birth (state or country).
- (13) Purchaser's complete telephone number.
- (14) Purchaser's occupation.
- (15) Purchaser's sex.
- (16) Purchaser's physical description.
- (17) All legal names and aliases ever used by the purchaser.
- (18) Yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.
- (19) Signature of purchaser.
- (20) Signature of salesperson, as a witness to the purchaser's signature.
- (21) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.
- (22) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.
- (23) The establishment number, if assigned.
- (24) The dealer's complete business telephone number.
- (25) Any information required by Chapter 5 (commencing with Section 28050).

(26) A statement of the penalties for any person signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(b) The purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 51. Section 28170 of the Penal Code is amended to read:

28170. Where the register is used, the following shall apply:

(a) Dealers shall use ink to complete each document.

(b) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(c) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions, which shall include the information set forth in this section.

(d) One firearm transaction shall be reported on each record of sale document.

SEC. 52. Section 28180 of the Penal Code is amended to read:

28180. (a) The purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means, except as authorized by the department.

(b) The requirement of subdivision (a) shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic strip reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(c) In the event that the dealer has reported to the department that the dealer's equipment has failed, information pursuant to this section shall be obtained by an alternative method to be determined by the department.

SEC. 53. Section 28210 of the Penal Code is amended to read:

28210. (a) (1) Where the register is used, the purchaser of any firearm shall be required to present to the dealer clear evidence of the person's identity and age.

(2) The dealer shall require the purchaser to sign the purchaser's current legal name and affix the purchaser's residence address and date of birth to the register in quadruplicate.

(3) The salesperson shall sign the register in quadruplicate, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register shall be punished as provided in Section 28250.

(c) (1) The original of the register shall be retained by the dealer in consecutive order.

(2) Each book of 50 originals shall become the permanent register of transactions, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent register of transactions shall be available for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Until January 1, 2014, no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not handguns.

(d) On the date of the application to purchase, two copies of the original sheet of the register shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice.

(e) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller's copy, and the seller's personal information from the purchaser's copy.

SEC. 54. Section 28215 of the Penal Code is amended to read:

28215. (a) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present to the dealer clear evidence of the person's identity and age.

(2) The dealer shall require the purchaser to sign the purchaser's current legal name to the record of electronic or telephonic transfer.

(3) The salesperson shall sign the record of electronic or telephonic transfer, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the electronic or telephonic transfer shall be punished as provided in Section 28250.

(c) (1) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order.

(2) Each original shall become the permanent record of the transaction, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent record of the transaction shall be provided for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Until January 1, 2014, no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not handguns.

(d) On the date of the application to purchase, the record of applicant information shall be transmitted to the Department of Justice by electronic or telephonic transfer.

(e) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller's copy, and the seller's personal information from the purchaser's copy.

SEC. 55. Section 28220 of the Penal Code is amended to read:

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the

United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

SEC. 56. Section 28230 of the Penal Code is amended to read:

28230. (a) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations:

(1) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to any provision listed in subdivision (a) of Section 16585.

(2) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(3) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to Section 26905, 27565, 27966, or 28000, or paragraph (1) of subdivision (a) of Section 27560.

(4) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.

(b) If the department charges a fee pursuant to paragraph (2) of subdivision (a), it shall be charged in the same amount to all categories of transaction that are within that paragraph.

(c) Any costs incurred by the Department of Justice to implement this section shall be reimbursed from fees collected and charged pursuant to this section. No fees shall be charged to the dealer pursuant to Section 28225 for implementing this section.

SEC. 57. Section 28240 of the Penal Code is amended to read:

28240. (a) Until January 1, 2014, only one fee shall be charged pursuant to this article for a single transaction on the same date for the sale of any number of firearms that are not handguns, or for the taking of possession of those firearms.

(b) In a single transaction on the same date for the delivery of any number of firearms that are handguns, and

commencing January 1, 2014, for any firearm, the department shall charge a reduced fee pursuant to this article for the second and subsequent firearms that are part of that transaction.

(c) Only one fee shall be charged pursuant to this article for a single transaction on the same date for taking title or possession of any number of firearms pursuant to Section 26905, 27870, 27875, 27915, 27920, or 27925.

SEC. 58. Section 28245 of the Penal Code is amended to read:

28245. Whenever the Department of Justice acts pursuant to this article as it pertains to firearms other than handguns, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 59. Section 28400 of the Penal Code is amended to read:

28400. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 60. Section 28410 of the Penal Code is amended to read:

28410. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 61. Section 28415 of the Penal Code is amended to read:

28415. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System

(CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 62. Section 30105 of the Penal Code is amended to read:

30105. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the personal information required by Section 28160 or 28165, as applicable, but not any information regarding any firearm, to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars (\$20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department.

(d) Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(e) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(f) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Internet Web site.

(g) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(h) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(i) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (d) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 30105 of the Penal Code. A violation of these provisions is a misdemeanor."

"If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required."

SEC. 63. Section 30150 of the Penal Code is amended to read:

30150. (a) Section 30105 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for

exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 64. Section 30160 of the Penal Code is amended to read:

30160. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 65. Section 30165 of the Penal Code is amended to read:

30165. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 66. Section 31705 of the Penal Code is amended to read:

31705. (a) Subdivision (a) of Section 31615 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is

located to input this information via this system.

SEC. 67. Section 31715 of the Penal Code is amended to read:

31715. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 68. Section 31720 of the Penal Code is amended to read:

31720. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 69. Section 31735 of the Penal Code is amended to read:

31735. Subdivision (a) of Section 31615 does not apply to the sale, delivery, loan, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

- (a) The entity receiving the firearm is open to the public.
- (b) The firearm is deactivated or rendered inoperable prior to delivery.
- (c) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.
- (d) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.
- (e) If title to a handgun, and commencing January 1, 2014, any firearm, is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that entity shall, within 30 days of taking possession of that firearm, forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, which includes all of the following information:
 - (1) Information identifying the person representing the public or private historical society, museum, or institutional collection.
 - (2) Information on how title was obtained and from whom.
 - (3) A description of the firearm in question.
 - (4) A copy of the written statement referred to in subdivision (d).

(f) The report forms that are to be completed pursuant to this section shall be provided by the Department of Justice.

(g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

SEC. 70. Section 31775 of the Penal Code is amended to read:

31775. Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.

(b) The firearms are not handguns.

(c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 71. Section 31795 of the Penal Code is amended to read:

31795. (a) Subdivision (a) of Section 31615 does not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 72. Section 33850 of the Penal Code is amended to read:

33850. (a) Any person who claims title to any firearm that is in the custody or control of a court or law enforcement agency and who wishes to have the firearm returned shall make application for a determination by the Department of Justice as to whether the applicant is eligible to possess a firearm. The application shall include the following:

(1) The applicant's name, date and place of birth, gender, telephone number, and complete address.

(2) Whether the applicant is a United States citizen. If the applicant is not a United States citizen, the application shall also include the applicant's country of citizenship and the applicant's alien registration or I-94 number.

(3) If the firearm is a handgun, and commencing January 1, 2014, any firearm, the firearm's make, model, caliber, barrel length, handgun type, country of origin, and serial number, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, there shall be a place on the application to note that fact.

(4) For residents of California, the applicant's valid California driver's license number or valid California identification card number issued by the Department of Motor Vehicles. For nonresidents of California, a copy of the applicant's military identification with orders indicating that the individual is stationed in California, or a copy of the applicant's valid driver's license from the applicant's state of residence, or a copy of the applicant's state identification card from the applicant's state of residence. Copies of the documents provided by non-California residents shall be notarized.

(5) The name of the court or law enforcement agency holding the firearm.

(6) The signature of the applicant and the date of signature.

(7) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to paragraph (4), shall be guilty of a misdemeanor.

(b) A person who owns a firearm that is in the custody of a court or law enforcement agency and who does not wish to obtain possession of the firearm, and the firearm is an otherwise legal firearm, and the person otherwise has right to title of the firearm, shall be entitled to sell or transfer title of the firearm to a licensed dealer.

(c) Any person furnishing a fictitious name or address, or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to paragraph (4) of subdivision (a), is punishable as a misdemeanor.

SEC. 73. Section 33860 of the Penal Code is amended to read:

33860. (a) The Department of Justice shall establish a fee of twenty dollars (\$20) per request for return of a firearm, plus a three-dollar (\$3) charge for each additional firearm being processed as part of the request to return a firearm, to cover its costs for processing firearm clearance determinations submitted pursuant to this chapter.

(b) The fees collected pursuant to subdivision (a) shall be deposited into the Dealers' Record of Sale Special Account.

(c) The department may increase the fee by using the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations to determine an annual rate of increase. Any fee increase shall be rounded to the nearest dollar.

SEC. 74. Section 33865 of the Penal Code is amended to read:

33865. (a) When the Department of Justice receives a completed application pursuant to Section 33850 accompanied by the fee required pursuant to Section 33860, it shall conduct an eligibility check of the applicant to determine whether the applicant is eligible to possess a firearm.

(b) The department shall have 30 days from the date of receipt to complete the background check, unless the background check is delayed by circumstances beyond the control of the department. The applicant may contact the department to inquire about the reason for a delay.

(c) If the department determines that the applicant is eligible to possess the firearm, the department shall provide the applicant with written notification that includes the following:

(1) The identity of the applicant.

(2) A statement that the applicant is eligible to possess a firearm.

(3) A description of the firearm by make, model, and serial number, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted.

(d) If the firearm is a handgun, and commencing January 1, 2014, any firearm, the department shall enter a record of the firearm into the Automated Firearms System (AFS), provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS.

(e) If the department denies the application, and the firearm is an otherwise legal firearm, the department shall notify the applicant of the denial and provide a form for the applicant to use to sell or transfer the firearm to a licensed dealer. The applicant may contact the department to inquire about the reason for the denial.

SEC. 75. Section 33890 of the Penal Code is amended to read:

33890. (a) Notwithstanding Section 11106, the Department of Justice may retain personal information about an applicant in connection with a claim under this chapter for a firearm that is not a handgun, to allow for law enforcement confirmation of compliance with this chapter. The information retained may include personal identifying information regarding the individual applying for the clearance, but may not include information that identifies any particular firearm that is not a handgun.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 76. Section 34355 of the Penal Code is amended to read:

34355. (a) Section 34350 does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for

exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 77. Section 34365 of the Penal Code is amended to read:

34365. (a) Section 34350 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 78. Section 34370 of the Penal Code is amended to read:

34370. (a) Section 34350 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 79. Section 29.5 of this bill incorporates amendments to Section 27590 of the Penal Code proposed by this bill and Assembly Bill 109, which is chaptered but not yet operative. It shall only become operative if (1) this bill is enacted and becomes effective on or before January 1, 2012, (2) this bill amends Section 27590 of the Penal Code, and (3) Assembly Bill 109 becomes operative, in which case Section 27590 of the Penal Code, as amended by Section 29, shall remain operative only until the operative date of Assembly Bill 109, at which time Section 29.5 of this bill shall become operative, and Section 29 of this bill shall not become operative.

SEC. 80. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

TAB 8

1 C.D. Michel - SBN 144258
 Sean A. Brady - SBN 262007
 2 Anna M. Barvir - SBN 268728
MICHEL & ASSOCIATES, P.C.
 3 180 East Ocean Blvd., Suite 200
 Long Beach, CA 90802
 4 Telephone: (562) 216-4444
 Facsimile: (562) 216-4445
 5 Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs

7 **UNITED STATES DISTRICT COURT**
 8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
 9 **FRESNO DIVISION**

10
 11 BARRY BAUER; STEPHEN WARKENTIN;
 NICOLE FERRY; JEFFREY HACKER;
 12 NATIONAL RIFLE ASSOCIATION OF
 AMERICA, INC.; CRPA FOUNDATION;
 13 HERB BAUER SPORTING GOODS, INC.;

14 Plaintiffs,

15 vs.

16 KAMALA D. HARRIS, in her official
 capacity as Attorney General for the State of
 California; STEPHEN LINDLEY, in his
 17 official capacity as Acting Chief for the
 California Department of Justice; and DOES 1
 18 - 10;

19 Defendants.

CASE NO. CV11-01440 LJO-MJS

**DECLARATION OF MARGARET E.
 LEIDY IN SUPPORT OF PLAINTIFFS'
 MOTION FOR SUMMARY JUDGMENT;
 EXHIBITS A THROUGH JJ**

Date: February 26, 2015
 Time: 8:30 a.m.
 Place: Fresno Courthouse
 Courtroom 6
 2500 Tulane Street
 Fresno, CA 93721
 Judge: Hon. Judge Lawrence J. O'Neill

DECLARATION OF MARGARET E. LEIDY

I, Margaret E. Leidy, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am a law clerk at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action.

2. I make this declaration based on my own personal knowledge and based upon the sources described, true and correct copies of which are attached hereto. If called and sworn as a witness, I could and would testify competently thereto.

3. Attached as Exhibit A is a true and correct copy of portions of the deposition testimony of Defendant Stephen J. Lindley taken on February 21, 2014.

4. Attached as Exhibit B is a true and correct copy of portions of the Reporter's Transcript of Proceedings taken on March 26, 2014, in the case *Silvester v. Harris*, No. 11-2137 (E.D. Cal.).

5. Attached as Exhibit C is a true and correct copy of portions of Defendant Kamala D. Harris' Response to Request for Production of Documents, Set One, produced by Defendants on or about December 21, 2012.

6. Attached as Exhibit D is a true and correct copy of portions of Defendants Kamala D. Harris and Stephen Lindley's Initial Disclosures Under Fed. R. Civ. P. Rule 26(a)(1), produced by Defendants on or about July 11, 2012.

7. Attached as Exhibit E is a true and correct copy of Assembly Bill 809, 2011-2013 Leg., Reg. Sess. (Cal. 2011), which I viewed and printed from the official website of the California State Legislature for "Bill Information," <http://www.leginfo.ca.gov/bilinfo.html>, on or about January 16, 2015.

8. Attached as Exhibit F is a true and correct copy of the Hearing on Senate Bill 670 Before Senate Committee on Criminal Procedure, 1995-1996 Leg., Reg. Sess. (Cal. Feb. 22, 1995), which I viewed and printed from the official website of the California State Legislature for "Bill Information," <http://www.leginfo.ca.gov/bilinfo.html>, on or about January 16, 2015.

9. Attached as Exhibit G is a true and correct copy of Senate Bill 670, 1995-1996

1 Leg., Reg. Sess. (Cal. 1995), which I viewed and printed from the official website of the
2 California State Legislature for “Bill Information,” <http://www.leginfo.ca.gov/bilinfo.html>, on or
3 about January 16, 2015.

4 10. Attached as Exhibit H is a true and correct copy of portions of Defendants Attorney
5 General Kamala Harris and Bureau of Firearms Chief Stephen Lindley’s Responses to Requests
6 for Admissions, Set One, produced by Defendants on or about August 1, 2014, in the case *Gentry*
7 *v. Harris*, No. 34-2013-80001667 (Cal. Super. Ct.).

8 11. Attached as Exhibit I is a true and correct copy of the Hearing on Assembly Bill
9 161 Before Senate Committee on Public Safety (Cal. July 8, 2003), which I viewed and printed
10 from the official website of the California State Legislature for “Bill Information,”
11 <http://www.leginfo.ca.gov/bilinfo.html>, on or about January 16, 2015.

12 12. Attached as Exhibit J is a true and correct copy of Analysis of Senate Bill 140
13 prepared by the Department of Finance (April 10, 2013), which I viewed and printed from the
14 official website of the California Department of Finance for “Legislative Analyses,”
15 http://www.dof.ca.gov/legislative_analyses/, on or about January 17, 2015.

16 13. Attached as Exhibit K is a true and correct copy of a fact sheet/press release
17 attributed to Defendant Attorney General Kamala D. Harris regarding the Armed & Prohibited
18 Persons System from the official website of the State of California Department of Justice,
19 https://oag.ca.gov/system/files/attachments/press_releases/n2521_apps_fact_sheet.pdf, which I
20 viewed and printed on or about January 16, 2015.

21 14. Attached as Exhibit L is a true and correct copy of Senate Bill 140, 2013-2014
22 Leg., Reg. Sess. (Cal. 2013), which I viewed and printed from the official website of the
23 California State Legislature for “Bill Information,”
24 <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January 16, 2015.

25 15. Attached as Exhibit M is a true and correct copy of a Press Release from the State
26 of California Department of Justice, titled *Attorney General Kamala D. Harris Applauds*
27 *Governor’s Signature on Bill to Take More Prohibited Firearms Off the Streets* (Oct. 10, 2011),
28 which I viewed and printed from the official website of the State of California Department of

1 Justice,

2 <http://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-applauds-governors-signat>
3 [ure-bill-take-more](http://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-applauds-governors-signat), on or about January 16, 2015.

4 16. Attached as Exhibit N is a true and correct copy of the Initial Statement of Reasons
5 regarding the proposal to adjust the DROS Fee, prepared by the State of California Department of
6 Justice, which I viewed and printed from the official website of the State of California Department
7 of Justice, <http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/regs/DROSIisor.pdf>, on or about
8 January 16, 2015.

9 17. Attached as Exhibit O is a true and correct copy of Bureau of Firearms, *Frequently*
10 *Asked Questions - Public*, which I viewed and printed from the official website of the State of
11 California Department of Justice, <http://oag.ca.gov/firearms/pubfaqs>, on or about January 16,
12 2015.

13 18. Attached as Exhibit P is a true and correct copy of a portion of Defendants'
14 Amended Responses to Plaintiffs' Requests for Admissions, produced by Defendants on or about
15 June 13, 2014.

16 19. Attached as Exhibit Q is a true and correct copy of Senate Bill 819, 2011-2012
17 Leg., Reg. Sess. (Cal. 2011), which I viewed and printed from the official website of the
18 California State Legislature for "Bill Information,"
19 <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January 16, 2015.

20 20. Attached as Exhibit R is a true and correct copy of the Hearing on Senate Bill 819
21 Before Senate Committee on Public Safety, 2011-2012 Leg., Reg. Sess. (Apr. 26, 2011), which I
22 viewed and printed from the official website of the California State Legislature for "Bill
23 Information," <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January
24 16, 2015.

25 21. Attached as Exhibit S is a true and correct copy of Senate Third Reading of Senate
26 Bill 819 (Aug. 26, 2011), which I viewed and printed from the official website of the California
27 State Legislature for "Bill Information,"
28 <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January 16, 2015.

1 22. Attached as Exhibit T is a true and correct copy of the Hearing on Senate Bill 819
2 Before Assembly Committee on Appropriations, 2011-2012 Leg., Reg. Sess. (July 5, 2011), which
3 I viewed and printed from the official website of the California State Legislature for "Bill
4 Information," <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January
5 17, 2015.

6 23. Attached as Exhibit U is a true and correct copy of the report of the State of
7 California Department of Finance, titled *2014-2015 Department of Justice Fund Condition*
8 *Statement*, which I viewed and printed from the official website of the California Department of
9 Finance for "Historical eBudgets," <http://www.ebudget.ca.gov/> (Select Budget Year 2014-2015 >
10 select "Detail" hyperlink underneath Governor's Revised Budget > select "Legislative, Judicial,
11 and Executive" hyperlink listed under "State Agencies" in the "Expenditures" table > select
12 "Department of Justice" hyperlink under "Department" > select "Proposed Budget Detail -
13 Department of Justice (January 2014)" hyperlink under "Additional Information" near the bottom
14 of the page> select "Fund Condition Statements ONLY" hyperlink) on or about January 17, 2015.

15 24. Attached as Exhibit V is a true and correct copy of the report of the State of
16 California Department of Finance, titled *2013-2014 Department of Justice Fund Condition*
17 *Statement*, which I viewed and printed from the official website of the California Department of
18 Finance for "Historical eBudgets," <http://www.ebudget.ca.gov/> (Select Budget Year 2013-2014 >
19 select "Detail" hyperlink underneath "Governor's Revised Budget" > select "Legislative, Judicial,
20 and Executive" hyperlink listed under "State Agencies" in the "Expenditures" table > select
21 "Department of Justice" hyperlink under "Department" > select "Proposed Budget Detail -
22 Department of Justice (January 2013)" hyperlink under "Additional Information" near the bottom
23 of the page> select "Fund Condition Statements ONLY" hyperlink) on or about January 17, 2015.

24 25. Attached as Exhibit W is a true and correct copy of Bureau of Firearms, *Career*
25 *Opportunities Bureau of Firearms*, which I viewed and printed from the official website of the
26 State of California Department of Justice, <http://ag.ca.gov/careers/descriptions/firearms.php>, on or
27 about January 16, 2015.

28 26. Attached as Exhibit X is a true and correct copy of Senate Floor Analysis of Senate

1 Bill 950 Before the Senate Rules Committee (Sept. 26, 2001), which I viewed and printed from
2 the official website of the California State Legislature for “Bill Information,”
3 <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January 16, 2015.

4 27. Attached as Exhibit Y is a true and correct copy of portions of the October 2013
5 report of the California State Auditor, titled *Armed Persons with Mental Illness: Insufficient*
6 *Outreach from the Department of Justice and Poor Reporting from Superior Courts Limit the*
7 *Identification of Armed Persons with Mental Illness*, which I viewed and printed from the official
8 website of the California State Auditor, <https://www.bsa.ca.gov/reports/highlights/2013-103>, on or
9 about January 17, 2015.

10 28. Attached as Exhibit Z is a true and correct copy of Senate Floor Analysis of Senate
11 Bill 140 Before the Senate Rules Committee (Apr. 19, 2013), which I viewed and printed from the
12 official website of the California State Legislature for “Bill Information,”
13 <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January 17, 2015.

14 29. Attached as Exhibit AA is a true and correct copy of Bureau of Firearms, *Job*
15 *Vacancies*, which I viewed and printed from the official website of the State of California
16 Department of Justice, <https://oag.ca.gov/careers/vacancy?query=6363>, on or about January 17,
17 2015.

18 30. Attached as Exhibit BB is a true and correct copy of Hearing on Senate Bill 819
19 Before Assembly Committee on Public Safety, 2011-2012 Leg., Reg. Sess. (Cal. June 21, 2011),
20 which I viewed and printed from the official website of the California State Legislature for “Bill
21 Information,” <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>, on or about January
22 17, 2015.

23 31. Attached as Exhibit CC is a true and correct copy of a newspaper article by
24 Michael B. Marois, titled *California Seizes Guns as Owners Lose Right to Keep Arms*, which I
25 viewed and printed at the Bloomberg news website,
26 [http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-](http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html)
27 [arms.html](http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html), on or about January 17, 2015.

28

1 32. Attached as Exhibit DD is a true and correct copy of portions of a July 2011
2 document of the California Department of Justice Client Services Program, titled *California Law*
3 *Enforcement Telecommunications System (CLETS) Less Than Full Access Operator Workbook*,
4 which I viewed and printed from the website, fieldops.doj.ca.gov/pdfs/ltfa_wrk.pdf, on or about
5 January 17, 2015.

6 33. Attached as Exhibit EE is a true and correct copy of portions of Defendants
7 Attorney General Kamala Harris and Bureau of Firearms Chief Stephen Lindley's Responses to
8 Requests for Production of Documents, Set One, produced by Defendants on or about August 1,
9 2014, in the case *Gentry v. Harris*, No. 34-2013-80001667 (Cal. Super. Ct.).

10 34. Attached as Exhibit FF is a true and correct copy of a Press Release from the State
11 of California Department of Justice, titled *Attorney General Kamala D. Harris Announces*
12 *Seizures of Unregistered Assault Weapons from Convicted Felon* (June 27, 2013), which I viewed
13 and printed from the official website of the State of California Department of Justice,
14 <http://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-announces-seizure-unregistere-assault-weapons>, on or about January 17, 2015.

15 35. Attached as Exhibit GG is a true and correct copy of a report from the California
16 Department of Justice Criminal Justice Statistics Center, titled *Special Report to the Legislature*
17 *on Senate Bill 1608*, which I viewed and printed from the official website of Criminal Justice
18 Statistics Center, <http://oag.ca.gov/cjsc/pubs#firearmsPossession> (Select hyperlink titled "Felons
19 and Others Arrested for Firearms Possession, pdf"), on or about January 19, 2015.

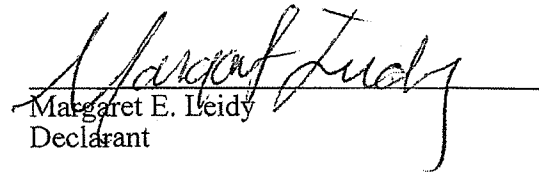
20 36. Attached as Exhibit HH is a true and correct copy of the Legislative, Judicial, and
21 Executive salaries and wages report from the California Department of Finance, which I viewed
22 and printed from the official website of the Department of Finance,
23 http://www.dof.ca.gov/budget/historical/2013-14/salaries_and_wages/documents/0010.pdf, on or
24 about January 19, 2015.

25 38. Attached as Exhibit II is a true and correct copy of the report of the State of
26 California Department of Finance, titled *2015-2016 Department of Justice Fund Condition*
27 *Statement*, I viewed and printed from the official website of the California Department of Finance
28

1 for "Historical eBudgets," <http://www.ebudget.ca.gov/> (Select Budget Year 2015-2016> select
 2 "Detail" hyperlink underneath "Governor's Proposed Budget" > select "Legislative, Judicial, and
 3 Executive" hyperlink listed under "State Agencies"> select "Department of Justice" hyperlink
 4 under "Department" >select "Fund Condition Statements ONLY" hyperlink) on or about January
 5 19, 2015.

6 39. Attached as Exhibit JJ is a true and correct copy of a portion of Defendants
 7 Attorney General Kamala Harris and Bureau of Firearms Chief Stephen Lindley's Additional
 8 Documents in Response to Requests for Production of Documents, Set One, *Gentry v. Harris*, No.
 9 34-201s3-80001667 (Cal. Super. Ct.) Exhibit JJ

10
 11 I declare under penalty of perjury under the laws of the United States that the foregoing is
 12 true and correct. Executed this 20th day of January 2015 at Long Beach, California.

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 14 
 15 Margaret E. Leidy
 16 Declarant

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TABLE OF EXHIBITS

1

2 Deposition of Stephen J. Lindley (Feb. 21, 2014) Exhibit A

3 Reporter’s Transcript of Proceedings,
4 *Silvester v. Harris*, No. 11-2137 (E.D. Cal. Mar. 26, 2014) Exhibit B

5 Defendant Kamala D. Harris’
6 Response to Request for Production of Documents, Set One Exhibit C

7 Defendants Kamala D. Harris and Stephen Lindley’s
8 Initial Disclosures Under Fed. R. Civ. P. Rule 26(a)(1) Exhibit D

9 Assembly Bill 809,
10 2011-2012 Leg., Reg. Sess. (Cal. 2011) Exhibit E

11 Hearing on Senate Bill 670
12 Before Senate Committee on Criminal Procedure,
13 1995-1996 Reg. Sess. (Cal. 1995) Exhibit F

14 Senate Bill 670,
15 1995-1996 Leg., Reg. Sess. (Cal. 1995) Exhibit G

16 Defendants Attorney General Kamala Harris and Bureau of Firearms
17 Chief Stephen Lindley’s Responses to Requests for Admissions,
18 Set One, *Gentry v. Harris*, No. 34-201s3-80001667 (Cal. Super. Ct.) Exhibit H

19 Hearing on Assembly Bill 161
20 Before Senate Committee on Public Safety
21 2003-2004 Leg., Reg. Sess. (Cal. July 8, 2003) Exhibit I

22 Analysis of Senate Bill 140,
23 Prepared by the Department of Finance (April 10, 2013) Exhibit J

24 Press Release, Kamala D. Harris, Att’y Gen., State of California,
25 Dep’t of Justice, Armed & Prohibited Persons System Exhibit K

26 Senate Bill 140,
27 2013-2014 Leg., Reg. Sess. (Cal. 2013) Exhibit L

28 Press Release, State of California, Dep’t of Justice,
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Signature on Bill to Take More Prohibited Firearms off
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Bureau of Firearms,
Frequently Asked Questions - Public, STATE OF CALIFORNIA DEP’T
OF JUSTICE, <http://oag.ca.gov/firearms/pubfaqs> Exhibit O

Defendants’ Amended Responses
to Plaintiffs’ Request for Admissions Exhibit P

1 Senate Bill 819,
2011-2012 Leg., Reg. Sess. (Cal. 2011) Exhibit Q

2 Hearing on Senate Bill 819
3 Before Senate Committee on Public Safety,
2011-2012 Leg., Reg. Sess. (Cal. Apr. 26, 2011) Exhibit R

4 Senate Third Reading of Senate Bill 819,
5 2011-2012 Leg., Reg. Sess. (Cal. Aug. 26, 2011) Exhibit S

6 Hearing on Senate Bill 819
7 Before Assembly Committee on Appropriations
2011-2012 Leg., Reg. Sess. (Cal. July 6, 2011) Exhibit T

8 Department of Finance,
2014-2015 Dep't of Justice Fund Condition Statement,
9 STATE OF CALIFORNIA Exhibit U

10 Department of Finance,
2013-2014 Dep't of Justice Fund Condition Statement
11 STATE OF CALIFORNIA Exhibit V

12 Bureau of Firearms,
13 Career Opportunities Bureau of Firearms, STATE OF CALIFORNIA
DEP'T OF JUSTICE, <http://ag.ca.gov/careers/descriptions/firearms.php> Exhibit W

14 Floor Analysis of Senate Bill 950
Before Senate Rules Committee, 2001-2002 Leg., Reg. Sess. (Sept. 26, 2001) . Exhibit X

15 California State Auditor,
16 ARMED PERSONS WITH MENTAL ILLNESS: INSUFFICIENT OUTREACH
FROM THE DEPARTMENT OF JUSTICE AND POOR REPORTING FROM SUPERIOR
17 COURTS LIMIT THE IDENTIFICATION OF ARMED PERSONS WITH MENTAL
ILLNESS (Oct. 2013) Exhibit Y

18 Floor Analysis of Senate Bill 140
19 Before Senate Rules Committee,
2013-2014 Leg., Reg. Sess. (Apr. 19, 2013) Exhibit Z

20 Bureau of Firearms,
21 Job Vacancies, STATE OF CALIFORNIA DEP'T OF JUSTICE,
<https://oag.ca.gov/careers/vacancy?query=6363> Exhibit AA

22 Hearing on Senate Bill 819
23 Before Assembly Committee on Public Safety,
2011-2012 Leg., Reg. Sess. (Cal. June 21, 2011) Exhibit BB

24 Michael B. Marois,
25 California Seizes Guns as Owners Lose Right to Keep Arms, BLOOMBERG,
<http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html>) Exhibit CC

26
27 California Department of Justice Client Services Program,
California Law Enforcement Telecommunications System (CLETS)
28 Less Than Full Access Operator Workbook 15 (July 2011) Exhibit DD

Defendants Attorney General Kamala Harris and Bureau of Firearms

1	Chief Stephen Lindley's Responses to Requests for Production of Documents, Set One, <i>Gentry v. Harris</i> , No. 34-2013-80001667 (Cal. Super. Ct.)	Exhibit EE
2	Press Release, State of California, Dep't of Justice, 3 <i>Attorney General Kamala D. Harris Announces Seizures of Unregistered</i> 4 <i>Assault Weapons from Convicted Felon</i> (June 27, 2013)	Exhibit FF
5	Criminal Justice Statistics Center, 6 <i>Special Report to the Legislature on Senate Bill 1608,</i> 7 <i>DEP'T OF JUSTICE</i> (July 2002)	Exhibit GG
8	Department of Finance, State of California 9 <i>Salaries & Wages - Legislative, Judicial and Executive, State of California,</i> 10 http://www.dof.ca.gov/budget/historical/2013-14/salaries_and_wages/ 11 documents/0010.pdf	Exhibit HH
12	Department of Finance, 13 <i>2015-2016 Dep't of Justice Fund Condition Statement,</i> 14 <i>STATE OF CALIFORNIA</i>	Exhibit II
15	Defendants Attorney General Kamala Harris and Bureau of Firearms 16 Chief Stephen Lindley's Additional Documents in 17 Response to Requests for Production of Documents, 18 Set One, <i>Gentry v. Harris</i> , No. 34-201s3-80001667 (Cal. Super. Ct.)	Exhibit JJ
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

BARRY BAUER; STEPHEN WARKENTIN;
NICOLE FERRY; JEFFREY HACKER;
NATIONAL RIFLE ASSOCIATION OF
AMERICA, INC.; CRPA FOUNDATION;
HERB BAUER SPORTING GOODS, INC.;

CASE NO. CV 11-01440 LJO-MJS
CERTIFICATE OF SERVICE

Plaintiffs,

vs.

KAMALA D. HARRIS, in her official
capacity as Attorney General for the State of
California; STEPHEN LINDLEY, in his
official capacity as Acting Chief for the
California Department of Justice; and DOES
1 - 10;

Defendants.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and at least eighteen years of age. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

**DECLARATION OF MARGERET E. LEIDY IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT; EXHIBITS A THROUGH JJ**

on the following party by electronically filing the foregoing with the Clerk of the District court using
its ECF System, which electronically notifies them.

Anthony R. Hakl, Deputy Attorney General
Office of the Attorney General
1300 I Street, Suite 125
Sacramento, CA 94244

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2015.

Michel & Associates, P.C.

/s/ C.D. Michel
C.D. Michel
Counsel for Plaintiffs

TAB 9

1 C.D. Michel - SBN 144258
 Sean A. Brady - SBN 262007
 2 Anna M. Barvir - SBN 268728
MICHEL & ASSOCIATES, P.C.
 3 180 East Ocean Blvd., Suite 200
 Long Beach, CA 90802
 4 Telephone: (562) 216-4444
 Facsimile: (562) 216-4445
 5 Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs

7 **UNITED STATES DISTRICT COURT**
 8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
 9 **FRESNO DIVISION**

10
 11 BARRY BAUER; STEPHEN WARKENTIN;
 NICOLE FERRY; JEFFREY HACKER;
 12 NATIONAL RIFLE ASSOCIATION OF
 AMERICA, INC.; CRPA FOUNDATION;
 13 HERB BAUER SPORTING GOODS, INC.;

14 Plaintiffs,

15 vs.

16 KAMALA D. HARRIS, in her official
 capacity as Attorney General for the State of
 California; STEPHEN LINDLEY, in his
 17 official capacity as Acting Chief for the
 California Department of Justice; and DOES 1
 18 - 10;

19 Defendants.

CASE NO. CV11-01440 LJO-MJS

**PLAINTIFFS' STATEMENT OF
 UNDISPUTED FACTS IN SUPPORT OF
 MOTION FOR SUMMARY JUDGMENT**

Date: February 26, 2015

Time: 8:30 a.m.

Place: Fresno Courthouse
 Courtroom 4, 7th Floor
 2500 Tulane Street
 Fresno, CA 93721

Judge: Hon. Judge Lawrence J. O'Neill

20
 21 Pursuant to Eastern District of California Rule 260(a), Plaintiffs Barry Bauer, Stephen
 22 Warkentin, Nicole Ferry, Jeffrey Hacker, National Rifle Association of America, Inc., CRPA
 23 Foundation, and Herb Bauer Sporting Goods, Inc. ("Plaintiffs") respectfully submit the following
 24 Statement of Undisputed Facts.

25
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27 ///

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No.	Undisputed Fact	Supporting Evidence
1	To purchase a firearm in California, qualified individuals must pay a transaction fee known as a Dealer Record of Sale ("DROS") fee.	Cal. Penal Code §§ 28225, 28230.
2	A completed DROS includes information about the would-be purchaser ("applicant"), including name, date of birth, and driver's license number, as well as information about the firearm to be transferred, and the FFL handling the transaction.	Cal. Penal Code §§ 28155, 28160, 28180; Reporter's Transcripts of Proceedings (Ex. B) at 171:3-172:3, <i>Silvester v. Harris</i> , No. 11-2137 (Mar. 26, 2014).
3	Once completed, the FFL must forward the DROS to the California Department of Justice's Bureau of Firearms via a secure internet site.	Cal. Penal Code § 28205(c).
4	Upon receipt of the DROS, the Bureau of Firearms reviews it to confirm that: (1) the DROS is filled out properly; (2) the firearm being transferred is legal to possess under California law; and (3) the firearm being transferred does not belong to someone other than the vendor. The firearm transfer is denied if the DROS does not meet all of these requirements.	Cal. Penal Code §§ 11106, 28220.
5	The primary purpose of this "DROS Process" is to ensure that people seeking to purchase firearms in California are not legally prohibited from possessing them.	Defs.' Resp. to Pls.' Req. for Prod. Docs., Set 1 (Ex. C) AG-000109; Lindley Dep. (Ex. A) 10:13-17.
6	It is a crime punishable by up to a felony to possess a firearm as a prohibited person.	18 U.S.C. §§ 921, 922(g)(1); Cal. Penal Code § 29800(a)(1).
7	The Department performs extensive "background checks" of all applicants.	Defs.'s Resp. to Pls.' Req. for Prod. Docs., Set 1 (Ex. C) AG-00109, AG-00256; Defs.' Initial Disclosures (Ex. D) AG-0084-0086.
8	A firearm transfer is denied if the applicant is found to be prohibited by law from firearm possession.	Cal. Penal Code § 26815(d).

No.	Undisputed Fact	Supporting Evidence
9	If a DROS is approved, the retailer is informed that the firearm can be released after California's ten-day waiting period has expired, unless an exception applies.	Cal. Penal Code § 26815.
10	Information linking the firearm being transferred to the applicant is also entered into the Department's Consolidated Firearms Information System ("CFIS").	Cal. Penal Code § 30000.
11	Prior to January 1, 2014, only handguns and "assault weapons" were registered into CFIS, non-"assault weapon" rifles and shotguns were not.	Assem. B. 809, 2011-2012 Leg., Reg. Sess. (Cal. 2011) (Ex. E).
12	During 2013, the Department processed approximately 960,179 DROS applications.	Reporter's Transcripts of Proceedings (Ex. B) at 209:21-210:3, 332:1-3, <i>Silvester v. Harris</i> , No. 11-2137 (Mar. 27, 2014).
13	Approximately 7,400-7,500 of the 960,179 DROS applications that occurred in 2013 were denials.	Reporter's Transcripts of Proceedings (Ex. B) at 332:1-7, <i>Silvester v. Harris</i> , No. 11-2137 (Mar. 27, 2014).
14	The exact number of DROS applicants in 2013 (or any previous year) is unknown and likely unknowable.	Assem. B. 809, 2011-2012 Leg., Reg. Sess. (Cal. 2011) (Ex. E); Lindley Dep. (Ex. A) 178:7-12; Bureau of Firearms, <i>Frequently Asked Questions - Public</i> , STATE OF CALIFORNIA DEP'T OF JUSTICE, http://oag.ca.gov/firearms/pubfaqs (last visited Jan. 16, 2015) (Ex. O).
15	California confers discretion on the Department of Justice to impose the payment of a fee on firearm purchasers to qualify for receiving a firearm from an FFL.	Cal. Penal Code § 28225(a).
16	In 1990, the amount of the DROS Fee was \$4.25.	Hearing on S.B. 670, Before the S. Comm. on Crim. Proc., 1995-1996 Leg., Reg. Sess. 3 (Cal. Mar. 28, 1995) (Ex. F).
17	In 1995, the legislature capped the DROS Fee at \$14.00, subject to the Consumer Price Index adjustment	S. B. 670, 1995-1996 Leg., Reg. Sess. (Cal. 1995) (Ex. G); Cal. Pen. Code § 28230.

No.	Undisputed Fact	Supporting Evidence
18	In 2004, the Department increased the cap on the DROS fee from \$14 to \$19 for the first handgun or any number of rifles or shotguns in a single transaction.	Cal. Code of Regs., tit. 11, § 4001; Def. Harris' Resp. to Req. for Prod. Docs., Set 1 (Ex. C) AG-00172-00176.
19	The Penal Code provides that "[t]he [DROS] fee shall be no more than is necessary to fund" the activities listed in § 28225(b)(1)-(11).	Cal. Penal Code § 28225.
20	The Department has not determined the actual or estimated costs of the activities listed in § 28225(b)(1)-(11) in establishing the current amount of the DROS Fee.	Lindley Dep. (Ex. A) 122:10-123:5, 126:2-6; Defendants' Responses to Plaintiffs' Requests for Admission (Ex. H), Response No. 65, <i>Gentry v. Harris</i> , No. 34-2013-80001667.
21	The Department has charged the DROS Fee at \$19 since 2004.	See Cal. Penal Code §§ 28225, 28230; Cal. Code of Regs., tit. 11, § 4001; Def. Harris' Resp. to Req. for Prod. Docs., Set 1 (Ex. C) AG-00172-76.
22	The Department deposits DROS Fee monies in the "Dealers' Record of Sale Special Account of the General Fund" ("DROS Special Account").	Cal. Penal Code § 28235.
23	DROS Fee revenues make up the vast majority of the money in the DROS Special Account.	Hearing on A.B. 161, Before the S. Comm. on Pub. Safety 2003-2004 Leg., Reg. Sess. 9 (Cal. July 8, 2003) (Ex. I).
24	The DROS Special Account reserves were estimated at \$12.7 million for fiscal year 2013-2014.	Analysis of Senate Bill 140 prepared by the Department of Finance (Cal. April 10, 2013) (Ex. J).
25	An \$11.5 loan from the DROS Special Account was made to the General Fund in March 2013.	Dep't of Finance, <i>2014-2015 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. V); Analysis of Senate Bill 140 prepared by the Department of Finance (Cal. April 10, 2013), (Ex. J).
26	The \$11.5 loan made from the DROS Special Account to the General Fund in March 2013 has not been paid back in full.	Dep't of Finance, <i>2015-2016 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. II).

No.	Undisputed Fact	Supporting Evidence
27	The DROS surplus grows about \$3 million annually.	Press Release, Kamala D. Harris, Att'y Gen., State of California, Dep't of Justice, Armed & Prohibited Persons System (Ex. K).
28	The Legislature has committed at least \$35.5 million from the DROS Special Account to fund activities other than the processing of DROS applications since March 2013.	Analysis of Senate Bill 140 prepared by the Department of Finance (Cal. April 10, 2013) (Ex. J); S.B. 140, 2013-2014 Leg., Reg. Sess. (Cal. 2013) (Ex. L).
29	The surplus in the DROS Special Account primarily consists of DROS Fee revenues.	Def's.' Initial Disclosures (Ex. D) AG-0001-0002; Press Release, State of California, Dep't of Justice, <i>Attorney General Kamala D. Harris Applauds Governor's Signature on Bill to Take More Prohibited Firearms off the Streets</i> (Oct. 10, 2011) (Ex.M).
30	In 2010, then Attorney General Edmund Brown (now Governor) proposed a regulation to lower the DROS Fee cap back to \$14 to "commensurate with the actual costs of processing a DROS," but it was not adopted.	Memorandum, State of California, Dep't of Justice, Initial Statement of Reasons Re: Proposal to Adjust DROS Fee (Ex. N).
31	The DROS Fee currently remains capped at \$19.	Bureau of Firearms, <i>Frequently Asked Questions - Public</i> , STATE OF CALIFORNIA DEP'T OF JUSTICE, http://oag.ca.gov/firearms/pubfaqs (Ex. O).
32	The Department of Justice is statutorily authorized to use revenues from the DROS Fee to fund various activities that are not at issue in this litigation.	Cal. Penal Code §§ 28225(b)(1)-(10); 28230.
33	The Department of Justice is authorized to and does use DROS Fee revenues to fund "the estimated reasonable costs of [Department] firearms-related regulatory and enforcement activities related to the sale, purchase, possession, loan, or transfer of firearms."	Cal. Penal Code § 28225(b)(11).

No.	Undisputed Fact	Supporting Evidence
34	Prior to January 1, 2012, Penal Code § 28225(b)(11) did not provide for expenditure of DROS Fee revenues on regulations or enforcement activities related to the "possession" of firearms.	Former Cal. Penal Code § 12076(e)(10).
35	Prior to Fiscal Year 2012-2013, the Department's activities concerning the mere possession of firearms were not paid for from the DROS Special Account.	Def's. ' Resp. to Pls. ' Reqs. for Admis., (Ex. P) Am. Rsp. No. 22; Lindley Dep. (Ex. A) 44:13-45:6, 58:1-11.
36	Prior to Fiscal Year 2012-2013, the Department's activities concerning the mere possession of firearms were paid for mostly with money from the General Fund.	Def's. ' Resp. to Pls. ' Reqs. for Admis., (Ex. P) Am. Rsp. No. 22; Lindley Dep. (Ex. A) 58:1-11.
37	In 2011, the Legislature passed, Senate Bill 819 ("SB819"), which added the word "possession" to section 28225(b)(11)'s list of activities DROS Fee revenues could fund.	S.B. 819, 2011-2012 Leg., Reg. Sess. (Cal. 2011) (Ex. Q).
38	Defendant Attorney General Kamala Harris sponsored Senate Bill 819.	Hearing on S.B. 819 Before S. Comm. on Pub. Safety, 2011-2012 Leg., Reg. Sess. 1 (Cal. April 26, 2011) (Ex. R).
39	The purpose of SB 819 was to authorize the Department to use surplus money from the DROS Special Account instead of the General Funds monies to pay for Armed & Prohibited Persons System (APPS) operations.	S.B. 819, 2011-2012 Leg., Reg. Sess. § 1(g) (Cal. 2011) (Ex. Q); Hearing on S.B. 819 Before S. Comm. on Pub. Safety, 2011-2012 Reg. Sess. 2 (Cal. Apr. 26, 2011) (Ex. R).
40	The DROS Special Account is funded by fees other than the DROS Fee	Cal. Penal Code § 29510; Hearing on A.B. 161, Before the S. Comm. on Pub. Safety 2003-2004 Leg., Reg. Sess. 9 (Cal. July 8, 2003) (Ex. I).
41	Revenues from fees other than the DROS Fee are not authorized for use in the DROS Process.	S. Third Reading of S. B. 819 (Cal. Aug. 26, 2011) (Ex. S); Hearing on S.B. 819 Before Assem. Committee on Appropriations (Cal. July 6, 2011) (Ex. T).

No.	Undisputed Fact	Supporting Evidence
42	Revenues from fees other than the DROS Fee are not authorized on Department activities concerning the "possession" of firearms by DROS applicants.	S. Third Reading of S. B. 819 (Cal. Aug. 26, 2011) (Ex. S); Hearing on S.B. 819 Before Assem. Committee on Appropriations (Cal. July 6, 2011) (Ex. T).
43	Currently the Department cannot trace money in the DROS Special Account to any particular fee because funds are not segregated when placed in the DROS Special Account.	Def's. Resp. to Pls.' Reqs. for Admis. (Ex. P), Am. Resp. No. 15.
44	For the fiscal year of 2012-2013, the Department of Justice spent a total of approximately \$23.21 million of monies from the DROS Special Account.	Dep't of Finance, <i>2014-2015 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. U); Dep't of Finance, <i>2013-2014 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. V).
45	For the fiscal year 2011-2012, the Department of Justice spent approximately \$11.62 million from the DROS Special Account.	Dep't of Finance, <i>2014-2015 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. U); Dep't of Finance, <i>2013-2014 Dep't of Justice Fund Condition Statement</i> , STATE OF CALIFORNIA 3-4 (Ex. V).
46	The Armed and Prohibited Person System ("APPS") is "an online database ...[, the] purpose of [which] is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the [CFIS], and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm."	Cal. Penal Code § 30000(a).
47	The Department of Justice describes APPS as being "populated with data from a number of existing DOJ databases, to identify criminals who are prohibited from possessing firearms subsequent to the legal acquisition of firearms or registration of assault weapons."	Bureau of Firearms, <i>Career Opportunities Bureau of Firearms</i> , STATE OF CALIFORNIA DEP'T OF JUSTICE, http://ag.ca.gov/careers/descriptions/firearms.php (last visited Jan. 16, 2015) (Ex. W).

No.	Undisputed Fact	Supporting Evidence
48	Under APPS, the Department collects a list of individuals who are prohibited from firearm ownership and runs an automatic check against its CFIS database (which should indicate whether the person has owned or possessed a firearm at some point on or after January 1, 1991, or has at some point registered an "assault weapon" or .50 BMG rifle), to determine if anyone on the prohibited list also appears in CFIS.	Cal. Penal Code § 30005; Lindley Dep. (Ex. A) 145:17-146:19.
49	Any person who has a firearm registered in the CFIS database and who also appears on the prohibited list is included on the "APPS List."	Cal. Penal Code § 30000; Floor Analysis of S.B. 950 Before S. Rules Comm., 2001-2002 Leg., Reg. Sess. 4-5 (Sept. 26, 2001) (Ex. X).
50	Individuals who are prohibited from firearm possession by law but who are not in APPS are subject to the exact same criminal charges and sentences as people who are in APPS.	Cal. Penal Code §§ 29800(a)(1), 30000; 18 U.S.C. §§ 921, 922(g)(1).
51	There are no civil penalties for a person on the APPS List who is in unlawful possession of a firearm.	Cal. Penal Code §§ 30000, 30005, 30010, 30015.
52	Any person who is on the APPS List may be investigated for criminal firearm possession and potentially an enforcement action by the Department to confiscate the firearms.	Lindley Dep. (Ex. A) 157:18-158:15.
53	The APPS Unit was first staffed in 2006.	California State Auditor, ARMED PERSONS WITH MENTAL ILLNESS: INSUFFICIENT OUTREACH FROM THE DEPARTMENT OF JUSTICE AND POOR REPORTING FROM SUPERIOR COURTS LIMIT THE IDENTIFICATION OF ARMED PERSONS WITH MENTAL ILLNESS 51 (Oct. 2013) (Ex. Y).
54	The APPS Unit has approximately twelve non-sworn employees (i.e., non-peace officers) "who conduct the analysis to place somebody into the APPS system."	Lindley Dep. (Ex. A) 12:5-12:19.

No.	Undisputed Fact	Supporting Evidence
55	The APPS Unit employees essentially upload information from the databases of people who are prohibited from firearm possession and from the Department's Consolidated Firearms Information System ("CFIS") into the APPS system	Lindley Dep. (Ex. A)75:16-19.
56	An automated check of the information the APPS Unit uploads into the APPS system is conducted daily.	Lindley Dep. (Ex. A)136:11-17.
57	If someone appears in the APPS system, that means the person's name appeared in both a prohibited person database and CFIS; the APPS Unit considers that a "triggering event."	Lindley Dep. (Ex. A)75:16-19.
58	APPS analysts, with the job title of "Criminal Identification Specialist," investigate the triggering events to attempt to confirm the person was appropriately included in the APPS system as a suspect for unlawful firearm possession.	Lindley Dep. (Ex. A) 39:20-42:11; 75:14-19; 136:11-137:11.
59	If the APPS analyst confirms a person was appropriately included in the APPS system, the person is included on the APPS List.	Lindley Dep. (Ex. A) 39:20-42:11; 75:14-19; 136:11-137:11.
60	APPS analysts currently derive the APPS List from two "queues" of individuals who may be unlawfully possessing firearms: the "historical" queue and the "pending review queue" (also known as the "daily triggering events" queue).	Lindley Dep. (Ex. A)153:5-154:7.
61	The historical queue is comprised of the portion of the APPS Database concerning people "who have not yet been reviewed for prohibiting events since [the Department] implemented the APPS database in November 2006."	California State Auditor, ARMED PERSONS WITH MENTAL ILLNESS: INSUFFICIENT OUTREACH FROM THE DEPARTMENT OF JUSTICE AND POOR REPORTING FROM SUPERIOR COURTS LIMIT THE IDENTIFICATION OF ARMED PERSONS WITH MENTAL ILLNESS 51 (Oct. 2013) (Ex. Y).

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No.	Undisputed Fact	Supporting Evidence
62	The historical queue is addressed as time and funding permits, while the daily triggering events queue is considered to be the main priority for the Bureau.	Lindley Dep. (Ex. A)153:24-154:7.

1	No.	Undisputed Fact	Supporting Evidence
2	63	<p data-bbox="381 304 885 430">The Department has summarized the steps involved in the creation of the APPS List from the "pending review queue" as follows:</p> <p data-bbox="381 451 885 1071">[E]very evening an automatic [i.e., computerized] check matches the records in the mental health database and criminal history system with information in [the Department's] CFIS, which contains a record of [registered] firearm owners in California since 1996 and of [registered] assault weapon owners since 1989. Specifically, [the Department] compares personal identifying information such as Social Security numbers to identify individuals who own a firearm and who have had a [firearm possession] prohibiting event logged into one of the [] databases. All persons identified through this automated check are placed in a pending queue for APPS [U]nit staff to review.</p> <p data-bbox="381 1092 885 1921">Staff in the APPS [U]nit manually review each person in the pending review queue to determine whether the automated check has matched the correct individual. For example, the automated check will match an individual with a recent prohibiting event with someone in CFIS who has the same personal identification number, such as a California driver's license number, but a different name and date of birth. [The Department] has implemented a manual review of these potentially prohibited persons so that firearm owners are not incorrectly labeled as prohibited persons by an automated process. In addition to verifying identity, staff also verify that the event that pulled is actually a prohibiting event. When staff determine that someone is a prohibited person, they change that individual's status in the APPS database to prohibited and update his or her information, including address and firearm ownership information.</p>	<p data-bbox="901 304 1485 556">California State Auditor, ARMED PERSONS WITH MENTAL ILLNESS: INSUFFICIENT OUTREACH FROM THE DEPARTMENT OF JUSTICE AND POOR REPORTING FROM SUPERIOR COURTS LIMIT THE IDENTIFICATION OF ARMED PERSONS WITH MENTAL ILLNESS 9 (Oct. 2013) (Ex. Y); Lindley Dep. 135:5-136:22 (Ex. A).</p>
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No.	Undisputed Fact	Supporting Evidence
64	Program Technicians assist the Criminal Identification Specialists with data entry and tracking down documents for lower-level investigations so the Specialists can make a determination on whether a person belongs on the APPS List.	Lindley Dep. (Ex. A) 81:8-82:3.
65	A person will not appear in APPS if they never lawfully registered a firearm in CFIS.	Lindley Dep. (Ex. A) 178:7-15.
66	People who purchased all of their firearms prior to the early 1990s will not be in APPS unless they voluntarily registered them because firearm transfers were not entered into AFS at that time.	Lindley Dep. (Ex. A) 178:7-15.
67	Because DROS applications prior to January 1, 2014 did not contemplate registration of non-“assault weapon” rifles and shotguns, people who purchased only those types of firearms prior to 2014 generally cannot be in APPS (unless they voluntarily registered those firearms).	Lindley Dep. (Ex. A) 178:7-12; Bureau of Firearms, <i>Frequently Asked Questions - Public</i> , STATE OF CALIFORNIA DEP’T OF JUSTICE, http://oag.ca.gov/firearms/pubfaqs (last visited Jan. 16, 2015) (Ex. O)
68	A person could be in APPS without ever having paid the DROS Fee (e.g., intrafamilial transfers, personal firearm importers, and voluntary registrations).	Cal. Code Regs. tit. 11, § 4002; Cal. Penal Code § 27875.
69	Monies collected from the fees charged for intrafamilial transfers, personal firearm importers, and voluntary registrations are deposited into the DROS Special Account.	Cal. Code Regs. tit. 11, § 4002; Cal. Penal Code § 28230.
70	According to the Department of Justice, approximately 3,000 people are added to the APPS List annually.	Senate Floor Analysis of S.B. 140, Before S. Rules Comm., 2013-2014 Reg. Sess., at 4 (April 19, 2013) (Ex. Z).

No.	Undisputed Fact	Supporting Evidence
71	The APPS Enforcement Section's main responsibilities include "investigating, disarming, apprehending, and ensuring the prosecution of persons who are prohibited or become prohibited from purchasing or possessing a firearm as a result of their mental health status, a felony/violent misdemeanor conviction, and/or a domestic restraining order[.]"	Bureau of Firearms, <i>Career Opportunities Bureau of Firearms</i> , STATE OF CALIFORNIA DEP'T OF JUSTICE OFFICE, http://ag.ca.gov/careers/descriptions/firearms.php (last visited Jan. 16, 2015) (Ex. W); Lindley Dep. (Ex. A) 65:15-17.
72	As of February 22, 2014, the Bureau has approximately forty-five sworn California peace officers who work full time on APPS-based law enforcement activities.	Lindley Dep. (Ex. A) 66:9-16, 91:21-92:2.
73	APPS Enforcement officers currently comprise approximately twelve regional teams ("APPS Enforcement Teams"), each of which is supervised by a Special Agent Supervisor.	Lindley Dep. (Ex. A) 96:2-97:4.
74	The APPS Enforcement Teams include Special Agents and Special Agent Supervisors.	Lindley Dep. (Ex. A) 18:4-18; 65:15-66:1.
75	The APPS Enforcement Teams travel to various locations in search of persons who are identified on the APPS List.	Lindley Dep. (Ex. A) 18:4-18; 65:15-66:1.
76	APPS Enforcement Teams have Property Controllers, who are responsible for storing and tracking "the evidence that the Agents bring in."	Lindley Dep. (Ex. A) 12:5-13:6; 66:2-8; 182:3-13.

No.	Undisputed Fact	Supporting Evidence
77	APPS Enforcement Teams include non-sworn Criminal Intelligence Specialists ("CIS") who "work directly with the Agents and the Special Agent Supervisors in doing background information, intelligence gathering on those particular APPS offenders[] to, one, ensure that the information is still accurate that was put into the APPS System, [e.g., the] restraining order [is] still in place, the 5150 [designation is] still in place, there hasn't been some other disposition on a person's criminal history, the prohibition is still active, . . . [a]nd then a variety of other intelligence information to ensure the safety of the Agents, the public, and the offender themselves when we [i.e., APPS Enforcement Teams] make contact with them."	Lindley Dep. (Ex. A) 155:17-156:19.
78	The Department has non-sworn field representatives who mainly do training for local, state, and federal law enforcement on how to use APPS, as well as for mental health facilities to make sure they report the proper information.	Lindley Dep. (Ex. A) 76:16-23.
79	APPS Enforcement Teams include Office Technicians who handle the day-to-day clerical office work related to the APPS Enforcement Teams' operations.	Lindley Dep. (Ex. A) 66:2-8; Bureau of Firearms, <i>Job Vacancies</i> , STATE OF CALIFORNIA DEP'T OF JUSTICE OFFICE, https://oag.ca.gov/careers/vacancy?query=6363 (last visited Jan. 17, 2015) (Ex. AA).
80	The APPS List can only be accessed by law enforcement for one reason: "determining if persons are armed and prohibited from possessing firearms."	Cal. Penal Code § 30000(b).
81	The sole purpose of APPS is to serve as a "crime-fighting tool" for law enforcement.	Cal. Penal Code § 30000(b); Reporter's Transcripts of Proceedings (Ex. B) at 217:23-218:3, <i>Silvester v. Harris</i> , No. 11-2137 (Mar. 27, 2014).

No.	Undisputed Fact	Supporting Evidence
82	Local law enforcement agencies and the Department of Justice both have access to the APPS List to run names of individuals to see if they appear thereon.	Cal. Penal Code § 3000(b); Lindley Dep. (Ex. A) 130:22-25.
83	On a monthly basis, the Department of Justice provides local law enforcement agencies with a list of individuals in their jurisdiction who appear on the APPS List.	Lindley Dep. (Ex. A) 130:22-25;131:17-25.
84	Local law enforcement agencies choose whether to pursue any suspects on the APPS List, but must first do due diligence to identify the suspect and confirm the person is indeed prohibited from firearm possession.	Lindley Dep. (Ex. A) 131:17-133:7.
85	"Although the burden for confiscating weapons falls largely on local jurisdictions, in practice, most local jurisdictions are too short on resources to do much" law enforcement work to seize firearms from prohibited persons.	Hearing on S.B. 819 Before Assem. Comm. on Pub. Safety, 2011-2012 Leg., Reg. Sess. 8 (Cal. June 21, 2011) (Ex.BB).
86	The Department of Justice accounts for 98% of the people cleared from the APPS List.	Hearing on S.B. 819 Before Assem. Comm. on Pub. Safety, 2011-2012 Leg., Reg. Sess. 8 (Cal. June 21, 2011) (Ex. BB).
87	About half of the Department of Justice's APPS-based enforcement workload arises from local jurisdictions requesting assistance from the Department.	Lindley Dep. (Ex. A) 157:12-16.
88	Sometimes APPS Enforcement Teams Units are joined by local law enforcement agents when an APPS-based contact is being performed.	Lindley Dep. (Ex. A) 169:1-4.
89	APPS field representatives provide training to local law enforcement groups on how to use APPS.	Lindley Dep. (Ex. A) 76:15-76:25.

No.	Undisputed Fact	Supporting Evidence
90	The APPS Enforcement Section conducts "APPS investigations" everyday.	Lindley Dep. (Ex. A) 168:11-12.
91	The APPS investigation process generally starts with a Special Agent Supervisor instructing a Criminal Investigation Specialist about a specific person or classification of persons to be "pulled" off of the APPS List for additional scrutiny.	Lindley Dep. (Ex. A) 155:17-157:23.
92	For each person of interest, the Criminal Intelligence Specialist will "pull" the relevant information from the APPS List and prepare a research "package" that will contain all of the pertinent information for APPS Enforcement Team Agents to safely locate the geographic whereabouts of a person on the APPS List.	Lindley Dep. (Ex. A) 79:17-20.
93	Once an APPS agent receives a package, the agent does investigatory work prior to attempting contact with an APPS List target.	Lindley Dep. (Ex. A) 78:22-24.
94	Sometimes APPS agents will have to conduct further research beyond what is in the package.	Lindley Dep. (Ex. A) 158:22-159:1.
95	Sometimes APPS agents will go into the field to conduct further research on an APPS package.	Lindley Dep. (Ex. A) 161:18-162:5.
96	Occasionally, an APPS agent or multiple agents will do an "address check" and travel to the APPS List target's believed place of residence to determine if the target is likely to be there when the APPS Enforcement Team plans to contact him or her.	Lindley Dep. (Ex. A) 161:18-162:5.
97	Only about one in five initial contact attempts of an APPS suspect is successful.	Lindley Dep. (Ex. A) 171:16-24.

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No.	Undisputed Fact	Supporting Evidence
98	Agents can drive up to 50-100 miles in pursuing a contact.	Lindley Dep. (Ex. A) 171:2-14.
99	APPS Enforcement Teams attempt to make contact with APPS List targets at "all hours of the day and night" depending on what the agents believe will provide "the best chance to [] make contact with the offender."	Lindley Dep. (Ex. A) 164:15-165:23
100	"Sometimes [agents] are working on APPS enforcement from nine o'clock in the morning to 12 o'clock at night."	Lindley Dep. (Ex. A) 167:17-23.
101	APPS contacts are often performed by a group of several agents.	Lindley Dep. (Ex. A) 43:19-44:7; Michael B. Marois, <i>California Seizes Guns as Owners Lose Right to Keep Arms</i> , BLOOMBERG, http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html (last visited Jan. 17, 2015) (Ex. CC).
102	APPS agents generally wear bulletproof vests and carry firearms and Tasers.	Lindley Dep. (Ex. A) 174:1-11.
103	APPS Enforcement Team agents have substantial discretion in how they perform contacts with the public.	Lindley Dep. (Ex. A) 177:9-178:6.
104	Just because a person is on the APPS List does not create probable cause for APPS Enforcement Team agents to arrest that person or enter that person's home.	Michael B. Marois, <i>California Seizes Guns as Owners Lose Right to Keep Arms</i> , BLOOMBERG, http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html (last visited Jan. 17, 2015) (Ex. CC); California Department of Justice Client Services Program, <i>California Law Enforcement Telecommunications System (CLETS) Less Than Full Access Operator Workbook</i> 15 (July 2011) (Ex. DD).

No.	Undisputed Fact	Supporting Evidence
105	Without a warrant, APPS Enforcement Team agents must use persuasion to obtain probable cause or consent for a search.	California Constitution, art. 1, § 13; <i>People v. Celis</i> , 33 Cal. 667, 676 (2004); Michael B. Marois, <i>California Seizes Guns as Owners Lose Right to Keep Arms</i> , BLOOMBERG, http://www.bloomberg.com/news/2013-03-12/california-seizes-guns-as-owners-lose-right-to-bear-arms.html (last visited Jan. 17, 2015) (Ex. CC).
106	If an APPS investigation results in the identification of a firearm in the possession of a prohibited person, that firearm will be confiscated.	Lindley Dep. (Ex. A)174:21-175:12.
107	During an investigation, APPS Enforcement team agents can confiscate firearms specifically identified on the APPS List and firearms that are not.	Defs.' Resp. to Pls.' Reqs. for Admis. (Ex. P), Am. Resp. No. 7; Lindley Dep. (Ex. A) 178:7-18.
108	Agents performing APPS investigations have discretion whether an APPS-based firearm confiscation will result in a referral to a local district attorney for prosecution, arrest, or no further law enforcement action.	Lindley Dep. (Ex. A) 174:21-177:4; Defs.' Resp. to Pls.' Reqs. for Admis., (Ex. P), Am. Resp. No. Nos. 38, 39.
109	When a firearm is obtained by an APPS Enforcement Team agent during a contact, an "investigative report" is made.	Lindley Dep. (Ex. A) 182:3-13.
110	Any firearm seized by APPS agents is booked into an evidence storage facility by a Department Property Controller.	Lindley Dep. (Ex. A)182:3-13.
111	The APPS Enforcement Team agent may take the APPS suspect from whom they seized the firearms to the county jail.	Lindley Dep. (Ex. A) 175:21-25.
112	APPS Enforcement Team agents are responsible for presenting cases to district attorneys, helping to prepare cases, and testifying in court against APPS suspects.	Lindley Dep. (Ex. A) 166:25-167:14.

No.	Undisputed Fact	Supporting Evidence
113	APPS Enforcement Teams performed 4,156 APPS investigations in 2013. It performed 2,148 APPS investigations in 2012. And it performed 1,1692 APPS investigations in 2011.	Defendants' Response to Plaintiffs' Requests for Admissions (Ex. H) Response No. 4, <i>Gentry v. Harris</i> , No. 34-2013-80001667; Defendants' Responses to Plaintiffs' Requests for Production of Documents, Set 1 (Ex. EE) Resp. No. 11, <i>Gentry v. Harris</i> , No. 34-2013-80001667.
114	APPS Enforcement Teams seized 3,548 firearms in 2013, APPS Enforcement Teams seized 1,963 firearms in 2012. APPS Enforcement Teams seized 1,928 firearms in 2011.	Defendants' Responses to Plaintiffs' Requests for Production of Documents, Set 1 (Ex. EE) Response No. 11, <i>Gentry v. Harris</i> , No. 34-2013-80001667.
115	Some of the APPS investigations that resulted in the APPS Enforcement Teams seizing firearms involved the seizure of multiple firearms from a single individual.	Press Release, Cal. Dept. Of Justice, <i>Attorney General Kamala D. Harris Announces Seizures of Unregistered Assault Weapons from Convicted Felon</i> (June 27, 2013) (Ex. FF).
116	Between the years 1998 and 2000, there were on average approximately 6,000 arrests and 2,500 convictions a year in California for prohibited firearm possession.	Criminal Justice Statistics Center, <i>Special Report to the Legislature on Senate Bill 1608</i> , DEP'T OF JUSTICE 4 (July 2002) (Ex. GG)
117	The 2012 Senate Bill Number 819's legislative history states the percentage of APPS investigations which involve the seizure of firearms is 40%.	Hearing on S.B. 819 Before S. Comm. on Pub. Safety, 2011-2012 Leg., Reg. Sess. 11-12 (Cal. Apr. 26, 2011) (Argument in Support by The California Chapters of the Brady Campaign to Prevent Gun Violence) (Ex. R).
118	Monies received by the Bureau of Firearms from the DROS Special Account are the primary or exclusive funding source for the costs of employing the members of the APPS Unit and Enforcement Section.	Lindley Dep. (Ex. A)115:3-11; Defs.' Resp. to Pls.' Reqs. for Admis. (Ex. P), Am. Rsp. Nos. 17-18, 35; Defs.' Resp. to Pls. Req. for Prod. Docs., Set 1 (Ex. C), AG-00126.
119	The Department of Justice has approximately 70-75 employees who work primarily on APPS.	Lindley Dep. (Ex. A) 68:21-23.
120	The salaries for the approximate 70-75 employees who work primarily on APPS is paid for through the DROS Special Account.	Lindley Dep. (Ex. A) 66:23-72:10.

No.	Undisputed Fact	Supporting Evidence
121	The Department of Justice spent an estimated \$3.9 million of DROS Fee revenues between 2012 and 2013 on salaries for employees who work primarily on APPS.	Dep't of Finance, <i>Salaries & Wages - Legislative, Judicial and Executive</i> , STATE OF CALIFORNIA, http://www.dof.ca.gov/budget/historical/2013-14/salaries_and_wages/documents/0010.pdf at 91-92 (last visited Jan. 17, 2015) (Ex. HH); Lindley Dep. (Ex. A) 72:10-85:19.
122	Employees whose work is not primarily on APPS still receive salaries and benefits that is supported in part by APPS.	Lindley Dep. (Ex. A) 64:2-21.
123	The Department of Justice pays for APPS agents to receive "a litany of training."	Lindley Dep. (Ex. A) 95:21-25; 185:7-11.
124	The Department of Justice pays part-time-employees to train APPS agents with firearms, less lethal tactics, and defensive tactics.	Lindley Dep. (Ex. A) 85:1-13.
125	The Department of Justice pays APPS employees to train others, including local law enforcement and mental health facilities, on aspects of APPS.	Lindley Dep. (Ex. A) 76:16-25.
126	The Department of Justice pays for, among other expenses, gas, vehicles, equipment, uniforms, guns, and ammunition for APPS agents.	Lindley Dep. (Ex. A) 95:21-25.
127	Because APPS field work often occurs after regular hours or for extended hours, APPS agents often receive overtime pay.	Lindley Dep. (Ex. A) 85:15-19, 89:10-18, 166:3-5, 167:3-14; Additional Responses to Request for Production of Documents, Set One. (Ex. JJ) AGRFP000020, <i>Gentry v. Harris</i> , No. 34-2013-80001667.
128	APPS agents are reimbursed for expenses they incur in the field, such as hotels and meals.	Lindley Dep. (Ex. A) 89:4-18.
129	For the fiscal year 2012-2013 the Department spent approximately \$6.607 million of monies from the DROS Special Account on APPS.	Defendants' Responses to Requests for Admissions, Set One (Ex. H) Response No. 9, <i>Gentry v. Harris</i> , No. 34-201s3-80001667.

No.	Undisputed Fact	Supporting Evidence
130	Senate Bill 819 allowed the monies to be spent on law enforcement activities concerning the "possession" of firearms.	S.B. 819, 2011-2012 Leg., Reg. Sess. (Cal. 2011) (Ex. Q).
131	As a direct result of Senate Bill 819's passage, the Department significantly increased its hiring for and expenditures on APPS programs.	Lindley Dep. (Ex. A) 32:11-18, 97:20-99:17, 105:20-24, 183:21-184:1.
132	In 2013, the California Legislature authorized the Department to spend \$25 million from the DROS Special Account for APPS activities.	S.B. 140, 2013 Leg., Reg. Sess. (Cal. 2013).
133	Individual Plaintiffs Bauer and Hacker, and those persons represented by organizational Plaintiffs NRA and CRPA Foundation, have each been required by law to pay, have in fact paid prior to 2012, and expect to pay in the future the DROS Fee as currently required by California law before taking possession of firearms purchased from an FFL or transferred through an FFL as a private party transfer.	Decl. of Barry Bauer, ¶¶ 2-3; Decl. of Stephen Warkentin ¶¶ 2-3; Decl. of Jeffrey Hacker, ¶¶ 2-3.
134	Some members of organizational Plaintiffs NRA and CRPA Foundation have purchased and paid the DROS Fee on only non-"assault weapon" long-guns prior to 2014, because they have not made any other firearm purchases requiring payment of the DROS Fee.	Decl. of Christopher Cox, ¶ 7; Decl. of Steve Dember, ¶ 7.
135	Defendant Lindley is officially responsible, at least in part, for the Bureau's customs, practices, and policies at issue in this lawsuit.	Lindley Dep. (Ex. A) 29:24-31:22.
136	Defendant Attorney General Harris is officially responsible for the Bureau's customs, practices, and policies at issue in this lawsuit.	Lindley Dep. (Ex. A) 31:2-11.

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Dated: January 20, 2015

Michel & Associates, P.C.

/s/ C. D. Michel
C. D. Michel
Counsel for the Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

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**BARRY BAUER; STEPHEN WARKENTIN;
NICOLE FERRY; JEFFREY HACKER;
NATIONAL RIFLE ASSOCIATION OF
AMERICA, INC.; CRPA FOUNDATION;
HERB BAUER SPORTING GOODS, INC.;**

**CASE NO. CV 11-01440 LJO-MJS
CERTIFICATE OF SERVICE**

Plaintiffs,

vs.

**KAMALA D. HARRIS, in her official
capacity as Attorney General for the State of
California; STEPHEN LINDLEY, in his
official capacity as Acting Chief for the
California Department of Justice; and DOES
1 - 10;**

Defendants.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and at least eighteen years of age. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

**PLAINTIFFS' STATEMENT OF UNDISPUTED FACTS
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

on the following party by electronically filing the foregoing with the Clerk of the District court using its ECF System, which electronically notifies them.

Anthony R. Hakl, Deputy Attorney General
Office of the Attorney General
1300 I. Street, Suite 125
Sacramento, CA 94244

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2015.

Michel & Associates, P.C.

/s/ C.D. Michel
C.D. Michel
Counsel for Plaintiffs

TAB 10

Case 1:11-cv-01440-LJO-MJS Document 51-3 Filed 01/20/15 Page 1 of 4

1 KAMALA D. HARRIS
 Attorney General of California
 2 STEPAN A. HAYTAYAN
 Supervising Deputy Attorney General
 3 ANTHONY R. HAKL, State Bar No. 197335
 Deputy Attorney General
 4 1300 I Street, Suite 125
 P.O. Box 944255
 5 Sacramento, CA 94244-2550
 Telephone: (916) 322-9041
 6 Fax: (916) 324-8835
 E-mail: Anthony.Hakl@doj.ca.gov
 7 *Attorneys for Defendants*

8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
 11

12 **BARRY BAUER, STEPHEN**
 13 **WARKENTIN, NICOLE FERRY,**
 14 **LELAND ADLEY, JEFFREY HACKER,**
 15 **NATIONAL RIFLE ASSOCIATION OF**
 16 **AMERICA, INC., CALIFORNIA RIFLE**
PISTOL ASSOCIATION FOUNDATION,
HERB BAUER SPORTING GOODS, INC.,

Plaintiffs,

v.

17
 18
 19 **KAMALA HARRIS, in Her Official**
Capacity as Attorney General For the State
 20 **of California; STEPHEN LINDLEY, in His**
 21 **Official Capacity as Acting chief for the**
California Department of Justice, and
 22 **DOES 1-10,**

Defendants.

1:11-cv-01440-LJO-MJS

DECLARATION OF STEPHEN
LINDLEY IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE SUMMARY
ADJUDICATION

Date:
 Time:
 Dept.: 4, 7th Floor
 Judge: Hon. Lawrence J. O'Neill
 Trial Date: March 24, 2015
 Action Filed: August 25, 2011

DECLARATION OF STEPHEN LINDLEY

1
2 1. I, STEPHEN LINDLEY, declare that I am the Chief of the Bureau of Firearms within
3 the Division of Law Enforcement, Department of Justice. I have held this position since
4 December 30, 2009, but have been employed by the Department since February 19, 2001. As the
5 Chief, my responsibilities include, but are not limited to, supervising and directing Bureau staff
6 who administer the “Armed Prohibited Persons System” program in California. I am familiar
7 with and understand the statutes and regulations that concern the APPS program. My
8 responsibilities also include overseeing the staff who process Dealer’s Record of Sale (DROS)
9 transactions – the process under which a majority of firearms purchases and transfers, including
10 private party transactions and sales at gun shows, are conducted in California.

11 2. I have personal knowledge of the contents of this declaration and could truthfully and
12 competently testify to the contents.

13 3. DOJ’s Bureau of Firearms currently has 58 peace officers who are dedicated to APPS
14 enforcement. In the past three years, these agents have conducted approximately 13,877 APPS
15 cases.

16 4. As of January 15, 2015, there are 17,791 active individuals identified on the APPS
17 list as currently armed and prohibited in California. A total of 34,689 handguns and 1,441 assault
18 weapons are associated with these individuals.

19 5. As of January 15, 2014, there were 19,813 active individuals identified on the APPS
20 list as currently armed and prohibited in California. A total of 38,711 handguns and 1,642 assault
21 weapons were associated with these individuals.

22 6. As of January 15, 2013, there were 19,813 active individuals identified on the APPS
23 list as currently armed and prohibited in California. A total of 38,711 handguns and 1,642 assault
24 weapons were associated with these individuals.

25 7. As of January 15, 2012, there were 18,992 active individuals identified on the APPS
26 list as currently armed and prohibited in California. A total of 36,287 handguns and 1,618 assault
27 weapons were associated with these individuals.

Case 1:11-cv-01440-LJO-MJS Document 51-3 Filed 01/20/15 Page 3 of 4

1 8. As of January 15, 2011, there were 18,266 active individuals identified on the APPS
2 list as currently armed and prohibited in California. A total of 33,652 handguns and 1,592 assault
3 weapons were associated with these individuals.

4 9. In subparagraphs (a) through (g) below are the statistics related to the number of
5 individuals investigated by the APPS program and total number of firearms seized, sorted by
6 calendar year for the years 2008 through 2014.

7 a. January 1, 2008 through December 31, 2008
8 Total subjects investigated - 995
9 Total firearms seized - 1,866

10 b. January 1, 2009 through December 31, 2009
11 Total subjects investigated - 1,602
12 Total firearms seized - 2,049

13 c. January 1, 2010 through December 31, 2010
14 Total subjects investigated - 1,717
15 Total firearms seized - 1,224

16 d. January 1, 2011 through December 31, 2011
17 Total subjects investigated - 1,692
18 Total firearms seized - 1,928

19 e. January 1, 2012 through December 31, 2012
20 Total subjects investigated - 2,148
21 Total firearms seized - 1,963

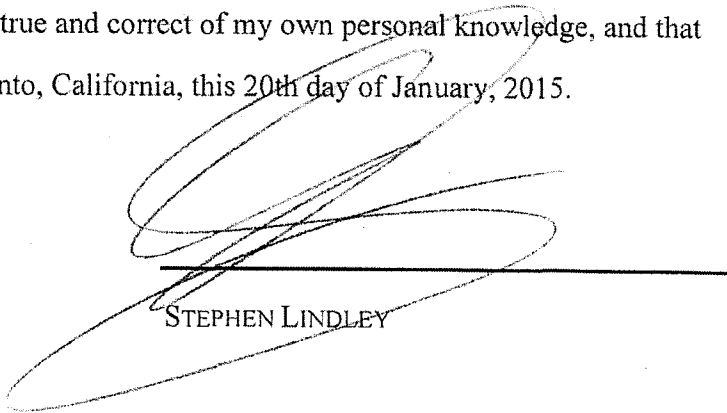
22 f. January 1, 2013 through December 31, 2013
23 Total subjects investigated - 4,156
24 Total firearms seized - 3,548

25 g. January 1, 2014 through December 31, 2014
26 Total subjects investigated - 7,573
27 Total firearms seized - 3,286
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Case 1:11-cv-01440-LJO-MJS Document 51-3 Filed 01/20/15 Page 4 of 4

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I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct of my own personal knowledge, and that this declaration is executed in Sacramento, California, this 20th day of January, 2015.



STEPHEN LINDLEY

SA2011102315
11688357

TAB 11

Case 1:11-cv-01440-LJO-MJS Document 39 Filed 08/07/13 Page 1 of 6

1 KAMALA D. HARRIS
 Attorney General of California
 2 PETER K. SOUTHWORTH
 Supervising Deputy Attorney General
 3 ANTHONY R. HAKL, State Bar No. 197335
 Deputy Attorney General
 4 1300 I Street, Suite 125
 P.O. Box 944255
 5 Sacramento, CA 94244-2550
 Telephone: (916) 322-9041
 6 Fax: (916) 324-8835
 E-mail: Anthony.Hakl@doj.ca.gov
 7 *Attorneys for Defendants*

8
 9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA
 12

13 **BARRY BAUER, STEPHEN**
WARKENTIN, NICOLE FERRY,
 14 **LELAND ADLEY, JEFFREY HACKER,**
NATIONAL RIFLE ASSOCIATION OF
 15 **AMERICA, INC., CALIFORNIA RIFLE**
PISTOL ASSOCIATION FOUNDATION,
 16 **HERB BAUER SPORTING GOODS, INC.,**

Case No. 1:11-cv-1440-LJO-MJS
DEFENDANTS' ANSWER TO SECOND
AMENDED COMPLAINT

Judge: Hon. Lawrence J. O'Neill
 Trial Date: None
 Action Filed: August 25, 2011

17 Plaintiffs,

18 v.

19
 20 **KAMALA HARRIS, in Her Official**
Capacity as Attorney General For the State
 21 **of California; STEPHEN LINDLEY, in His**
Official Capacity as Acting Chief for the
 22 **California Department of Justice, and**
DOES 1-10,

23 Defendants.

24
 25 Defendants Attorney General Kamala D. Harris and Bureau of Firearms Chief Stephen
 26 Lindley answer Plaintiffs' Second Amended Complaint for Declaratory and Injunctive Relief as
 27 follows:
 28

ANSWER TO PLAINTIFFS' INTRODUCTION

1
2 1. Answering paragraphs 1 through 12 of the second amended complaint, Defendants state
3 that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the law,
4 particularly the Second Amendment to the United States Constitution and California Penal Code,
5 as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and the
6 legal authorities addressing those provisions speak for themselves, no response to the legal and
7 policy arguments in paragraphs 1 through 12 is required. To the extent those paragraphs contain
8 any material allegations of fact, Defendants deny the allegations.

9 **ANSWER TO PLAINTIFFS' ALLEGATIONS OF JURISDICTION AND VENUE**

10 2. Answering paragraphs 13 through 15 of the second amended complaint, Defendants aver
11 that the allegations are conclusions of law to which no response is required. To the extent that a
12 response is required, Defendants deny each and every allegation.

13 **ANSWER TO PLAINTIFFS' DESCRIPTION OF PARTIES**

14 3. Answering paragraphs 16 through 25 of the second amended complaint, Defendants lack
15 sufficient information or knowledge to form a belief about the truth of each and every allegation
16 of those paragraphs and deny them on that basis.

17 4. Answering paragraphs 26 through 30 of the second amended complaint, Defendants
18 admit that Defendant Harris is the Attorney General of California and Defendant Lindley is the
19 Chief of the California Department of Justice Bureau of Firearms. As such, Defendants are
20 responsible for enforcing the law. To the extent paragraphs 26 through 30 contain any other
21 material allegations of fact, Defendants deny the allegations.

22 **ANSWER TO PLAINTIFFS' OVERVIEW OF REGULATORY SCHEME**

23 5. Answering paragraphs 31 through 43 of the second amended complaint, Defendants
24 state that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the
25 law, particularly the Second Amendment to the United States Constitution and California Penal
26 Code, as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and
27 the legal authorities addressing those provisions speak for themselves, no response to the legal
28

1 and policy arguments in paragraphs 31 through 43 is required. To the extent those paragraphs
2 contain any material allegations of fact, Defendants deny the allegations.

3 **ANSWER TO PLAINTIFFS' GENERAL ALLEGATIONS**

4 6. Answering paragraph 44 of the second amended complaint, Defendants incorporate by
5 reference their responses to paragraphs 1 through 43 of the second amended complaint to the
6 same extent Plaintiffs have incorporated the allegations of those paragraphs.

7 7. Answering paragraph 45 of the second amended complaint, Defendants lack sufficient
8 information or knowledge to form a belief about the truth of each and every allegation of the
9 paragraph and deny them on that basis.

10 8. Answering paragraphs 46 through 51 of the second amended complaint, Defendants
11 state that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the
12 law, particularly the Second Amendment to the United States Constitution and California Penal
13 Code, as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and
14 the legal authorities addressing those provisions speak for themselves, no response to the legal
15 and policy arguments in paragraphs 46 through 51 is required. To the extent those paragraphs
16 contain any material allegations of fact, Defendants deny the allegations.

17 **ANSWER TO PLAINTIFFS' DECLARATORY JUDGMENT ALLEGATIONS**

18 9. Answering paragraph 52 of the second amended complaint, Defendants incorporate by
19 reference their responses to paragraphs 1 through 51 of the second amended complaint to the
20 same extent Plaintiffs have incorporated the allegations of those paragraphs.

21 10. Answering paragraphs 53 through 55 of the second amended complaint, Defendants
22 state that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the
23 law, particularly the Second Amendment to the United States Constitution and California Penal
24 Code, as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and
25 the legal authorities addressing those provisions speak for themselves, no response to the legal
26 and policy arguments in paragraphs 53 through 55 is required. To the extent those paragraphs
27 contain any material allegations of fact, Defendants deny the allegations.

28

ANSWER TO PLAINTIFFS' INJUNCTIVE RELIEF ALLEGATIONS

11. Answering paragraph 56 of the second amended complaint, Defendants incorporate by reference their responses to paragraphs 1 through 55 of the second amended complaint to the same extent Plaintiffs have incorporated the allegations of those paragraphs.

12. Answering paragraphs 57 through 61 of the second amended complaint, Defendants state that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the law, particularly the Second Amendment to the United States Constitution and California Penal Code, as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and the legal authorities addressing those provisions speak for themselves, no response to the legal and policy arguments in paragraphs 57 through 61 is required. To the extent those paragraphs contain any material allegations of fact, Defendants deny the allegations.

ANSWER TO PLAINTIFFS' SINGLE CLAIM FOR RELIEF

13. Answering paragraph 62 of the second amended complaint, Defendants incorporate by reference their responses to paragraphs 1 through 61 of the second amended complaint to the same extent Plaintiffs have incorporated the allegations of those paragraphs.

14. Answering paragraphs 63 through 65 of the second amended complaint, Defendants state that the matters asserted in those paragraphs constitute Plaintiffs' arguments regarding the law, particularly the Second Amendment to the United States Constitution and California Penal Code, as opposed to allegations of fact. Because the Second Amendment, state Penal Code, and the legal authorities addressing those provisions speak for themselves, no response to the legal and policy arguments in paragraphs 63 through 65 is required. To the extent those paragraphs contain any material allegations of fact, Defendants deny the allegations.

FIRST AFFIRMATIVE DEFENSE

The second amended complaint, and each claim for relief therein, fails to state facts sufficient to constitute a cause of action.

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SECOND AFFIRMATIVE DEFENSE

Defendants deny that they have subjected Plaintiffs to the deprivation of any rights, privileges or immunities secured by the Constitution or laws of the United States or the State of California.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims in this action are barred in that they do not have standing to assert them.

FOURTH AFFIRMATIVE DEFENSE

There is no case or controversy in this action as required by Article III of the United States Constitution.

FIFTH AFFIRMATIVE DEFENSE

Defendants affirmatively state that any actions they have taken with respect to Plaintiffs have been in good faith, have been reasonable and prudent, and have been consistent with all applicable legal and constitutional standards.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims in this action are barred by the equitable doctrines of waiver, laches, unclean hands, and estoppel.

SEVENTH AFFIRMATIVE DEFENSE

The Eleventh Amendment bars part or all of the relief requested by Plaintiffs.

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PRAYER FOR RELIEF

Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by way of their second amended complaint;
2. That the Court enter judgment in favor of Defendants and against Plaintiffs on all claims and causes of action alleged in the second amended complaint;
3. For costs incurred in the defense of this action; and
4. For such other and further relief as the Court may deem proper.

Dated: August 7, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
PETER K. SOUTHWORTH
Supervising Deputy Attorney General

/s/ ANTHONY R. HAKL

ANTHONY R. HAKL
Deputy Attorney General
Attorneys for Defendants

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CERTIFICATE OF SERVICE

Case Name: **Barry Bauer, et al. v. Kamala** No. **1:11-cv-1440-LJO-MJS**
Harris, et al.

I hereby certify that on August 7, 2013, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANTS' ANSWER TO SECOND AMENDED COMPLAINT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 7, 2013, at Sacramento, California.

Brenda Apodaca
Declarant

/s/ Brenda Apodaca
Signature

11146911.doc

TAB 12

1 C. D. Michel - S.B.N. 144258
 Sean A. Brady - S.B.N. 262007
 2 MICHEL & ASSOCIATES, P.C.
 180 E. Ocean Boulevard, Suite 200
 3 Long Beach, CA 90802
 Telephone: 562-216-4444
 4 Facsimile: 562-216-4445
 Email: cmichel@michellawyers.com

5
6 Attorneys for Plaintiffs

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 8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
 10 **FRESNO BRANCH COURTHOUSE**

11 BARRY BAUER, STEPHEN) CASE NO. 1:11-cv-01440-LJO-MJS
 WARKENTIN, NICOLE FERRY,)
 12 JEFFREY HACKER, NATIONAL)
 RIFLE ASSOCIATION OF) **SECOND AMENDED COMPLAINT**
 13 AMERICA, INC., CRPA) **FOR DECLARATORY AND**
 FOUNDATION, HERB BAUER) **INJUNCTIVE RELIEF**
 14 SPORTING GOODS, INC.)
) **42 U.S.C. sections 1983, 1988**
 15 Plaintiffs)

16 vs.
 17 KAMALA HARRIS, in Her Official
 Capacity as Attorney General For the
 State of California; STEPHEN
 18 LINDLEY, in His Official Capacity
 as Acting Chief for the California
 19 Department of Justice, and DOES 1-
 10.
 20 Defendants.
 21

22
 23
 24 PLAINTIFFS, by and through their undersigned attorneys, bring this
 25 Complaint for Declaratory and Injunctive Relief against the above-named
 26 Defendants, their employees, agents, and successors in office (collectively
 27 "DEFENDANTS"), and in support thereof allege the following:
 28

INTRODUCTION

1
2 1. This case involves an important constitutional principle, that while the
3 government may impose fees on individuals seeking to engage in certain
4 constitutionally protected activities, the monies generated by such fees cannot be
5 used to finance state activities not reasonably related to regulating the fee payer’s
6 impact on the state.

7 2. Vindication of this principle requires that DEFENDANTS be enjoined
8 from using monies generated by a fee, payment of which is required to obtain a
9 firearm in California, for the purpose of funding general law enforcement activities
10 associated with the California Department of Justices’ (“DOJ”) Armed Prohibited
11 Persons System (“APPS”) program. For, such activities share no reasonable nexus
12 with regulating lawful firearm purchases and, thus, forcing fee payers like
13 PLAINTIFFS to subsidize them is an unlawful infringement on the Second
14 Amendment right to lawfully obtain a firearm.

15 3. When a person wishes to obtain a firearm in California, state law generally
16 requires the person to obtain the firearm through a federally licensed California
17 firearm vendor (commonly known as an “FFL”).

18 4. In doing so, the would-be purchaser¹ must, among other things, fill out a
19 Dealer’s Record of Sale form (“DROS”), the information from which is used by
20 DEFENDANTS² to conduct a background check and confirm the would-be
21 purchaser may lawfully receive firearms before he or she can take possession of
22 any firearm. In the case of a handgun, the information is also used to register the
23

24 ¹ These fees apply even if a firearm is not being purchased but gifted or
25 traded as well. But for simplicity sake “purchase” will be used throughout this
26 Complaint to include all such activities unless specifically stated otherwise.

27 ² DEFENDANTS are being sued in their official capacity as heads of the
28 California Department of Justice, which entity is authorized by the Legislature to
expend the monies at issue in this action.

1 handgun to the purchaser in DEFENDANTS' Automated Firearm System ("AFS").

2 5. DEFENDANTS have statutory discretion to charge firearm purchasers a
3 mandatory fee for processing each DROS for every firearm transaction (a "DROS
4 Fee"), which is collected from the firearm recipient through the FFL at the time of
5 initiating the firearm's transfer.

6 6. The monies that are collected by DEFENDANTS from the DROS Fee are
7 placed in a special account separate from the general fund, from which the
8 Legislature may appropriate monies to the DEFENDANTS for statutorily
9 prescribed purposes.

10 7. Originally, monies from the DROS Fee were intended to cover only DOJ's
11 costs of processing a DROS, conducting a background check, and, in the case of a
12 handgun, registration. But the activities for which DROS Fee funds are used have
13 been ever-expanding for years, going far beyond funding these basic regulatory
14 functions of the DOJ.

15 8. PLAINTIFFS bring this suit to challenge the constitutionality of
16 DEFENDANTS' use of the revenues generated from the DROS Fee for general law
17 enforcement activities which have no relation to fee payers; specifically, activities
18 associated with the DOJ's Armed Prohibited Persons System program provided for
19 by California Penal Code section 28225(b)(11) [12076(e)(10)].³

20 9. That section was recently amended to add mere *possession* of firearms to
21 the list of activities for which DEFENDANTS could use DROS Fee revenues,⁴

22

23

24 ³ Pursuant to the Legislature's enactment of Assembly Concurrent
25 Resolution 73 (McCarthy) 2006, which authorized a Non-Substantive
26 Reorganization of California's Deadly Weapons Statutes, various California Penal
27 Code sections were renumbered, effective January 1, 2012. For convenience and
28 ease of reference, the corresponding previous code section for each referenced
Penal Code section is provided in brackets.

28

⁴ See S.B. 819, 2011 Reg. Sess. (Ca. 2011).

1 thereby allowing the State to force *lawful* firearm *purchasers* to finance any law
2 enforcement operation concerning *unlawful* firearm *possession*. And that it has
3 done.

4 10. Governor Brown recently signed into law Senate Bill 140 (“SB 140”),
5 appropriating \$25 million dollars of the DROS Special Account’s surplus – a
6 surplus that was not supposed to exist in the first place⁵ – solely to fund activities
7 associated with the APPS program, which seeks to investigate individuals
8 suspected of possessing firearms unlawfully and to remove the firearms from their
9 possession.

10 11. Law-abiding firearm purchasers like PLAINTIFFS are thus not just being
11 required to internalize the full social costs of their choice to exercise their
12 fundamental Second Amendment rights, but also those costs of choices *made by*
13 *others* to *criminally* use firearms – much as if, for instance, those exercising their
14 fundamental right to marry were forced to fund enforcement of domestic violence
15 restraining orders with their marriage license fees because some spouses become
16 subject to one, or, as if the license fees from those who exercise their fundamental
17 right to assemble in a public forum were taken to fund counter-gang measures
18

19 ⁵ California law requires that the DROS fee “shall be no more than is
20 necessary to fund” certain activities provided by statute (Penal Code section
21 28225(b)(1)-(11) [12076(e)(1)-(10)]), and constitutional principles prohibit
22 excessive fees on constitutionally protected conduct. *Murdock v. Pennsylvania*,
23 319 U.S. 105, 112-14 (1943). Arguably, the large surplus, here, is evidence
24 suggesting the current DROS fee is excessive, in violation of state and federal law.
25 Plaintiffs in this case, however, do not ask the Court to resolve that argument. The
26 passage of SB140 has made the *expenditure* of the existing \$25 million dollar
27 surplus the more immediate concern. Moreover, whether the DROS fee is
28 excessive depends, in part, on first determining what activities may be considered
to fall within the scope of the DROS program and thus properly funded thereby.
This case seeks a declaration that SB140 improperly authorizes expenditures on
APPS activities that do *not* fall within that scope, along with injunctive relief
preventing such expenditures.

1 simply because they relate to gatherings of people, or, as if those who exercise their
2 fundamental right to vote were forced to fund voter fraud enforcement actions via a
3 poll tax.

4 12. Because DEFENDANTS' use of DROS Fee revenues on purposes
5 unrelated to the fee payer affects constitutionally protected activity, irreparable
6 harm is presumed. Accordingly, PLAINTIFFS seek from this Court a declaration
7 that DEFENDANTS' use of revenues generated from the DROS Fee to fund
8 general law enforcement activities associated with the DOJ's APPS program is
9 unconstitutional, because the criminal misuse of firearms is not sufficiently related
10 to the fee payers' activities, i.e., lawful firearm transactions. And, as such, an
11 injunction prohibiting DEFENDANTS from using those revenues on such
12 activities should issue.

13 JURISDICTION and VENUE

14 13. Jurisdiction of this action is founded on 28 U.S.C. §§ 1331 and 1343, in
15 that this action arises under the Constitution and laws of the United States, and
16 under 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983, in that this action seeks to
17 redress the deprivation, under color of the laws, statutes, ordinances, regulations,
18 customs, and usages of the State of California and political subdivisions thereof, of
19 rights, privileges, or immunities secured by the United States Constitution and by
20 Acts of Congress.

21 14. PLAINTIFFS' claims for declaratory and injunctive relief are authorized
22 by 28 U.S.C. §§ 2201 and 2202.

23 15. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2)
24 because a substantial part of the events or omissions giving rise to the claims
25 occurred in this district.

26 PARTIES

27 I. Plaintiffs

28 16. Plaintiff BARRY BAUER is a resident, property owner, and taxpayer of

1 Fresno, California. Within the last five years, Plaintiff BAUER has lawfully
2 purchased firearms from an FFL, for which he has had to pay the DROS Fee.
3 Plaintiff BAUER intends to continue to purchase firearms through an FFL in the
4 future.

5 17. Plaintiffs STEPHEN WARKENTIN and JEFFREY HACKER are
6 residents, property owners, and taxpayers of Fresno, California. Within the last five
7 years, each has purchased multiple firearms from both an FFL and a private party,
8 through an FFL as required by California Penal Code § 26500 [12070]. Plaintiffs
9 WARKENTIN and HACKER intend to continue their pattern of regularly
10 purchasing firearms through an FFL in the future.

11 18. For each of their transactions, Plaintiffs WARKENTIN and HACKER
12 have paid the DROS Fee. Plaintiffs WARKENTIN and HACKER have had to pay
13 the DROS Fee multiple times in the same year, and, in some cases, the same
14 month.

15 19. Plaintiff NICOLE FERRY is a resident of Fresno, California. Within the
16 last five years, Plaintiff FERRY has purchased handguns from an FFL for
17 self-defense and target practice. For each of her transactions, Plaintiff FERRY has
18 paid the DROS Fee. Plaintiff FERRY intends to purchase firearms through an FFL
19 in the future.

20 20. Plaintiff NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.
21 (hereafter "NRA") is a non-profit entity classified under section 501(c)(3) of the
22 Internal Revenue Code and incorporated under the laws of New York, with its
23 principal place of business in Fairfax, Virginia. NRA has a membership of
24 approximately 4 million persons. The purposes of NRA include protection of the
25 right of law-abiding citizens to keep and bear firearms for the lawful defense of
26 their families, persons, and property, and from unlawful government regulations
27 and preconditions placed on the exercise of that right. NRA spends its resources on
28 each of those activities. NRA brings this action on behalf of itself and its hundreds

1 of thousands of members in California, including Plaintiffs BAUER,
2 WARKENTIN, and HACKER, who have been, are being, and will in the future be
3 subjected to DEFENDANTS' imposition of the DROS Fee.

4 21. Plaintiff CRPA FOUNDATION is a non-profit entity classified under
5 section 501(c)(3) of the Internal Revenue Code and incorporated under California
6 law, with headquarters in Fullerton, California. Contributions to the CRPA
7 FOUNDATION are used for the direct benefit of Californians. Funds contributed
8 to and granted by CRPA FOUNDATION benefit a wide variety of constituencies
9 throughout California, including gun collectors, hunters, target shooters, law
10 enforcement, and those who choose to own a firearm to defend themselves and
11 their families. The CRPA FOUNDATION spends its resources seeking to raise
12 awareness about unconstitutional laws, defend and expand the legal recognition of
13 the rights protected by the Second Amendment, promote firearms and hunting
14 safety, protect hunting rights, enhance marksmanship skills of those participating
15 in shooting sports, and educate the general public about firearms. The CRPA
16 FOUNDATION supports law enforcement and various charitable, educational,
17 scientific, and other firearms-related public interest activities that support and
18 defend the Second Amendment rights of all law-abiding Americans.

19 22. In this suit, the CRPA FOUNDATION represents the interests of the
20 many citizen and taxpayer members of its related association, the California Rifle
21 and Pistol Association, who reside in California and who wish to sell or purchase
22 firearms, or who have sold or purchased firearms, and have been charged the
23 DROS Fee. These members are too numerous to conveniently bring this action
24 individually. The CRPA FOUNDATION brings this action on behalf of itself and
25 its tens of thousands of supporters in California, including Plaintiff BAUER, who
26 have been, are being, and will in the future be subjected to the DROS Fee being
27 used to fund unrelated activities.

28 23. Plaintiff HERB BAUER SPORTING GOODS, INC., is a California

1 corporation with its principal place of business in the County of Fresno, California.
2 It is a licensed firearms dealer under both federal and California law (i.e., an FFL)
3 that sells a variety of firearms. California law requires Plaintiff HERB BAUER to
4 collect the DROS Fee for DOJ, at DOJ's direction, from firearm transferees.
5 Accordingly, Plaintiff HERB BAUER is injured by its being forced to facilitate
6 DEFENDANTS' unlawful use of revenues collected from the DROS Fee.

7 24. The individual PLAINTIFFS identified above are residents and taxpayers
8 of California from the City and County of Fresno who have been required to pay
9 the DROS Fee, Defendants' use of which violates PLAINTIFFS' constitutional
10 rights.

11 25. Each of the associational PLAINTIFFS identified above either has
12 individual members or supporters, or represents individual members of a related
13 organization, who are citizens and taxpayers of California, including in Fresno
14 County, who have an acute interest in purchasing firearms and do not wish to pay
15 unlawful fees, taxes, or other costs associated with that purchase and thus have
16 standing to seek declaratory and injunctive relief to halt or reduce the
17 unconstitutional use of the monies collected from the DROS Fee. The interests of
18 these members are germane to their respective associations' purposes; and neither
19 the claims asserted nor the relief requested herein requires their members
20 participate in this lawsuit individually.

21 **II. Defendants**

22 26. Defendant KAMALA HARRIS is the Attorney General of California. She
23 is the chief law enforcement officer of California, and is charged by Article V,
24 Section 13 of the California Constitution with the duty to inform the general public
25 and to supervise and instruct local prosecutors and law enforcement agencies
26 regarding the meaning of the laws of the State, including the DROS Fee, and to
27 ensure the fair, uniform and consistent enforcement of those laws throughout the
28 state. She is sued in her official capacity.

1 right to acquire firearms.

2 34. The U.S. Supreme Court has made clear that government's authority to
3 levy fees on the exercise of constitutional rights is limited. Such fees may only be
4 imposed to defray the government's expenses incurred in regulating activities
5 reasonably related to the fee payer.

6 **II. The Dealer's Record of Sale (DROS) Fee Imposed on Firearm Transfers**

7 35. California confers discretion on DOJ to impose various fees on firearm
8 purchasers, which they must pay as a prerequisite to qualify for receiving a firearm.
9 The only fee at issue in this case is the DROS Fee, the one associated with
10 processing the Dealer's Record of Sale.

11 36. California Penal Code sections 28225(a)-(c) [formerly 12076(e)], 28230
12 [12076(f)], 28235 [12076(g)], and 28240(a)-(b) [12076(i)], establish the fees
13 associated with a DROS, and govern what the funds collected therefrom can be
14 used for.

15 37. Subdivision (a) of Penal Code section 28225 [12076(e)] provides:

16 The [DOJ] may require the [FFL] to charge each firearm purchaser a
17 fee not to exceed fourteen dollars (\$14), except that the fee may be
18 increased at a rate not to exceed any increase in the California
19 Consumer Price Index as compiled and reported by the Department of
20 Industrial Relations.

21 38. The DOJ promulgated California Code of Regulations, Title 11, section
22 4001, increasing the cap on the DROS fee from \$14 to \$19 for the first handgun or
23 any number of rifles/shotguns in a single transaction, and capping the DROS fee
24 for each additional *handgun* being purchased along with the first handgun at \$15.

25 39. Subdivision (b) of Penal Code section 28225 [12076(e)] further provides
26 that "[t]he [DROS] fee shall be no more than is necessary to fund" the activities
27 enumerated at Penal Code section 28225(b)(1)-(11) [12076(e)(1)-(10)].

28 40. Penal Code section 28225(b)(11) [12076(e)(10)] purports to authorize the
DOJ to use revenues from the DROS fee to fund "the estimated reasonable costs of
[DOJ] firearms-related regulatory and enforcement activities related to the sale,

1 purchase, possession, loan, or transfer of firearms.”

2 41. Prior to January 1, 2012, section 28225(b)(11) [12076(e)(10)] did not
3 provide for expenditure of DROS fee revenues on the mere “possession” of
4 firearms. But the Legislature amended that section during the 2011 Legislative
5 session to allow for such, based on its following purported findings:

6 SECTION 1. The Legislature finds and declares all of the following:

7 (a) California is the first and only state in the nation to establish an
8 automated system for tracking handgun and assault weapon owners who
9 might fall into a prohibited status.

9 (b) The California Department of Justice (DOJ) is required to maintain
10 an online database, which is currently known as the Armed Prohibited
11 Persons System, otherwise known as APPS, which cross-references all
12 handgun and assault weapon owners across the state against criminal
13 history records to determine persons who have been, or will become,
14 prohibited from possessing a firearm subsequent to the legal acquisition
15 or registration of a firearm or assault weapon.

13 (c) The DOJ is further required to provide authorized law enforcement
14 agencies with inquiry capabilities and investigative assistance to
15 determine the prohibition status of a person of interest.

15 (d) Each day, the list of armed prohibited persons in California grows
16 by about 15 to 20 people. There are currently more than 18,000 armed
17 prohibited persons in California. Collectively, these individuals are
18 believed to be in possession of over 34,000 handguns and 1,590 assault
19 weapons. The illegal possession of these firearms presents a substantial
20 danger to public safety.

19 (e) Neither the DOJ nor local law enforcement has sufficient resources
20 to confiscate the enormous backlog of weapons, nor can they keep up
21 with the daily influx of newly prohibited persons.

21 (f) A Dealer Record of Sale fee is imposed upon every sale or transfer
22 of a firearm by a dealer in California. Existing law authorizes the DOJ to
23 utilize these funds for firearms-related regulatory and enforcement
24 activities related to the sale, purchase, loan, or transfer of firearms
25 pursuant to any provision listed in Section 16580 of the Penal Code, but
26 not expressly for the enforcement activities related to possession.

24 (g) Rather than placing an additional burden on the taxpayers of
25 California to fund enhanced enforcement of the existing armed prohibited
26 persons program, it is the intent of the Legislature in enacting this
27 measure to allow the DOJ to utilize the Dealer Record of Sale Account
28 for the additional, limited purpose of funding enforcement of the Armed
29 Prohibited Persons System.

28 42. Penal Code section 28230(a)(2) [12076(f)(1)(B)] provides for DOJ to also

1 use DROS fee revenues for “the actual processing costs associated with the
2 submission of a [DROS] to the [DOJ].”

3 43. Pursuant to statute, revenue from the DROS fee is supposed to be
4 deposited into the DROS Special Account of the General Fund (“DROS Special
5 Account”) and appropriated by the Legislature. Cal. Penal Code § 28235
6 [12076(g)].

7
8 **GENERAL ALLEGATIONS**

9 44. All of the above paragraphs are re-alleged and incorporated herein by
10 reference.

11 45. Individual PLAINTIFFS BAUER, WARKENTIN, HACKER, and
12 FERRY, and those persons represented by organizational PLAINTIFFS NRA and
13 CRPA FOUNDATION, have each been required to pay, have in fact paid, and
14 expect to pay in the future the DROS Fee as currently required by California law
15 before taking possession of firearms purchased from an FFL or transferred through
16 an FFL as a private party transfer.

17 46. The funds from the DROS Fee that PLAINTIFFS paid and expect to pay
18 in the future are purportedly deposited into the DROS Special Account and
19 ultimately surrendered to DEFENDANTS’ control pursuant to appropriation from
20 the DROS Special Account by the Legislature.

21 47. The Legislature has appropriated, and DEFENDANTS intend to spend
22 from the DROS Special Account, \$25 million to fund, at least in part, general law
23 enforcement activities associated with the APPS Program.

24 48. Because the fundamental right to possess a firearm under the Second
25 Amendment includes a corresponding right to acquire a firearm, monies collected
26 from the DROS Fee must only be used to fund activities that are reasonably related
27 to the fee payer’s impact on the state.

28 49. Simply because the crimes targeted by the APPS program involve

1 firearms does not mean they have a sufficient nexus to DROS Fee payers such that
2 its enforcement costs may constitutionally fall on the shoulders of PLAINTIFFS
3 and other lawful firearm purchasers via the DROS Fee; they do not and cannot.

4 50. DEFENDANTS cause PLAINTIFFS irreparable harm by choosing to
5 spend revenues obtained from the DROS Fee on general law enforcement
6 operations associated with the APPS program because they are requiring
7 PLAINTIFFS to uniquely subsidize government services that are not reasonably
8 related to regulating lawful firearms transactions, but are admittedly for the general
9 welfare.

10 51. The utilization of the DROS Fee by DEFENDANTS for these improper
11 purposes necessitates judicial action to halt infringements and violations of
12 PLAINTIFFS' constitutional rights.

13 **DECLARATORY JUDGMENT ALLEGATIONS**

14 52. All of the above paragraphs are re-alleged and incorporated herein by
15 reference.

16 53. There is an actual and present controversy between the parties hereto in
17 that PLAINTIFFS contend that the manner in which DOJ currently uses the
18 revenues from the DROS Fee is unconstitutional and on information and belief,
19 allege that DEFENDANTS' disagree.

20 54. PLAINTIFFS desire a judicial declaration of their rights and
21 DEFENDANTS' duties; namely, that the DOJ's expenditure of monies collected
22 from the DROS Fee on general law enforcement activities associated with the
23 APPS program infringes on PLAINTIFFS' Second Amendment rights.

24 55. To be clear, PLAINTIFFS do not ask this Court to address the legality of
25 imposing the DROS Fee in the first place nor that of the APPS System.
26 PLAINTIFFS here merely seek a declaration as to whether the monies from a fee
27 that they are required to pay before they may lawfully engage in Second
28

1 Amendment protected conduct, i.e., obtaining a firearm, can be appropriated to
2 general law enforcement purposes unrelated to regulating PLAINTIFFS' impact on
3 the state.

4 **INJUNCTIVE RELIEF ALLEGATIONS**

5 56. All of the above paragraphs are re-alleged and incorporated herein by
6 reference.

7 57. PLAINTIFFS have been, are presently, and will continue to be
8 irreparably harmed by the assessment of the DROS Fee as a precondition on the
9 exercise of PLAINTIFFS' Second Amendment rights insofar as the revenues from
10 such assessment are utilized for purposes not reasonably related to regulating fee
11 payers' activities in lawfully obtaining a firearm, i.e., general law enforcement
12 activities.

13 58. If an injunction does not issue from this Court enjoining DEFENDANTS
14 from spending DROS Fee revenues on such general law enforcement activities,
15 DEFENDANTS will continue to do so in derogation of PLAINTIFFS' Second
16 Amendment rights, thereby irreparably harming PLAINTIFFS.

17 59. PLAINTIFFS have no adequate remedy at law. Damages are
18 indeterminate or unascertainable and, in any event, would not fully redress any
19 harm suffered by PLAINTIFFS as a result of DEFENDANTS subjecting
20 PLAINTIFFS to the illegal precondition on the exercise of PLAINTIFFS'
21 constitutional right to acquire firearms, i.e., funding general law enforcement
22 activities.

23 60. Injunctive relief would eliminate PLAINTIFFS' irreparable harm and
24 allow PLAINTIFFS to acquire firearms free from the unlawful precondition
25 currently inherent in the mandatory DROS Fee, in accordance with their rights
26 under the Second and Fourteenth Amendments.

27 61. Accordingly, injunctive relief is appropriate.
28

**CLAIM FOR RELIEF:
VALIDITY OF DEFENDANTS' USE OF DROS FEE REVENUES
Violation of the Second Amendment Right to Keep and Bear Arms
(U.S. Const., Amends. II and XIV)
(By All Plaintiffs Against All Defendants)**

62. All of the above paragraphs are re-alleged and incorporated herein by reference.

63. DEFENDANTS use revenues collected from a fee, payment of which is generally required as a precondition for the lawful receipt of a firearm in California, in order to fund general law enforcement activities not reasonably related to regulating the behavior or impact on the state of the fee payers – like PLAINTIFFS. In doing so, DEFENDANTS are propagating customs, policies, and practices that infringe on PLAINTIFFS' right to acquire firearms as guaranteed by the Second and Fourteenth Amendments.

64. DEFENDANTS cannot satisfy their burden of justifying these customs, policies, and practices that infringe PLAINTIFFS' rights.

65. PLAINTIFFS are entitled to declaratory and injunctive relief against DEFENDANTS and their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, enjoining them from engaging in such customs, policies, and practices.

PRAYER

WHEREFORE PLAINTIFFS pray for relief as follows:

1) For a declaration that DEFENDANTS' enforcement of the APPS program is not sufficiently related to PLAINTIFFS' lawful firearm purchases so as to justify DEFENDANTS' using the revenues from the DROS Fee – which PLAINTIFFS must pay to obtain a firearm – for the purpose of funding the APPS program, and that such use of DROS Fee funds impermissibly infringes on PLAINTIFFS' Second Amendment rights because it improperly requires PLAINTIFFS to bear the burden of financing general law enforcement activities as a precondition to exercising those rights;

1 2) For a preliminary and permanent prohibitory injunction forbidding
2 DEFENDANTS and their agents, employees, officers, and representatives from
3 using DROS Fee revenues to fund the APPS program;

4 3) For remedies available pursuant to 42 U.S.C. § 1983 and for an award of
5 reasonable attorneys' fees, costs, and expenses pursuant to 42 U.S.C. § 1988,
6 and/or other applicable state and federal law;

7 4) For such other and further relief as may be just and proper.

8 Dated: July 24, 2013

Michel & Associates, P.C.

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/s/ C. D. Michel
C. D. Michel
Attorney for the Plaintiffs

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
3 **FRESNO BRANCH COURTHOUSE**

4 BARRY BAUER, STEPHEN) **CASE NO. 1:11-cv-01440-LJO-MJS**
5 WARKENTIN, NICOLE FERRY,))
6 LELAND ADLEY, JEFFREY) **CERTIFICATE OF SERVICE**
7 HACKER, NATIONAL RIFLE)
8 ASSOCIATION OF AMERICA,)
9 INC., CALIFORNIA RIFLE PISTOL)
10 ASSOCIATION FOUNDATION,)
11 HERB BAUER SPORTING GOODS,)
12 INC.)

9 Plaintiffs

10 vs.

10 KAMALA HARRIS, in Her Official)
11 Capacity as Attorney General For the)
12 State of California; STEPHEN)
13 LINDLEY, in His Official Capacity)
14 as Acting Chief for the California)
15 Department of Justice, and DOES 1-)
16 10.

14 Defendants.

16 IT IS HEREBY CERTIFIED THAT:

17 I, the undersigned, am a citizen of the United States and am at least eighteen
18 years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach,
California, 90802.

19 I am not a party to the above-entitled action. I have caused service of:
20 **SECOND AMENDED COMPLAINT FOR DECLARATORY**
21 **AND INJUNCTIVE RELIEF**
22 on the following party by electronically filing the foregoing with the Clerk of the
23 District Court using its ECF System, which electronically notifies them.
24 Electronically filed documents have been served conventionally by the filer to:

22 Anthony R. Hakl, Deputy Attorney General
23 California Department of Justice
24 Office of the Attorney General
25 Civil Law Division
26 Government Law Section
27 1300 I Street, Suite 125
28 Sacramento, CA 94244

26 I declare under penalty of perjury that the foregoing is true and correct.
27 Executed on July 24, 2013.

 /s/ C. D. Michel

 C. D. Michel
 Attorney for Plaintiffs

TAB 13

CIVIL, APPEAL, CLOSED

**U.S. District Court
Eastern District of California - Live System (Fresno)
CIVIL DOCKET FOR CASE #: 1:11-cv-01440-LJO-MJS**

Bauer, et al. vs. Harris, et al.
Assigned to: District Judge Lawrence J. O'Neill
Referred to: Magistrate Judge Michael J. Seng
Case in other court: USCA, 15-15428
Cause: 42:1983 Civil Rights Act

Date Filed: 08/25/2011
Date Terminated: 03/02/2015
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Barry Bauer

represented by **Carl Dawson Michel**
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
562-216-4444
Fax: 562-216-4445
Email: cmichel@michellawyers.com
ATTORNEY TO BE NOTICED

Plaintiff

Stephen Warkentin

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Nicole Ferry

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Leland Adley

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Jeffrey Hacker

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**National Rifle Association of America,
Inc.**

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**California Rifle & Pistol Association
Foundation**

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Herb Bauer Sporting Goods, Inc.

represented by **Carl Dawson Michel**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Kamala D. Harris

represented by **Susan K. Smith**
Office of the Attorney General of
California
300 South Spring Street
6th Floor, South Tower
Los Angeles, CA 90013
(213) 897-2105
Fax: (213) 897-1071
Email: susan.smith@doj.ca.gov
TERMINATED: 07/24/2012
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anthony R. Hakl, III
Attorney General's Office for the State of
California
Department of Justice
1300 I Street
P.O. Box 255200
Sacramento, CA 95814
916-322-9041
Fax: 916-324-8835
Email: anthony.hakl@doj.ca.gov
ATTORNEY TO BE NOTICED











Defendant













Stephen Lindley







represented by **Susan K. Smith**
(See above for address)
TERMINATED: 07/24/2012
LEAD ATTORNEY
ATTORNEY TO BE NOTICED












Anthony R. Hakl, III
(See above for address)
ATTORNEY TO BE NOTICED







Defendant**Does 1-10**












Date Filed	#	clear	Docket Text
08/25/2011	<u>1</u> 	 88.05KB	CIVIL COVER SHEET by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin (Michel, Chuck) (Entered: 08/25/2011)
08/25/2011	<u>2</u> 	 204.73KB	COMPLAINT <i>For Declaratory And Injunctive Relief 42 U.S.C. sections 1983, 1988</i> against Kamala D. Harris, Stephen Lindley, Does 1-10 by National Rifle Association of America, Inc., Herb Bauer Sporting Goods, Inc., Barry Bauer, Leland Adley, Nicole Ferry, California Rifle & Pistol Association Foundation, Stephen Warkentin, Jeffrey Hacker. Attorney Michel, Chuck D. added.(Michel, Chuck) (Entered: 08/25/2011)
08/26/2011			RECEIPT number #CAE100016086 \$350.00 fbo Barry Bauer by C. D. Michel on 8/26/2011. (Marrujo, C) (Entered: 08/26/2011)
08/26/2011	<u>4</u>	 25.83KB	SUMMONS ISSUED as to *Kamala D. Harris, Stephen Lindley* with answer to complaint due within *21* days. Attorney *Chuck D. Michel* *Michel & Associates, P.C.* *180 East Ocean Blvd., Suite 200* *Long Beach, CA 90802*. (Lundstrom, T) (Entered: 08/26/2011)
08/26/2011	<u>5</u> 	 47.92KB	CIVIL NEW CASE DOCUMENTS ISSUED; Initial Scheduling Conference set for 12/8/2011 at 10:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. (Attachments: # <u>1</u> Standing Order, # <u>2</u> Consent Form, # <u>3</u> VDRP Form) (Lundstrom, T) (Entered: 08/26/2011)
12/02/2011	<u>6</u>		MINUTE ORDER: (**TEXT ONLY**) Plaintiff's notified the Court they are still serving Defendant in case. Initial Scheduling Conference set for 12/8/2011 at 10:30 a.m. is CONTINUED to 2/9/2012 at 11:00 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. A Joint Scheduling Conference Report carefully prepared and executed by all counsel, shall be electronically filed in CM/ECF one (1) full week prior to the Scheduling Conference. (Yu, L) (Entered: 12/02/2011)
01/09/2012	<u>7</u>	 89.97KB	SUMMONS RETURNED EXECUTED: Kamala D. Harris served on 12/22/2011, answer due 1/12/2012. (Attachments: # <u>1</u> Exhibit A) (Michel, Carl) (Entered: 01/09/2012)
01/09/2012	<u>8</u>	 89.77KB	SUMMONS RETURNED EXECUTED: Stephen Lindley served on 12/22/2011, answer due 1/12/2012. (Attachments: # <u>1</u> Exhibit A) (Michel, Carl) (Entered: 01/09/2012)
01/10/2012	<u>9</u>	 53.07KB	STIPULATION and PROPOSED ORDER for To Extend Pleading Deadlines by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 01/10/2012)





01/11/2012	<u>10</u> 	 52.14KB	STIPULATION TO EXTEND PLEADING DEADLINES AND ORDER signed by Magistrate Judge Michael J. Seng on 1/11/2012. (Yu, L) (Entered: 01/11/2012)
01/17/2012	11		MINUTE ORDER: (**TEXT ONLY**) Initial Scheduling Conference set for 2/9/2012 at 11:00 AM is CONTINUED to 4/12/2012 at 11:00 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. A Joint Scheduling Report carefully prepared shall be filed with the Court one (1) full week prior to the Scheduling Conference, and shall be emailed to mjsorders@caed.uscourts.gov. (Yu, L) (Entered: 01/17/2012)
02/09/2012	<u>12</u> 	 213.19KB	FIRST AMENDED COMPLAINT against Does 1-10, Kamala D. Harris, Stephen Lindley by National Rifle Association of America, Inc., Nicole Ferry, California Rifle & Pistol Association Foundation, Stephen Warkentin, Herb Bauer Sporting Goods, Inc., Leland Adley, Barry Bauer, Jeffrey Hacker. (Michel, Carl) (Entered: 02/09/2012)
03/08/2012	<u>13</u> 	 0.83MB	ANSWER to <u>12</u>  Amended Complaint, by Kamala D. Harris, Stephen Lindley. Attorney Smith, Susan K. added. (Smith, Susan) (Entered: 03/08/2012)
03/21/2012	<u>14</u>	 460.84KB	MOTION to STAY by Kamala D. Harris, Stephen Lindley. Motion Hearing set for 4/18/2012 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill. (Attachments: # <u>1</u> Declaration of Susan K. Smith in Support of Notice of Motion and Motion to Stay) (Smith, Susan) (Entered: 03/21/2012)
03/21/2012	<u>15</u>	 295.56KB	REQUEST for <i>Judicial Notice Filed Concurrently with Motion to Stay</i> by Kamala D. Harris, Stephen Lindley re <u>14</u> MOTION to STAY filed by Stephen Lindley, Kamala D. Harris. (Smith, Susan) (Entered: 03/21/2012)
03/22/2012	16		MINUTE ORDER: (**TEXT ONLY**) <u>14</u> Motion to Stay set for 04/18/2012 at 8:30 a.m. in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill is MOVED to 4/20/2012 at 09:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. Initial Scheduling Conference set for 04/12/2012 in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng is CONTINUED to 6/28/2012 at 11:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. (Yu, L) (Entered: 03/22/2012)
04/02/2012	<u>17</u>	 61.88KB	STIPULATION and PROPOSED ORDER for Continuance of Motion to Stay Hearing Date and Extend Associated Deadlines and [Proposed] Order by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 04/02/2012)
04/03/2012	<u>18</u> 	 75.22KB	STIPULATION FOR CONTINUANCE OF MOTION TO STAY HEARING. Motion Hearing is continued to 5/25/2012 at 09:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng, signed by







			Magistrate Judge Michael J. Seng on 04/03/2012. (Yu, L) (Entered: 04/03/2012)
04/20/2012	<u>19</u>	 61.93KB	STIPULATION <i>For Continuance of Motion to Stay Hearing Date and Extend Associated Deadlines and [Proposed] Order</i> by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 04/20/2012)
04/20/2012	<u>20</u> 	 76.29KB	STIPULATION FOR CONTINUANCE OF MOTION TO STAY HEARING DATE AND EXTEND ASSOCIATED DEADLINES and ORDER THEREON. Motion Hearing is continued to 6/22/2012 at 09:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng, signed by Magistrate Judge Michael J. Seng on 04/20/2012. (Yu, L) (Entered: 04/20/2012)
05/15/2012	<u>21</u>		MINUTE ORDER: (**TEXT ONLY**) <u>14</u> Motion to Stay set for June 22, 2012 at 9:30 a.m. in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng is CONTINUED to July 6, 2012 at 09:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. Initial Scheduling Conference set for June 28, 2012 in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng is CONTINUED to August 9, 2012 at 11:00 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. (Yu, L) (Entered: 05/15/2012)
06/06/2012	<u>22</u>	 149.34KB	WITHDRAWAL of <u>14</u> MOTION to STAY by Kamala D. Harris, Stephen Lindley. (Smith, Susan) (Entered: 06/06/2012)
06/07/2012	<u>23</u>		MINUTE ORDER: (**TEXT ONLY**) On June 6, Defendant filed a <u>22</u> Withdrawal of Motion to Stay. The Motion Hearing set for July 6, 2012 at 9:30 a.m. before Magistrate Judge Michael J. Seng is VACATED. The Initial Scheduling Conference set for August 9, 2012 at 11:00 a.m. before Magsitrate Judge Michael J. Seng shall proceed as previously ordered. (Yu, L) (Entered: 06/07/2012)
07/06/2012	<u>24</u>	 107.30KB	JOINT SCHEDULING REPORT by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 07/06/2012)
07/24/2012	<u>25</u>	 144.00KB	NOTICE of Change of Assignment of Counsel Within Attorney General's Office by Kamala D. Harris, Stephen Lindley. (Smith, Susan) (Entered: 07/24/2012)
08/07/2012	<u>26</u>		MINUTE ORDER (Text Only): The Initial Scheduling Conference set for August 9, 2012 at 11:00 a.m. shall be held in Magistrate Judge Michael J. Seng's Yosemite Chambers. The parties are directed to appear telephonically by making reservations through CourtCall at 866-582-6878. Please send confirmations to the courtroom deputy at lyu@caed.uscourts.gov. (Arellano, S.) (Entered: 08/07/2012)
08/09/2012	<u>27</u>		MINUTES (Text Only) for proceedings held before Magistrate Judge

			Michael J. Seng: SCHEDULING CONFERENCE held on 8/9/2012 in Chambers. Plaintiffs Counsel Sean Brady present. Defendants Counsel Anthony Hakl present. Court Reporter/CD Number: Held in Chambers, off the record. (Yu, L) (Entered: 08/10/2012)
08/10/2012	<u>28</u>	 81.47KB	SCHEDULING ORDER : <u>Initial Disclosures</u> : 07/11/2012, <u>Discovery Deadlines</u> : Non-Expert: 2/27/2013. Expert: 6/27/2013. <u>Motion Deadlines</u> : Non-Dispositive Motions filed by 6/27/2013. Dispositive Motions filed by 8/16/2013, <u>Pretrial Conference</u> 11/14/2013 at 08:15 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill. <u>Jury Trial</u> 1/28/2014 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill, signed by Magistrate Judge Michael J. Seng on 08/10/2012. (Yu, L) (Entered: 08/13/2012)
01/22/2013	<u>29</u>	 66.03KB	STIPULATION <i>To Extend Discovery Cut-Off Dates and Proposed Order</i> by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 01/22/2013)
01/23/2013	<u>30</u> 	 82.45KB	STIPULATION TO EXTEND DISCOVERY CUT-OFF DATES AND ORDER signed by Magistrate Judge Michael J. Seng on 1/23/2013. (Yu, L) (Entered: 01/23/2013)
05/22/2013	<u>31</u>	 123.39KB	STIPULATION and PROPOSED ORDER for to Vacate Rule 16 Scheduling Order by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Attachments: # <u>1</u> Declaration of Sean A. Brady in Support)(Michel, Carl) (Entered: 05/22/2013)
05/28/2013	<u>32</u> 	 89.28KB	Stipulation to Vacate Rule 16 Scheduling Order and Order Thereon. A Scheduling Conference is now set for August 8, 2013 at 10:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng, signed by Magistrate Judge Michael J. Seng on 05/28/2013. (Yu, L) (Entered: 05/28/2013)
06/13/2013	<u>33</u>	 336.03KB	MOTION to AMEND the <u>12</u>  Amended Complaint, by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Motion for Leave to Amend Complaint, # <u>2</u> Exhibit A to Memorandum of Points and Authorities, # <u>3</u> Declaration of Sean A. Brady in Support of Motion for Leave to Amend Complaint)(Michel, Carl) (Entered: 06/13/2013)
06/14/2013	34		MINUTE ORDER: (**TEXT ONLY**)A Motion Hearing on Plaintiff's Motion to Amend is set for July 26, 2013 at 09:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng, signed by Magistrate Judge Michael J. Seng on 06/14/2013. (Yu, L) (Entered: 06/14/2013)
07/09/2013	<u>35</u>	 16.96KB	STATEMENT of NON-OPPOSITION by Kamala D. Harris, Stephen Lindley to <u>33</u> MOTION to AMEND the <u>12</u>  Amended Complaint,.

			(Attachments: # <u>1</u> Proof of Service)(Hakl, Anthony) (Entered: 07/09/2013)
07/22/2013	<u>36</u> 	 51.37KB	ORDER granting <u>33</u> Plaintiff's Motion for Leave to File a Second Amended Complaint. The Motion Hearing set for July 26, 2013 is VACATED. Plaintiff to file a Second Amended Complaint within ten (10) days of the service of this order, signed by Magistrate Judge Michael J. Seng on 7/22/2013. (Yu, L) (Entered: 07/22/2013)
07/24/2013	<u>37</u> 	459.76KB	SECOND AMENDED COMPLAINT against All Defendants by National Rifle Association of America, Inc., Nicole Ferry, California Rifle & Pistol Association Foundation, Stephen Warkentin, Herb Bauer Sporting Goods, Inc., Leland Adley, Barry Bauer, Jeffrey Hacker. (Michel, Carl) (Entered: 07/24/2013)
08/02/2013	<u>38</u>		MINUTE ORDER: (**TEXT ONLY**)The Initial Scheduling Conference set for August 8, 2013 at 10:30 a.m. is CONTINUED to September 27, 2013 at 10:30 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng, signed by Magistrate Judge Michael J. Seng on 08/02/2013. (Yu, L) (Entered: 08/02/2013)
08/07/2013	<u>39</u> 	0.89MB	ANSWER to <u>37</u> Amended Complaint, by Kamala D. Harris, Stephen Lindley. (Attachments: # <u>1</u> Proof of Service)(Hakl, Anthony) (Entered: 08/07/2013)
09/13/2013	<u>40</u> 	102.86KB	JOINT SCHEDULING REPORT by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Michel, Carl) (Entered: 09/13/2013)
09/17/2013	<u>41</u>		MINUTE ORDER: (**TEXT ONLY**)The Initial Scheduling Conference set for September 27, 2013 at 10:30 a.m. is ADVANCED to September 27, 2013 at 09:00 AM in Courtroom 6 (MJS) before Magistrate Judge Michael J. Seng. The parties may appear telephonically by contacting Courtroom Deputy, Laurie C. Yu at (209)372-8917 or lyu@caed.uscourts.gov, signed by Magistrate Judge Michael J. Seng on 09/17/2013. (Yu, L) (Entered: 09/17/2013)
09/27/2013	<u>42</u>		MINUTES (Text Only) for proceedings held before Magistrate Judge Michael J. Seng: SCHEDULING CONFERENCE held on 9/27/2013. Parties appeared telephonically. Formal order to follow. Plaintiffs Counsel Sean Brady present. Defendants Counsel Anthony Hakl present. Court Reporter/CD Number: Held in Chambers off the record. (Yu, L) (Entered: 09/27/2013)
09/30/2013	<u>43</u> 	160.67KB	SCHEDULING ORDER : Discovery Deadlines: Non-Expert: 4/20/2014. Expert: 8/15/2014. Expert Disclosure Deadlines: Filing: 5/22/2014, Supplemental/Rebuttal: 06/20/2014. Motion Deadlines: Non-Dispositive Motions filed by 9/22/2014. Dispositive Motions filed by 11/17/2014, Pretrial Conference set for 2/10/2015 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill. Jury Trial set for 3/24/2015 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill, signed by Magistrate Judge Michael J. Seng on 09/30/2013. (Yu, L) (Entered: 09/30/2013)

11/06/2014	<u>44</u>	 42.24KB	MOTION to CONTINUE <i>Time for Filing Dispositive Motions</i> by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Attachments: # <u>1</u> Declaration Declaration of Sean A Brady in Support of Joint Motion to Extend Time for Filing Dispositive Motions, # <u>2</u> Proposed Order Proposed Order)(Michel, Carl) (Entered: 11/06/2014)
11/07/2014	<u>45</u>		(TEXT ENTRY ONLY) MINUTE ORDER: The Court has reviewed the joint motion to extend time for filing dispositive motions <u>44</u> , which also contains a request to vacate the trial date. This submission does not present good cause to either vacate or continue the trial date and is therefore DENIED WITHOUT PREJUDICE. The parties may submit a revised stipulation that reasonably modifies the dispositive motions and pretrial deadlines signed by District Judge Lawrence J. O'Neill on November 7, 2014. (Munoz, I) (Entered: 11/07/2014)
11/07/2014	<u>46</u>	 132.46KB	MOTION for EXTENSION OF TIME to file Dispositive Motions & Related Deadlines by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. (Attachments: # <u>1</u> Declaration of Sean A. Brady in Support of Motion, # <u>2</u> Proposed Order)(Michel, Carl) (Entered: 11/07/2014)
11/13/2014	<u>47</u>	 157.15KB	ORDER EXTENDING TIME FOR FILING DISPOSITIVE MOTIONS <u>46</u> signed by District Judge Lawrence J. O'Neill on November 13, 2014. (Munoz, I) (Entered: 11/13/2014)
12/12/2014	<u>48</u> 	 202.88KB	MOTION for 45-DAY EXTENSION OF TIME to Extend Time to File Dispositive Motions by Barry Bauer. (Attachments: # <u>1</u>  Declaration of Sean A Brady in Support of Joint Motion to Extend Time to File Dispositive Motions, # <u>2</u>  Proposed Order)(Michel, Carl) (Entered: 12/12/2014)
12/15/2014	<u>49</u>	 249.74KB	AMENDED MOTION for EXTENSION OF TIME to re <u>48</u>  MOTION for 45-DAY EXTENSION OF TIME to Extend Time to File Dispositive Motions by Barry Bauer. (Attachments: # <u>1</u> Declaration of Sean A Brady in Support of Joint Amended Motion to Extend Time to File Dispositive Motions, # <u>2</u> Proposed Order Granting Joint Motion to Extend Time to File Dispositive Motions)(Michel, Carl) (Entered: 12/15/2014)
12/15/2014	<u>50</u>	 199.54KB	ORDER GRANTING JOINT AMENDED MOTION TO EXTEND TIME TO FILE DISPOSITIVE MOTIONS (Docs. 48 & 49) signed by District Judge Lawrence J. O'Neill on December 15, 2014. (Munoz, I) (Entered: 12/15/2014)
01/20/2015	<u>51</u>	 25.17MB	MOTION for SUMMARY JUDGMENT by Kamala D. Harris. Motion Hearing set for 2/26/2015 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill. (Attachments: # <u>1</u> Points and

			Authorities, # <u>2</u> Statement Undisputed Facts in Support, # <u>3</u> Declaration of Stephen Lindley, # <u>4</u> Declaration of Joel Tocherman, # <u>5</u> Declaration of Anthony R. Hakl, # <u>6</u> Exhibit Exhibit A to Dec of Hakl, # <u>7</u> Exhibit Exhibit B to Dec of Hakl, # <u>8</u> Exhibit Exhibit C-E of Dec of Hakl, # <u>9</u> Exhibit Exhibit F to Dec of Hakl, # <u>10</u> Proof of Service)(Hakl, Anthony) (Entered: 01/20/2015)
01/20/2015	<u>52</u>	 19.14MB	MOTION for SUMMARY JUDGMENT by Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin. Motion Hearing set for 2/26/2015 at 08:30 AM in Courtroom 4 (LJO) before District Judge Lawrence J. O'Neill. (Attachments: # <u>1</u> Points and Authorities Plaintiffs' Memorandum of Points and Authorities in Support of Motion for Summary Judgment, # <u>2</u> Statement Plaintiffs' Statement of Undisputed Facts in Support of Motion for Summary Judgment, # <u>3</u> Declaration Declaration of Jeffrey Hacker In Support of Motion for Summary Judgment, # <u>4</u> Declaration Declaration of Christopher Cox on Behalf of the National Rifle Association in Support of Motion for Summary Judgment, # <u>5</u> Declaration Declaration of Steven Dember on Behalf of the CRPA Foundation in Support of Motion for Summary Judgment, # <u>6</u> Declaration Declaration of Barry Bauer as Plaintiff and on Behalf of Herb Bauer's Sporting Goods, Inc. in Support of Motion for Summary Judgment, # <u>7</u> Declaration Declaration of Margaret E. Leidy in Support of Plaintiffs' Motion for Summary Judgment; Exhibits A Through JJ, # <u>8</u> Exhibit Exhibits to Margaret Leidy's Declaration - Part 1, # <u>9</u> Exhibit Exhibits to Margaret Leidy's Declaration - Part 2, # <u>10</u> Exhibit Plaintiffs' Request for Judicial Notice, # <u>11</u> Exhibit Exhibits to Plaintiffs' Request for Judicial Notice)(Michel, Carl) (Entered: 01/20/2015)
01/21/2015	<u>53</u>	 3.24MB	NOTICE of Errata re Plaintiffs' Request for Judicial Notice by Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin re <u>52</u> MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Exhibit Plaintiffs' Request for Judicial Notice, # <u>2</u> Exhibit Exhibits to Plaintiffs' Request for Judicial Notice)(Michel, Carl) (Entered: 01/21/2015)
02/12/2015	<u>54</u>	 9.40MB	OPPOSITION by Kamala D. Harris to <u>52</u> MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Declaration of Anthony Hakl, # <u>2</u> Exhibit Exhibit A to Hakl Dec, # <u>3</u> Exhibit Exhibit B to Hakl Dec, # <u>4</u> Declaration of Stephen Lindley, # <u>5</u> Exhibit Exhibit A to Lindley Dec, # <u>6</u> Response to Statement of Undisputed Facts)(Hakl, Anthony) (Entered: 02/12/2015)
02/12/2015	<u>55</u>	 85.11KB	OPPOSITION by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin to <u>51</u> MOTION for SUMMARY JUDGMENT. (Attachments: # <u>1</u> Response Plaintiffs' Response to Statement of Undisputed Facts in Support of Defendants' Motion for Summary

			Judgment, or in the Alternative Summary Adjudication)(Michel, Carl) (Entered: 02/12/2015)
02/17/2015	56		MINUTE ORDER: (TEXT ENTRY ONLY) In the interests of judicial and party efficiency and to afford the Court sufficient time to confirm the parties' contention that this this case can be decided on the pending cross motions for summary judgment without the need for a trial, the deadline for filing a joint pretrial conference statement is EXTENDED to Friday, February 20, 2015 signed by District Judge Lawrence J. O'Neill on February 17, 2015. (Munoz, I) (Entered: 02/17/2015)
02/18/2015	57		MINUTE ORDER: (TEXT ENTRY ONLY) The Court has reviewed preliminarily the pending cross motions for summary judgment and concurs with the parties that this case can be resolved on the papers without the need for a trial. Accordingly, the pretrial conference and trial dates are VACATED. In addition, upon expiration of the reply deadline, the Court will take the matter under submission on the papers without oral argument pursuant to Local Rule 230(g). Therefore, the hearing on the pending motions, currently set for February 26, 2015, is also VACATED signed by District Judge Lawrence J. O'Neill on February 18, 2015. (Munoz, I) (Entered: 02/18/2015)
02/19/2015	<u>58</u>	 0.55MB	REPLY by Kamala D. Harris to RESPONSE to <u>51</u> MOTION for SUMMARY JUDGMENT. (Hakl, Anthony) (Entered: 02/19/2015)
02/19/2015	<u>59</u>	 42.88KB	REPLY by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc., Stephen Warkentin re <u>52</u> MOTION for SUMMARY JUDGMENT. (Michel, Carl) (Entered: 02/19/2015)
03/02/2015	<u>60</u>	 235.99KB	MEMORANDUM DECISION AND ORDER Re Cross Motions for Summary Judgment re <u>51</u> , <u>52</u> , signed by District Judge Lawrence J. O'Neill on 03/02/15. CASE CLOSED. (Gonzalez, R) (Entered: 03/02/2015)
03/02/2015	<u>61</u>	 5.22KB	JUDGMENT dated *03/02/15* pursuant to order. (Gonzalez, R) (Entered: 03/02/2015)
03/06/2015	<u>62</u>	 17.04KB	NOTICE of APPEAL by Leland Adley, Barry Bauer, California Rifle & Pistol Association Foundation, Nicole Ferry, Jeffrey Hacker, Herb Bauer Sporting Goods, Inc., National Rifle Association of America, Inc.. (Filing fee \$ 505, receipt number 0972-5780827) (Michel, Carl) (Entered: 03/06/2015)
03/09/2015	63		USCA APPEAL FEES received in the amount of \$ 505 (Receipt # 09725780827) from Leland Adley on 3/6/2015 re <u>62</u> Notice of Appeal, filed by Barry Bauer, Herb Bauer Sporting Goods, Inc., California Rifle & Pistol Association Foundation, Jeffrey Hacker, Leland Adley, National Rifle Association of America, Inc., Nicole Ferry. (Lundstrom, T) (Entered: 03/09/2015)
03/09/2015	<u>64</u>		APPEAL PROCESSED to Ninth Circuit re <u>62</u> Notice of Appeal, filed

	8.69KB	by Barry Bauer, Herb Bauer Sporting Goods, Inc., California Rifle & Pistol Association Foundation, Jeffrey Hacker, Leland Adley, National Rifle Association of America, Inc., Nicole Ferry. Notice of Appeal filed *3/6/2015*, Complaint filed *8/25/2011* and Appealed Order / Judgment filed *3/2/2015*. ** *Fee Status: Paid on 3/6/2015 in the amount of \$505.00* (Attachments: # <u>1</u> Appeal Information) (Gonzalez, R) (Entered: 03/09/2015)
03/09/2015	65	USCA CASE NUMBER 15-15428 for <u>62</u> Notice of Appeal, filed by Barry Bauer, Herb Bauer Sporting Goods, Inc., California Rifle & Pistol Association Foundation, Jeffrey Hacker, Leland Adley, National Rifle Association of America, Inc., Nicole Ferry. (Gonzalez, R) (Entered: 03/09/2015)

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CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2015, an electronic PDF of **APPELLANTS' EXCERPTS OF RECORD VOLUME III OF III** was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: July 15, 2015

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel
C.D. Michel
Attorney for *Plaintiffs-Appellants*