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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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ROBERT THOMSON,
Plaintiff,

v.

TORRANCE POLICE
DEPARTMENT and THE LOS
ANGELES COUNTY SHERIFF'S
DEPARTMENT,
Defendants.

CASE NO. CV 11-06154 SJO (JCx)

**DEFENDANT LOS ANGELES
COUNTY SHERIFF'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

[Filed concurrently with Response to
Plaintiffs' Separate Statement of
Uncontroverted Facts & Conclusions of
Law and Evidence Thereto]

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INTRODUCTION

Plaintiff Robert Thomson claims that he was improperly denied a concealed weapons (CCW) permit by moving Defendant Los Angeles County Sheriff's Department (LASD), as well as the Torrance Police Department. Plaintiff alleges that the LASD's definition of good cause, as required by California Penal Code § 12050, violates the Second Amendment of the United States Constitution. Plaintiff's argument is unsupported by the law as there is no constitutional right to carry a concealed firearm in public. In fact, a Central District of California court recently upheld the LASD's good cause policy as constitutional against a similar Second Amendment challenge. (See Exh. D to LASD Response to Separate Statement.) It is Defendants, not Plaintiff, who should be entitled to summary judgment.

STATEMENT OF FACTS

California's Licensing Laws

California Penal Code § 12050(a)(1)(A) authorizes a county sheriff to issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person (hereinafter "CCW permit") upon the existence of good cause, and provided that the applicant meets other criteria provided for in the Penal Code. California is a "may issue" state, meaning that law enforcement officials have the discretion to grant or deny a permit based on a number of statutory factors. California Penal Code §§ 12050 – 12054 set forth the general criteria that California CCW applicants must meet. Applicants must be of good moral character, be a resident of or spend substantial time in the County in which they apply, demonstrate good cause and take a firearms course. (See Penal Code §§ 12050-12054.) The language of Section 12050 is permissive, not mandatory, and gives extremely broad discretion to a sheriff or police chief in issuing CCW permits — even to individuals who meet the minimum statutory requirements. *Gifford v. City of Los Angeles*, 88 Cal.App.4th 801, 805 (2001) quoting in part, *Nichols v. County of Santa Clara*, 223 Cal.App.3d 1236, 1241 (1990); *CBS Inc. v. Block*, 42 Cal.3d 646, 655 (1986).

HOA.852908.1

1 **LASD CCW Application Process**

2 Paul Tanaka is the Undersheriff for Los Angeles County. As part of his
3 responsibilities as Undersheriff, he has been designated to act as the Sheriff's sole
4 authorized representative for reviewing applications for CCW licenses for the
5 County of Los Angeles. While members of his staff make recommendations
6 regarding applications, he is the final decision-maker. (LASD UF 1)¹ As part of his
7 evaluation of CCW applications, he will review the entire application packet and
8 any and all supporting documentation. (LASD UF 2)

9 In Los Angeles County, there are four distinct categories of CCW licenses:
10 Employment, Standard, Judges, and Reserve Police Officers. The Employment
11 CCW license is issued only to a person who spends a substantial period of time in
12 his or her principal place of employment or business in Los Angeles County. The
13 Standard CCW license is issued to County residents or to residents of a particular
14 city within Los Angeles County. The Judge CCW license is issued to California
15 judges, full-time commissioners, and to federal judges and magistrates of the federal
16 courts. The Reserve Police Officer CCW license may be issued to reserve police
17 officers appointed pursuant to California Penal Code § 830.6. (LASD UF 3)

18 If an applicant resides in an incorporated city not policed by the LASD, the
19 applicant must apply to the chief of police of their city of residence for a concealed
20 weapons license and have such application acted upon. Within 60 days after a
21 denial of such application, such city resident may file a separate application with the
22 LASD, attaching a copy of the application denied by the chief of police. The LASD
23 will exercise independent discretion in granting or denying licenses to such person
24 but may review, consider, and give weight to the grounds upon which such denial

25

26

27 ¹ Defendant LASD's Undisputed Facts and Evidence are included in its
28 Response to Plaintiff's Separate Statement.

1 was made. (LASD UF 4) As set forth in California Penal Code sections 12050-
2 12054, CCW applicants must be of good moral character, be a resident of, or spend
3 substantial time in the County they apply in, take a firearms course, and demonstrate
4 good cause for the license. (LASD UF 5)

5 **LASD's Good Cause Requirement**

6 The ability of private citizens to carry a concealed weapons is of great
7 concern to the LASD. The LASD's overriding policy is that no CCW license should
8 be granted merely for the personal convenience of the applicant. No position or job
9 application in itself shall constitute good cause for the issuance, or for the denial, of
10 a CCW license. (LASD UF 6) The LASD defines "good cause" under California
11 Penal Code section 12050 as requiring:

12 convincing evidence of a clear and present danger to life
13 or of great bodily harm to the applicant, his spouse or
14 dependent child, which cannot be adequately dealt with by
15 existing law enforcement resources and which danger
16 cannot be reasonably avoided by alternative measures, and
17 which danger would be significantly mitigated by the
18 applicant's carrying of a concealed firearm. (LASD UF 7)

19 Each CCW application is individually reviewed for cause. The LASD's definition
20 of good cause has been in existence since at least 2005. This definition of good
21 cause, or one similar to it, is utilized by many other cities and counties within
22 California, including San Diego. (LASD UF 8)

23 In evaluating whether an applicant has established good cause, an applicant's
24 stated reason of self-defense is not enough. (LASD UF 9) The applicant must
25 demonstrate a credible threat of violence which would justify the need to possess a
26 concealed weapon. If an applicant claims that he or she has been threatened in
27 his/her application, the LASD looks for documentation of that threat, such as police
28 reports or other evidence. (LASD UF 10) Recently, a Central District of California

1 court upheld the very policy at issue here, and found that the LASD's good cause
2 policy did not violate the Second Amendment. (LASD UF 21).

3 One of the purposes for the LASD's policy is to protect against gun violence
4 to the community at large, as well as to protect officers conducting law enforcement
5 operations on the streets. (LASD UF 11) Gun violence is a problem throughout the
6 State of California and Los Angeles County is no exception. The vast majority of
7 homicides in Los Angeles County are committed with the use of guns. Handguns
8 are of particular concern because they are much more likely to be used than
9 shotguns and rifles. Because handguns are small, easy to conceal, and deadly at
10 short range, they are of paramount concern and danger. Further, most of the violent
11 acts committed in this County involving the use of guns are by gang members.
12 (LASD UF 12)

13 The presence of more guns on the streets of Los Angeles County creates
14 many problems for law enforcement officers. Officers are often charged with
15 monitoring public gatherings as well as with breaking up public nuisances. Officers
16 must act quickly whenever a disturbance occurs. Often times, this involves isolating
17 one or two problem individuals. However, if multiple persons within a crowd are
18 carrying concealed weapons, this creates an increased likelihood that guns will be
19 brandished or used. Thus, the increased presence of guns creates not only increased
20 safety problems for officers but also for members of the community at large.
21 (LASD UF 13) It is the LASD's position that increasing the numbers of concealed
22 weapons in the community increases the threat of gun violence to the community at
23 large, to those who use the streets and go to public accommodations, and to law
24 enforcement officers patrolling the streets. Further, the increased presence of
25 concealed handguns make law enforcement operations more difficult thus taking
26 away valuable resources which would be better used conducting law enforcement
27 operations. (LASD UF 14) Los Angeles County's good cause requirement is
28 intended to drastically restrict the number of persons who are secretly armed in the

1 County. (LASD UF 15) At present, there are approximately 400 concealed
2 weapons permits that were issued by the LASD. The population of Los Angeles
3 County was estimated to be 10,441,080 people as of January 2010. (LASD UF 16)

4 **Plaintiff's CCW Application to the LASD**

5 On or about April 7, 2011, Plaintiff submitted a CCW application to the
6 LASD. (UF 17). In his application, Plaintiff states as justification:

7 I am a licensed California Bail Agent. I have been
8 licensed for over three years. I am alone when I meet with
9 co-signers and defendants at their homes in violent high
10 crime areas within Los Angeles County such as Compton,
11 Inglewood, Watts, and South Los Angeles as well as city
12 and county jails to fill out paperwork and receive payment
13 for I am called to post bail at all hours of the day and
14 night. Often when I bail out a person I am in
15 neighborhoods where other suspects are a danger to me. I
16 don't know the backgrounds of clients who may be
17 disgruntled and have a grudge against me. While in the
18 process of my Bail Agent duties, I sometimes have in my
19 possession over \$10,000 in cash.

20 I fear great bodily injury or death from an armed assailant
21 who has the intent to steal my case of harm me. I am a
22 man of small stature, and work very late hours of the
23 night. The criminal element that I deal with presents a
24 danger to my safety that cannot be mitigated by law
25 enforcement resources or other means available to me. I
26 don't have any other means of defending myself.

27 (LASD UF 18). The LASD reviewed Plaintiff's application and determined that he
28 failed to show good cause as required by LASD policy, and as defined above.
Specifically, Plaintiff failed to show convincing evidence of a clear and present
danger to life or of great bodily harm to the applicant, his spouse or dependent child,
which cannot be adequately dealt with by existing law enforcement resources and
which danger cannot be reasonably avoided by alternative measures, and which
danger would be significantly mitigated by the applicant's carrying of a concealed
firearm. (LASD UF 19).

29 Plaintiff now sues Defendants LASD and the Torrance Police Department
30 claiming that the denial of his CCW application violates his Second Amendment
31 right to bear arms. All parties have filed cross-motions for summary judgment.

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ARGUMENT

I. THERE IS NO CONSTITUTIONAL RIGHT TO CARRY A LOADED CONCEALED WEAPON IN PUBLIC UNDER THE SECOND AMENDMENT.

To prevail under 42 U.S.C. § 1983, Plaintiff must show a violation of a constitutional right. (Ninth Circuit Model Jury Inst. 9.4.) Plaintiff's lawsuit fails at the outset because there is no constitutional right to carry a loaded concealed weapon in public under the Second Amendment.

In *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783, 2788, 2822 (2008), the United States Supreme Court held that the Second Amendment protects an individual's right to possess firearms in the home for self-defense and that the city's total ban on handguns, as well as its requirement that firearms in the home be kept nonfunctional even when necessary for self-defense, violated that right. In *McDonald v. City of Chicago*, 130 S.Ct. 3020, 3026, 3044 (2010), the court evaluated restrictions similar to those in *Heller* and held that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right to possess a handgun in the home for self-defense.

A. The Second Amendment Does Not Include the Right to Keep and Carry a Weapon in Any Manner.

Plaintiff argues that the decisions regarding the ability to have a weapon in one's home also establish his right to carry a concealed weapon in public. However, the law does not support his position. Since 1897, in *Robertson v. Baldwin*, 165 U.S. 275, 281-282 (1897), the Supreme Court recognized that the Second Amendment right of people to keep and bear arms is not infringed by laws prohibiting the carrying of concealed weapons. That principle has not changed. In *Heller*, the Supreme Court determined that the "core right" embodied in the Second Amendment does not include the right to keep and carry any weapon in any manner:

the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right [to keep and bear arms] was not a right to keep

1 and carry any weapon whatsoever in any manner
2 whatsoever and for whatever purpose.

3 *Heller*, 128 S.Ct. at 2816. While *Heller* does not specifically address concealed
4 weapons in public, it does acknowledge that the Second Amendment right to bear
5 arms is limited.

6 Thus far, no court has extended *Heller* or *McDonald* to bestow a
7 constitutional right to carry a concealed weapon in public. See e.g., *Gamble v.*
8 *United States*, 30 A.3d 161, ___ (2011 D.C. App. LEXIS 615 at *7-8. Instead,
9 courts have upheld prohibitions on carrying a concealed weapon in public against
10 Second Amendment challenges. See e.g., *People v. Flores*, 169 Cal.App.4th 568,
11 575-576 (2008); *People v. Yarbrough*, 169 Cal.App.4th 303, 312-314 (2008). In
12 *People v. Yarbrough*, Yarbrough was convicted of violating California Penal Code §
13 12025(a)(2) for carrying a concealed weapon on residential property that was fully
14 accessible to the public. Yarbrough challenged his conviction on many grounds,
15 including the Second Amendment. Noting that *Heller* had “specifically expressed
16 constitutional approval of the accepted statutory proscriptions against carrying
17 concealed weapons,” the *Yarbrough* court held:

18 we find nothing in Penal Code section 12025, subdivision
19 (a), that violates the limited right of the individual
20 established in *Heller* to possess and carry weapons in case
21 of confrontation. Section 12025, subdivision (a), does not
22 broadly prohibit or even regulate the possession of a gun
23 in the home for lawful purposes of confrontation or self-
24 defense, as did the law declared constitutionally infirmed
25 in *Heller*. Rather, section 12025, subdivision (a), in much
26 more limited fashion, specifically defines as unlawful
27 carrying concealed within a vehicle or “concealed upon his
28 or her person any pistol, revolver, or other firearm capable
of being concealed upon the person.” Further, carrying a
firearm concealed on the person or in a vehicle in violation
of section 12025, subdivision (a), is not in the nature of a
common use of a gun for lawful purposes which the court
declared to be protected by the Second Amendment in
Heller. (See *People v. Wasley* 245 Cal.App.2d 383, 386
(1966.)

27 The *Yarbrough* court held that, unlike possession of a gun for protection
28 within a residence, carrying a concealed firearm presents a recognized “threat to

1 public order,” and is “prohibited as a means of preventing physical harm to persons
2 other than the offender.’ *Id* at 314, citing *People v. Hale*, 43 Cal.App.3d 353, 356
3 (1974). A person who carries a concealed firearm on his person or in a vehicle,
4 which permits the individual immediate access to the firearm but impedes others
5 from detecting its presence, poses an ‘imminent threat to public safety. *Id.* at 313-
6 314.

7 Similarly, in *People v. Flores*, 169 Cal.App.4th 568 (2008), the court affirmed
8 convictions under California Penal Code § 12025 and California Penal Code §12031
9 in the face of a Second Amendment challenge. With regard to the section 12031
10 conviction, the court reasoned: "there can be no claim that section 12031 in any way
11 precludes the use of handguns held and used for self-defense in the
12 home...[i]nstead, section 12031 is narrowly tailored to reduce the incidence of
13 unlawful public shootings, while at the same time respecting the need for persons to
14 have access to firearms for lawful purposes, including self-defense. *Id.* at 576; see
15 also *People v. Ellison*, 196 Cal.App.4th 1342 (2011) (conviction of carrying
16 concealed firearm did not violate Second Amendment).

17 In *Richards v. County of Yolo*, 2011 U.S. Dist. LEXIS 51906 (on appeal to
18 9th Cir), plaintiffs challenged Yolo County's good cause policy after they were
19 denied concealed weapons permits. *Id.* at *3-4. In granting the county's motion for
20 summary judgment, the court held that the Second Amendment did not create a
21 fundamental right to carry a concealed weapon in public. *Id.* at *10.

22 **B. California Penal Code Section 12050's Restrictions on**
23 **Concealed Weapons Do Not Infringe on the Right of Self-**
Defense in the Home.

24 Penal Code section 12050 does not regulate the possession of a gun in the
25 home for lawful purposes of confrontation or self-defense, as did the law declared
26 unconstitutional in *Heller*. Rather, it involves the licensing of persons in the context
27 of the regulation of carrying concealed weapons in public places. Carrying a
28 firearm concealed on the person or in a vehicle is not in the nature of a common use

1 of a gun for lawful purposes which the court declared to be protected by the Second
2 Amendment in *Heller*. Unlike possession of a gun for protection within a residence,
3 carrying a concealed firearm presents a recognized “threat to public order,” and is
4 “prohibited as a means of preventing physical harm to persons other than the
5 offender.” [Citation.]” *People v. Hale*, 43 Cal.App.3d 353, 356 (1974). A person
6 who carries a concealed firearm on his person or in a vehicle, “which permits him
7 immediate access to the firearm but impedes others from detecting its presence,
8 poses an ‘imminent threat to public safety’ [Citation.]” *People v. Hodges*, 70
9 Cal.App.4th 1348, 1357 (1999).

10 Here, California law does not impede the ability of individuals to defend
11 themselves with firearms in their homes, as set forth in *Heller*. Instead, as the
12 California courts recognize above, there is no right to carry a concealed weapon in
13 public under the Second Amendment. California’s regulation of both concealed
14 carry of firearms and carry of loaded firearms in public do not infringe on the
15 Second Amendment. Similarly, the LASD’s policies and practices regarding the
16 issuance of CCW permits do not impact any recognized Second Amendment right.
17 Because Plaintiff cannot show that he was denied any constitutional right, his civil
18 rights claim fails at the outset, and summary judgment is proper.

19 **II. THE LASD’S LICENSING PRACTICES WITHSTAND**
20 **CONSTITUTIONAL SCRUTINY.**

21 Nonetheless, even if this Court finds that the Second Amendment is infringed,
22 the LASD’s policies and practices withstand constitutional scrutiny. The majority of
23 courts both before and after *Heller* and *McDonald* have employed an intermediate
24 scrutiny standard when evaluating gun regulations. See *Peruta v. County of San*
25 *Diego*, 758 F.Supp.2d 1106 (on appeal to 9th Circuit) (citing *United States v.*
26 *Skoien*, 614 F.3d 638, 641 (7th Cir. 2010); *United States v. Marzzarella*, 614 F.3d
27 85, 97 (3rd Cir. 2010); *Heller v. District of Columbia (Heller II)*, 698 F.Supp.2d
28 179, 188 (D.D.C. 2010) (surveying the landscape of post-*Heller* decisions and

1 joining the majority of courts in holding that intermediate scrutiny is the most
2 appropriate standard). Intermediate scrutiny requires that the challenged statute or
3 regulation "be substantially related to an important governmental objective." *Clark*
4 *v. Jeter*, 486 U.S. 456, 461 (1988).

5 Recently, a United States District Court Judge held that the LASD's CCW
6 policy was constitutional and did not violate the Second Amendment. (LASD UF
7 21) In *Jonathan Birdt v. Charlie Beck et al.*, United States District Court Case No.
8 CV 10-08577 JAK, the plaintiff, like Mr. Thomson here, alleged that the LASD's
9 policy violated the Second Amendment because it required documentation of a clear
10 and present anger to the applicant. (See Exh. D to LASD Response to Plaintiff's
11 Separate Statement) Judge Kronstadt held that the LASD's good cause definition
12 withstood intermediate scrutiny and was substantially related to an important
13 government objective.² The LASD's policy is no less constitutional in this case.

14 The LASD's policies and practices in limiting concealed carry licensing to
15 individuals with specifically identifiable and documented needs for concealed carry
16 withstand intermediate scrutiny. Maintaining public safety and preventing crime are
17 clearly important governmental interests. *Medtronic, Inc. v. Lohr*, 518 U.S. 470,
18 475 (1996) (noting that States have "great latitude" to use their police powers);
19 *United States v. Morrison*, 529 U.S. 598, 618 (2000) ("there is no better example of
20 the police power than the suppression of violent crime") The regulation of
21 concealed firearms is a critical factor in accomplishing these interests. *McDonald*,
22 *supra*, 130 S.Ct. at 3126 ("private gun regulation is the quintessential exercise of a
23 State's police power.")

24 Handguns are unquestionably dangerous and contribute to the majority of
25 criminal cases that result in a person's death. LASD UF 11-15; see also *Heller*,

26
27 ² Mr. Birdt has filed a Notice of Appeal challenging Judge Kronstadt's ruling.
28

1 *supra*, 554 U.S. at 636 (acknowledging the problem of handgun violence in the
2 U.S.). A 2001 study revealed that a ten percent increase in handgun ownership
3 correlates with a two percent increase in homicides. See Michael B. de Leeuw et al.,
4 *Beyond the Final Frontier: a "Post-Racial" America?: The Obligations of*
5 *Lawyers, the Legislature, and The Court: Ready Aim, Fire? District of Columbia v.*
6 *Heller and Communities of Color*, 25 Harv.BlackLetter J. 133, 149 (Spring 2009).
7 Handgun possession is a particular problem in Los Angeles County due to the influx
8 of gang members in recent years. (See LASD UF 11-15.)

9 Concealed handguns, in particular pose an obvious threat to the public as a
10 concealed handgun generates no special notice until the weapon is brandished.
11 (LASD UF 11-15.) As more than 90% of police officer killings are caused by guns,
12 high rates of concealed gun carry especially endanger police officers. *Id.* Of the
13 536 law enforcement officers killed in the line of duty between 2000 and 2009
14 (including 47 in California), 490 were killed with firearms and of those, handguns
15 were used by the perpetrator 73% of the time. See Fed. Bureau of Investigations,
16 U.S. Dep't of Justice, *Law Enforcement Officers Killed and Assaulted* (2009), tables
17 1 and 27, available at <http://www.fbi.gov/about-us/cjis/ucr/leoka/2009/leoka-2009>.

18 In *Peruta*, the Southern District of California found that the San Diego Sheriff
19 had "an important and substantial interest in public safety and in reducing the rate of
20 gun use in crime;" "in reducing the number of concealed weapons in public in order
21 to reduce the risks to other members of the public who use the streets and go to
22 public accommodations;" and "in reducing the number of concealed handguns in
23 public because of their disproportionate involvement in life-threatening crimes of
24 violence, particularly in streets and other public places." *Peruta, supra*, 758
25 F.Supp.2d at 1117. The court also held that the Sheriff's policy which differentiated
26 between "individuals who have a bona fide need to carry a concealed handgun for
27 self-defense and individuals who do not" was reasonably related to the government's
28 important and substantial interest in public safety. *Id.*

1 That interest is no different in Los Angeles County. Los Angeles County's
2 practices in limiting CCW licenses to those with specific and documented needs is
3 consistent with the compelling and significant legislative goals underlying Penal
4 Code sections 12025 and 12031: the protection of the public from widespread and
5 unchecked public carry of concealed and loaded firearms. LASD's policy creates a
6 balance between the competing Second Amendment interests in self-defense and
7 public safety. The LASD enables those with a clear and present need for self-
8 defense to obtain a concealed weapon permit, so long as they also meet the
9 requirements enumerated in California Penal Code section 12050. The LASD's
10 policy is reasonably related to the government's important and substantial interest in
11 public safety and concealed weapon control.

12 Maintaining public safety and preventing crime are clearly important (if not
13 paramount) government interests and the regulation of concealed firearms is a
14 critical factor in accomplishing that interest. LASD UF 11-15; See, e.g., *United*
15 *States v. Salerno*, 481 U.S. 739, 750 (1987); *Schall v. Martin*, 467 U.S. 253, 264
16 (1984); *Kelley v. Johnson*, 425 U.S. 238, 247 (1976) (“The promotion of safety of
17 persons and property is unquestionably at the core of the State’s police power ...”);
18 *People v. Yarbrough*, *supra*, 169 Cal.App.4th at 312-314. The relevant Penal Code
19 provisions are narrowly tailored and substantially related to furthering public safety
20 and reducing crime. Concealed handguns are the priority of law enforcement
21 everywhere because of the use of the concealed handgun in vast numbers of
22 criminal offenses. (See LASD UF 11-15.) Concealed carry of handguns allows for
23 stealth and surprise. Limiting the number of loaded and concealed firearms in
24 public places helps to keep the balance in favor of law enforcement and avoids the
25 necessity for every place that is open to the public – restaurants, malls, theaters,
26 parks, etc.-- to be equipped with metal detectors, fencing and other forms of
27 security, in order to protect patrons from the fear of widespread and unchecked
28 concealed firearms.

1 Numerous courts have discussed the need for firearm regulation and the need
2 for imposing restrictions on their use:

3 ...[A]ccidents with loaded guns on public streets or the
4 escalation of minor public altercations into gun battles or,
5 as the legislature pointed out, the danger of a police officer
6 stopping a car with a loaded weapon on the passenger seat.
7 ... [T]hus, otherwise “innocent” motivations may
8 transform into culpable conduct because of the
9 accessibility of weapons as an outlet for subsequently
10 kindled aggression. ... [T]he underlying activity of
11 possessing or transporting an accessible and loaded
12 weapon is itself dangerous and undesirable, regardless of
13 the intent of the bearer since it may lead to the
14 endangerment of public safety. ... [A]ccess to a loaded
15 weapon on a public street creates a volatile situation
16 vulnerable to spontaneous lethal aggression in the event of
17 road rage or any other disagreement or dispute. The
18 prevention of the potential metamorphosis of such
19 “innocent” behavior into criminal conduct is rationally
20 related to the purpose of the statute, which is to enhance
21 public safety. Because the legislature has a compelling
22 interest in preventing the possession of guns in public
23 under any such circumstances, the statute is reasonably
24 related to the legislature’s purpose of “mak[ing]

25 communities in this state safer and more secure for their
26 inhabitants.”

27 *People v. Marin*, 795 N.E.2d 953, 958–59 (Ill. App. 2003) (citations omitted); see
28 also *Marshall v. Walker*, 958 F.Supp. 359, 365 (N.D. Ill. 1997) (individuals should
be able to walk in public “without apprehension of or danger from violence which
develops from unauthorized carrying of firearms and the policy of the statute to
conserve and maintain public peace on sidewalks and streets within the cities ...”)
(quoting *People v. West*, 422 N.E.2d 943, 945 (Ill.App. 1981)). For these reasons,
the LASD's policy withstands constitutional scrutiny.

23 **III. THE LASD DID NOT IMPROPERLY DENY PLAINTIFF'S** 24 **APPLICATION.**

25 LASD's policy was also constitutionally applied to Plaintiff. Plaintiff's
26 application was reviewed like every other application and underwent the same
27 evaluation every other application did. (LASD UF 8, 17-19.) Plaintiff's application
28 was denied because he did not present evidence of a clear and present danger, as

1 required by the policy. (LASD UF 8, 17-19.) As such, summary judgment is
2 appropriate.

3 **CONCLUSION**

4 For the foregoing reasons, the LASD asks that the Court grant its Motion, and
5 deny Plaintiff's Motion for Summary Judgment.

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7 DATED: January 30, 2012

Respectfully submitted,

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