

EXHIBIT 10

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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 12 WESTERN DIVISION (TEMPLE STREET)

13
 14 **MICHELLE FLANAGAN, SAMUEL
 15 GOLDEN, DOMINIC NARDONE,
 16 JACOB PERKIO, and THE
 CALIFORNIA RIFLE & PISTOL
 ASSOCIATION,**

2:16-cv-06164-JAK-AS

**EXPERT WITNESS REPORT OF
 FORMER COVINA CHIEF OF
 POLICE KIM RANEY**

17 Plaintiffs,

18 v.

19 **CALIFORNIA ATTORNEY
 20 GENERAL XAVIER BECERRA, in
 his official capacity as Attorney
 21 General of the State of California, et
 al.,**

22 Defendants.
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INTRODUCTION

1. I am Kim Raney, retired Chief of Police of the Covina (California) Police Department. Counsel for defendant Attorney General of California Xavier Becerra (“Defendant”) in *Flanagan v. Becerra* (U.S.D.C., C.D. Cal. No. 2:16-cv-06164-JAK-AS) asked me to offer an opinion on a specific question in the case. The following report sets forth my opinion.

PRELIMINARY CONSIDERATIONS

I. QUALIFICATIONS

2. In October 2016, I retired as the Chief of Police for the Covina Police Department (the “Department”), after 39 years of law-enforcement service. I served as Chief of Police for 15 years, as a Captain for one year, as a Lieutenant for 10 years, as a Sergeant for seven years, and as a police officer for six years. I also served as interim city manager of the City of Covina for four months.

3. As Chief of Police, I was responsible for the delivery of public-safety services to a community of 50,000 residents, and the leadership of 100 employees of the Department. This work included compliance with all local, state, and federal mandates, and enforcement and implementation of existing and new policies, as well as ensuring that the Department was a leader in engaging with emerging issues or trends in the criminal-justice system. I was Chief of Police on December 24, 2008, when nine family members in my community were shot and killed at a family holiday celebration, and I provided leadership to the community during this tragedy.

4. As a Captain, I was responsible for the Department’s Administrative Division, which included oversight of detectives, the 9-1-1 communications center, custody of suspects, and property/evidence.

5. As a Lieutenant, I served as a watch commander overseeing patrols on a daily basis, as well as the auditing, training, and compliance for Department employees. I also supervised the Detective Division, which was accountable for investigating all crimes reported to the Department. I also helped to create and

1 supervise a regional mutual-aid platoon comprised of 56 officers from 15 area
2 police departments, responsible for activation and deployment in response to any
3 regional emergency or disaster. This work included the creation of a policy manual
4 and activation protocols, and coordination of the training for over 100 police
5 officers in topics such as riot response, crowd control, and command-and-control
6 for team leaders.

7 6. As a Sergeant, I was responsible for the first-line supervision of police
8 officers and detectives, including tactical leadership on critical service calls, daily
9 training, evaluation of employees, and supervision of the field training program.

10 7. As a police officer, I was a first responder to all public-safety calls for
11 service. When assigned as a detective, I worked narcotics investigations, regional
12 surveillance, and undercover operations.

13 8. I am Past President of the California Police Chiefs Association. In my
14 role with the California Police Chiefs Association, I spent five years on the
15 Executive Board of Directors, culminating in my service as President in 2013. I
16 was involved in discussions with state and local elected officials on all major
17 legislative or ballot propositions involving law enforcement, including meetings
18 with the Governor and Attorney General on major public-safety issues, legislation,
19 and initiatives. I am also Past President of the Los Angeles County Police Chiefs
20 Association.

21 9. I was one of two California police chiefs to serve on the Stanford
22 Executive Session on Public Safety Realignment, which refers to legislation passed
23 in 2011, and sometimes known as Assembly Bill 109, that shifted responsibility for
24 monitoring, tracking, and incarcerating non-serious, non-violent, non-sex offenders
25 from California state to the counties. A report based on the Executive Session's
26 work was submitted to the California State Legislature and the Governor, and is
27 available on the Internet at the following link: <https://www->
28

1 cdn.law.stanford.edu/wp-content/uploads/2015/10/ES-Consensus-Report-final-
2 report.pdf.

3 10. I served on the Executive Steering Committee for the California Board of
4 State and Community Corrections, which committee was tasked with creating a
5 new definition of the term “recidivism” for statewide use, pursuant to Assembly
6 Bill 1050. A description of this work is available on the Internet at the following
7 link: [http://www.bscc.ca.gov/downloads/Recidivism%20Defintion%20Press](http://www.bscc.ca.gov/downloads/Recidivism%20Defintion%20Press%20Release.pdf)
8 [%20Release.pdf](http://www.bscc.ca.gov/downloads/Recidivism%20Defintion%20Press%20Release.pdf).

9 11. I have lectured to law-enforcement leaders and elected officials
10 throughout California and the United States on issues such as leading a community
11 in dealing with a mass shooting, the decriminalization of marijuana and its impact
12 on communities, and public-safety realignment (Assembly Bill 109) in California.

13 12. I have received numerous awards throughout my career, including the
14 Joe Malloy Award, the most prestigious award that the California Police Chiefs
15 Association presents. This award is presented to one California police chief every
16 year, and is bestowed based upon the recipient’s professionalism, leadership, and
17 contributions to and impacts on the profession of law enforcement.

18 13. I have a Bachelor of Science Degree in Organizational Leadership from
19 Azusa Pacific University. I have a certificate for completing an eight-month law-
20 enforcement-oriented program at the University of Southern California School of
21 Public Policy, as well as a certificate for completing 40 hours of training at the FBI
22 Southwest Command College.

23 14. A copy of my current resume is attached to this Report as Exhibit A.

24 **II. PAST PUBLICATIONS AND WORK AS AN EXPERT WITNESS**

25 15. International Association of Chiefs of Police, “Proposition 19:
26 California’s Marijuana Legalization Debate,” *The Police Chief Magazine*, Oct.
27 2010. A portion of this publication is available on the Internet at the following link:
28

1 [http://www.policechiefmagazine.org/proposition-19-californias-marijuana-](http://www.policechiefmagazine.org/proposition-19-californias-marijuana-legalization-debate)
2 [legalization-debate.](http://www.policechiefmagazine.org/proposition-19-californias-marijuana-legalization-debate)

3 16. I have not testified previously as an expert witness.

4 **III. COMPENSATION**

5 17. I am being compensated for services performed in the above-entitled case
6 at an hourly rate of \$250 for reviewing materials, participating in meetings, and
7 preparing reports, and \$350 for depositions and court appearances (including travel
8 time). My compensation is not in any way dependent on the outcome of this or any
9 related proceeding, or on the substance of my opinion.

10 **IV. MATERIALS CONSIDERED**

11 18. The materials that I have relied upon are cited in the notes accompanying
12 the text of this report.

13 19. Counsel for defendant has provided me with the following additional
14 materials:

15 • Papers filed in *Flanagan v. Becerra* (C.D. Cal. No. 2:16-cv-06164-JAK-
16 AS): Complaint for Declaratory and Injunctive Relief (ECF No. 1); Notice of
17 Motion and Motion to Dismiss Complaint for Declaratory and Injunctive Relief
18 (ECF No. 24).

19 • Papers filed in *Nichols v. Brown* (9th Cir. No. 14-55873): Appellees'
20 Brief (ECF No. 36-1); Brady Center to Prevent Gun Violence's Motion for Leave
21 to File Amicus Brief in Support of Defendants-Appellees (ECF No. 41-1); Motion
22 for Leave to File Brief of Amicus Curiae Law Center to Prevent Gun Violence in
23 Support of Appellees and Affirmance (ECF No. 44-1).

24 • Manny Fernandez, Alan Blinder, and David Montgomery, "Texas Open-
25 Carry Laws Blurred Lines Between Suspects and Marchers," *N.Y. Times*, July 10,
26 2016.

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1 • California Penal Code sections 25400, 25600, 25605, 25655, 25850,
2 26150, 26155, 26160, 26165, 26170, 26350, 26361, 26362, 26364, 26366, 26377,
3 26378, 26383, 26389, 26400, and 26405.

4 • Analyses of Assembly Bill 144 (2011-2012 Reg. Sess.): Assembly
5 Public Safety Committee Analysis (Apr. 12, 2011); Senate Public Safety
6 Committee Analysis (Jun. 7, 2011); Senate Floor Analysis (Jun. 28, 2011).¹

7 • Analyses of Assembly Bill 1527 (2011-2012 Reg. Sess.): Assembly
8 Public Safety Committee Analysis (Mar. 27, 2012); Assembly Appropriations
9 Committee Analysis (Apr. 18, 2012); Senate Public Safety Committee Analysis
10 (June 26, 2012); Senate Floor Analysis (Aug. 23, 2012).²

11 • San Mateo County Sheriff's Office, "Unloaded Open Carry" (Jan. 14,
12 2010).

13 ASSIGNMENT

14 20. Counsel for Defendant has asked me to express opinions on the following
15 topic: How do restrictions on the open carry of firearms affect public safety?

16 SUMMARY OF OPINIONS

17 21. My overall opinion on this question is that restrictions on the open carry
18 of firearms greatly enhance public safety.

19 ANALYSIS

20 22. From a law-enforcement perspective, the restrictions on the open carry of
21 firearms in California have been critical to the safety of law-enforcement officers,
22 our communities, and those people who would want to openly carry firearms in
23 public. Law-enforcement officers are taught that guns are a dangerous and deadly
24 threat to their safety and the safety of the public they serve. Throughout a police

25 ¹ Available at
26 [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120AB144)
27 AB144.

28 ² Available at
[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120AB1527)
AB1527.

1 officer's career, his or her training emphasizes officer-safety tactics that place the
2 officer in positions of advantage when dealing with incidents involving firearms.
3 Police officers understand that any encounter involving a firearm can be both
4 dangerous and grave. When police respond to a "man with a gun" call, officers
5 typically are responding to a situation about which they have few details, other than
6 that a person is at a location; the person is armed; and perhaps a description of the
7 person. At least two police officers will be dispatched to each of these types of
8 calls, which are of the highest priority. Upon arrival, the officers must rapidly
9 assess the armed person's behavior in regards to the public's safety, the armed
10 person's safety, and the officers' own safety. The officers may have no idea about
11 the armed person's motives, intent, mental condition, or emotional stability. The
12 armed person's behavior and ability or failure to comply with law enforcement's
13 instructions will have great bearing on the outcome of the contact. Should the
14 armed person fail to comply with an officer's instructions or move in a way that
15 could be construed as threatening, the results could be deadly.

16 23. In the event of a call for service regarding a violent crime involving a
17 firearm, an environment that allows the open carry of firearms complicates the
18 police response, and could unnecessarily divert critical police resources from the
19 primary event. On a call about an armed robbery, officers will be given the location
20 of the event as well as a description of the suspect, if that information is obtainable
21 from any witnesses. Any person in, around, or leaving the area of the crime who
22 matches the description provided has a high likelihood of being detained by
23 responding law-enforcement personnel. The current restrictions on open carry in
24 California help ensure that law-enforcement resources are not unnecessarily
25 diverted or distracted by people who are in the vicinity and carrying firearms,
26 which people may generally match the description provided by witnesses.

27 24. When police officers encounter a person with a firearm, even one that
28 may be legally possessed, officers usually have few details to help them quickly

1 determine the armed person's intent or whether that person is a threat to the officer,
2 the public, or the armed person. Split-second decisions sometimes have to be made,
3 and unintended consequences can and do occur. The split-second decision police
4 officers have to make may be judged by other people who have the luxury of time,
5 additional information, and a controlled environment that the police officers did not
6 have.

7 25. In the event of an active shooter, the presence of civilians openly
8 carrying firearms has the potential to create deadly scenarios, as well as delaying
9 first responders from the primary mission, to stop the shooter and save lives. As
10 appropriately stated by Dallas Chief of Police David Brown in the aftermath of an
11 active shooter in Dallas at a community protest that included the presence of openly
12 carrying civilians—where the shooter caused the deaths of five police officers and
13 the wounding of nine officers and two civilians—“We don't know who the good
14 guy is versus the bad guy when everyone starts shooting.”³

15 26. The criminal-justice system in California is currently recalibrating itself,
16 and law-enforcement resources are both limited and at a premium. After years of
17 declining crime rates, violent crime in California increased by 8.4 percent in 2015,
18 and property crime rose by 6.6 percent in 2015.⁴ This trend requires law-
19 enforcement resources to be re-evaluated and deployed for maximum effectiveness
20 in their communities, to slow or stop this troubling trend. In addition, law-
21 enforcement officers have increasingly become the safety net and first responders
22 for a myriad of social issues, including homelessness and mental-health calls for
23 service. The restrictions currently in place on the open carry of firearms ensure that

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25 ³ Molly Hennessy-Fiske, “Dallas Police Chief: Open Carry Makes Things
Confusing During Mass Shootings,” *Los Angeles Times* (Jul. 11, 2016).

26 ⁴ Public Policy Institute of California, “Crime Trends in California” (Aug. 2016),
27 http://www.ppic.org/main/publication_show.asp?i=1036. This study defines
28 “violent crimes” as “homicide, rape, robbery and aggravated assault,” and “property
crimes” as “burglary, motor vehicle theft, and larceny theft.” See
<http://www.ppic.org/main/dataSet.asp?i=1636>.

1 critical law-enforcement resources are not being diverted for unnecessary calls for
2 service at incidents of the public display of firearms, which incidents, again, would
3 receive a priority response involving multiple officers.

4 27. As law-enforcement executives, police chiefs and sheriffs across
5 California are constantly working to improve and enhance the relationship between
6 law enforcement and the communities we serve. The restrictions on open carry in
7 California help ensure that law-enforcement personnel are not unnecessarily
8 spending time on public contacts involving the open carrying of firearms. Police
9 are very sensitive to seeing a gun in public or on open display, even if allowed by
10 law. In an era where law enforcement is spending considerable time and resources
11 to improve mutual trust and respect with our communities, an open-carry
12 environment would lead to increased tensions.


13 28. From a community-safety perspective, California's restrictions on the
14 open carry of firearms is critical to a healthy, vibrant, and safe environment for our
15 residents to live, shop, dine, worship, and enjoy recreational opportunities.
16 Inserting firearms carried openly into a community setting, especially in urban or
17 suburban communities, would create a highly stressful and unsafe environment for
18 everyone, including the person in possession of the firearm. Unfortunately, in
19 today's society, shootings, including mass shootings, have become fairly
20 commonplace. The presence of a firearm carried openly, or (sometimes) concealed,
21 in places visited by the public, including parks, open retail or entertainment venues,
22 theaters, restaurants, or community or political events, has the high potential to
23 create panic and chaos, and would result in an immediate law-enforcement response.

24 29. People including families want to feel safe, whether at home or in a
25 public setting. Parents want safe parks for their children, and the presence of an
26 unknown (or maybe even known) person in possession of a firearm will have a
27 chilling effect. In a community setting where a person openly carries a firearm, the
28 likelihood is that no one else in that setting knows the armed person's intention,

1 mental condition, or emotional state or stability, creating an environment of
2 extreme uneasiness or fear.

3 30. Regarding the person with the firearm, what are his or her qualifications,
4 training, marksmanship, mental state, emotional maturity, decision-making process
5 under stress—all the components and more that come with making a decision to use
6 a firearm? Is there an intoxicant involved? If so, the ability to make sound
7 decisions is sometimes greatly compromised. If put in a situation where the armed
8 person feels the need to deploy the firearm, what is his or her ability to de-escalate
9 the situation? A person in legal possession of a firearm may perceive a threat in a
10 situation where a threat is non-existent; the presence of a firearm serves only to
11 escalate the situation. A person armed with a firearm may decide to use deadly
12 force where it is not clearly required, creating a deadly situation that did not exist
13 before. People in our communities will demand answers to these questions.

14 Dated: June 1, 2017

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18 KIM RANEY
19 Former Chief of Police, Covina, CA
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Kim Raney

Summary of Qualifications

- Accomplished and experienced Chief of Police – skilled at leading, directing, and managing sworn and civilian personnel
- Approachable, forthright, and fair – adept at establishing an environment that facilitates individual and organizational success and requires accountability
- Provide excellent law-enforcement services with limited fiscal resources
- Possess the confidence and experience to make sound policy decisions and resolve problems
- Effective communication, presentation, and public-speaking skills
- Respected law-enforcement leader at the local, regional, and state level

Professional Experience

City of Covina Police Department

Chief of Police (2001-2016)

- Provide excellent, proactive law-enforcement service to a community of 50,000
- Leadership of a Police Department with 60 sworn personnel, 50 civilian employees, and 40 volunteers
- Effectively manage a \$20-million budget
- Led a cultural change within the organization
- Led an internal reorganization of Department structure
- Established excellent relationships with all community stakeholders, including business, education, and residential constituents
- Work with other Department Heads in a team environment
- Past President – California Police Chiefs Association
- Past President – Los Angeles County Police Chiefs Association

Police Captain (2000-2001)

Police Lieutenant (1990-2000)

Police Sergeant (1984-2000)

Police Officer (1977-1984)

Exhibit A

**Education/
Certificates**

Azusa Pacific University – Azusa, CA
Bachelor of Science, Organizational Leadership
POST Certificates – Executive, Management, Supervisory,
Advanced, Basic
FBI Southwest Command College – Certificate Program
USC School of Public Policy – Certificate Program

**Professional
Memberships**

California Police Chiefs Association – President 2013-14
Los Angeles County Police Chiefs Association – President 2008-09
San Gabriel Valley Police Chiefs Association – President 2005 International
Association of Chiefs of Police
Stanford University Law School – Steering Committee on AB 109
Board of State and Community Corrections – Executive Steering
Committee
Los Angeles Regional Interoperable Communications System (LA-RICS) –
Board of Directors

**Community
Activities**

Covina Chamber of Commerce
Covina Sunrise Rotary Club
San Gabriel Valley YMCA Board of Directors
Citrus Valley Health Partners – Ethics Committee