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Superior Court of California
County of Los Angeles

JUL -3 2017

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF LOS ANGELES

10 STANLEY MOSK COURTHOUSE

11 MARTIN LLANOS, AND CALIFORNIA
12 RESERVE PEACE OFFICERS
13 ASSOCIATION,

14 Plaintiffs and Petitioners,

15 vs.

16 KAMALA HARRIS, in her official capacity
as California Attorney General, STEPHEN
17 LINDLEY, in his official capacity as Chief of
the California Department of Justice, Bureau
18 of Firearms, and DOES 1-10,

19 Defendants and Respondents.

Case No.: BS163796

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS AND PETITIONERS'
MOTION FOR JUDICIAL
DECLARATION & ISSUANCE OF WRIT
OF MANDATE**

Date: August 31, 2017

Time: 1:30 PM

Dept.: 82

Judge: Hon. Mary H. Strobel

Case Filed: August 3, 2016

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1 **INTRODUCTION**

2 1. For many years, California law has comprehensively regulated firearms that the
3 Legislature declared to be “assault weapons,” including generally prohibiting their possession,
4 transfer, and acquisition. Recognizing such firearms are of critical use for law enforcement
5 officers, the Legislature expressly exempted from these restrictions “sworn peace officers” (a
6 category which includes sworn reserve peace officers) if so authorized by their employing law
7 enforcement agencies. Such officers need only be issued an authorization letter from their agency
8 and register their “assault weapon” with the California Department of Justice, Bureau of Firearms
9 (“BOF”) within 90 days of acquisition.

10 2. The BOF, departing from a long-standing practice, recently began rejecting valid
11 “assault weapon” registration requests by sworn “reserve” peace officers, including Petitioner
12 Martin Llanos, a reserve police officer, and other police officer and deputy sheriff members of
13 Petitioner California Reserve Peace Officers Association (“CRPOA”), even if they have the
14 express authorization of their employing law enforcement agency. Rather than register their rifles
15 the BOF instead ordered Petitioners to render them inoperable or surrender them. The BOF’s sole
16 basis for doing so is a manufactured and erroneous distinction between “reserve” and not “full-
17 time” peace officers.

18 3. Penal Code section 30630 (b) says “sworn peace officers” qualify for the
19 exception to the ban on “assault weapons.” The BOF’s actions, therefore, improperly deprive
20 Petitioners of their statutorily created rights which specifically authorizes their acquisition of this
21 equipment. In so doing, the BOF’s actions also limit Petitioners’ ability to protect the
22 communities and the citizens they serve, not to mention fellow law enforcement officers and
23 themselves. Many law enforcement agencies which employ reserve peace officers, unable to
24 understand or appreciate the implications of the BOF’s new “policy” prohibiting reserve peace
25 officers from acquiring patrol rifles for their law enforcement duties, have removed patrol rifles
26 from police vehicles staffed by reserve peace officers, leaving these officers and the public
27 vulnerable to criminals who, unrestrained by any laws whatsoever, use more powerful weapons to
28 endanger public safety. This was precisely the case in the City of San Bernardino with the recent

1 terrorist attack, which, coincidentally, Officer Llanos was patrolling and was one of the first
2 responders to that attack without the benefit of a patrol rifle to defend himself or the public.
3 Because of the BOF's new and unsupportable position, to this day the San Bernardino Police
4 Department deploys Officer Llanos as a police officer working patrol by himself in a solo
5 capacity in the City but does not allow him to use a patrol rifle in connection with his duties.

6 4. Declaratory and injunctive relief is necessary to make clear Petitioners' rights and
7 Respondents' duties with respect to registration of "assault weapons" and to prevent Petitioner
8 Llanos and members of Petitioner CRPOA from being deprived of their statutory rights and their
9 ability to fulfill their law enforcement duties as authorized and sanctioned by their law
10 enforcement agency employers.

11 5. Writ relief is likewise necessary because BOF is refusing to perform its clear,
12 present, and ministerial duty to register the "assault weapons" of Petitioner Llanos and other
13 similarly situated members of Petitioner CRPOA, and there is no plain, speedy and adequate
14 remedy in the ordinary course of law that will allow Petitioner Llanos, or other qualified CRPOA
15 members who patrol the communities in which they serve as certified law enforcement officers,
16 to register an "assault weapon," as they are entitled to do under California law.

17 STATEMENT OF FACTS

18 A. The "Peace Officer" Exemption to California's "Assault Weapon" Ban

19 6. It is generally illegal to manufacture, import, transfer (whether sold, gifted, or
20 lent), offer for sale, or possess any firearm defined as an "assault weapon" under Penal Code
21 section 30515. (Cal. Pen. Code §§ 30600, 30605.) There are exceptions to these general
22 restrictions on such firearms, including, as relevant here, for:

23 "the sale, delivery, or transfer of an assault weapon . . . to, or the possession of an
24 assault weapon . . . by, *a sworn peace officer member of an agency specified in*
25 *Section 30625* if the peace officer is authorized by the officer's employer to possess
or receive the assault weapon . . .

26 (Cal. Pen. Code § 30630(b)(1).)

27 7. The "agencies specified in Section 30625" are: (a) the Department of Justice; (b)
28 police departments; (c) sheriffs' offices; (d) Marshals' offices; (e) the Department of Corrections

1 and Rehabilitation; (f) Department of California Highway Patrol; District attorneys' offices; (g)
2 the Department of Fish & Wildlife; (h) the Department of Parks and Recreation; (i) military or
3 naval forces of this state or of the United states; and (j) any federal law enforcement agency for
4 use in the discharge of their official duties.

5 The authorization required from "the officer's employer" is defined as:

6 verifiable written certification from the head of the agency, identifying the recipient
7 or possessor of the assault weapon as a peace officer and authorizing that person to
8 receive or possess the specific assault weapon.

9 (Cal. Pen. Code § 30630(b)(1).)

10 8. "In the case of a peace officer who possesses or receives the assault weapon on or
11 after January 1, 2002, the officer shall, not later than 90 days after possession or receipt, register
12 the assault weapon pursuant to [Penal Code] Section 30900."¹ (Cal. Pen. Code § 30630(b)(2)).

13 9. Section 30900 requires that a firearm be registered "pursuant to those procedures
14 that the [DOJ] may establish." But, all regulations concerning the registration of "assault
15 weapons" have been repealed. (See Cal. Code Regs. tit. 11, § 5470.) The only remaining *statutory*
16 requirements are that:

17 (1) "The registration shall contain a description of the firearm that identifies
18 it uniquely, including all identification marks, the full name, address, date
19 of birth, and thumbprint of the owner, and any other information that the
20 department may deem appropriate." (Cal. Penal Code § 30900(c)); and

21 (2) The person registering the "assault weapon" pay any fee the DOJ
22 requires. (Cal. Penal Code § 30900(d).)

23 10. The BOF provides a form titled "Peace Officer Assault Weapon Registration
24 Application" identified as Form BOF 023p (Rev. 01/2012), which is attached as Exhibit "A," for
25 qualified peace officers to fill out for the purpose of meeting the registration requirements.

26 11. "With the registration, the peace officer shall include a copy of the authorization
27 required" from the officer's employer to possess or receive the "assault weapon" under subsection
28 (b)(1). (Cal. Penal Code § 30630(b)(3).)

¹ "[O]r pursuant to former Section 12285, as it read at any time from when it was amended by Section 9 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2010." This refers to the formal Penal Code sections that were renumbered without substantive change in 2010, meaning they are effectively the same as in section 30900. See Senate Bill No. 1080 (2009-2010 Reg. Sess.).

1 **B. Which Persons Are Included in Definitions of “Peace Officer”**

2 12. All “peace officers” derive their “peace officer” status under Chapter 4.5 of Title 3
3 of Part 2 (commencing with Section 830), which states in relevant part:

4 Any person who comes within the provisions of this chapter and who otherwise
5 meets all standards imposed by law on a peace officer is a peace officer, and
6 notwithstanding any other provision of law, no person other than those designated
7 in this chapter is a peace officer.

8 (Cal. Pen. Code § 830.)

9 Chapter 4.5 of Title 3 of Part 2 (commencing with Section 830) of the Penal Code lists all
10 categories of “peace officers” under California law. A “reserve” peace officer is a “person who
11 comes within the provisions of this chapter [Chapter 4.5 of Title 3 of Part 2]” under one such sub-
12 category, Section 830.6, which provides:

13 **Whenever any qualified person is deputized or appointed by the proper**
14 **authority as a reserve** or auxiliary sheriff or city police officer, a reserve deputy
15 sheriff, a reserve deputy marshal, a reserve police officer of a regional park district
16 or of a transit district, a reserve park ranger, a reserve harbor or port police officer
17 of a county, city, or district as specified in Section 663.5 of the Harbors and
18 Navigation Code, a reserve deputy of the Department of Fish and Game, a reserve
19 special agent of the Department of Justice, a reserve officer of a community service
20 district which is authorized under subdivision (h) of Section 61600 of the
21 Government Code to maintain a police department or other police protection, a
22 reserve officer of a school district police department under Section 35021.5 of the
23 Education Code, a reserve officer of a community college police department under
24 Section 72330, a reserve officer of a police protection district formed under Part 1
25 (commencing with Section 20000) of Division 14 of the Health and Safety Code,
26 or a reserve housing authority patrol officer employed by a housing authority
27 defined in subdivision (d) of Section 830.31, and is assigned specific police
28 functions by that authority, **the person is a peace officer, if the person is qualified
as set forth in Section 832.6.** The authority of a person designated as a peace
officer pursuant to this paragraph extends only for the duration of the person's
specific assignment...

29 (Cal. Penal Code § 830.6(a) (emphasis added).)

30 Section 832.6 outlines 3 levels of reserve officers, required training, and peace officer
31 authority. All such reserve officers “have the powers of a peace officer” as long as they meet
32 Section 832.6’s specified training requirements. only their assigned duties vary. Level I and Level
33 II reserve police officers and deputy sheriffs generally are deployed by their agencies in a “general

1 law enforcement” (*i.e.* patrol) capacity, the only difference being Level I reserve officers, once they
2 complete probationary training, are permitted to work alone, where a Level II reserve officer, when
3 assigned general law enforcement duties, must be supervised by a full-time or Level I reserve
4 officer who has completed the training course prescribed for full-time officers. Level III reserve
5 officers are permitted to work more limited administrative duties, but nevertheless may be (and
6 often are) assigned to duties in the field in full police uniform (including firearms), all as more
7 described in detail below.

8 **C. Reserve Officer Qualifications and Duties**

9 The Commission on Peace Officer Standards and Training (POST) Regulation 1005(a)(8)
10 requires every peace officer in the State of California who carries a firearm in the course and
11 scope of his or her duties, including all levels of “reserve peace officers,” to satisfactorily
12 complete the firearms training course required by section 832. This course may be part of the
13 minimum basic training standard or a separately certified course.

14 POST Regulation 1007(a)(1) requires Level I “reserve officers” (as described in section
15 832.6(a)(1)) to complete the basic training course for full-time deputy sheriffs and police officers
16 and a POST-approved Field Training Program, and to satisfy the continuing professional training
17 requirement prescribed by POST. Once a Level I reserve officer completes this training, that
18 officer is the legal and functional equivalent of a full-time officer and is deployed by his or her
19 law enforcement agency in that manner. (Rene Decl., ¶¶ 2-3.) Many agencies rely on these
20 officers to augment their police and sheriff ranks and as such they fulfill a critical role in keeping
21 California communities safe.

22 POST Regulation 1005(i)(1) requires every peace officer in the State of California,
23 including all levels of “reserve peace officers,” to satisfactorily complete the POST-certified 16-
24 hour minimum Rifle Course in order to possess a rifle (including any rifle classified as an “assault
25 weapon”) in the course and scope of their duties. Most agencies impose additional training and
26 qualification requirements (often referred to as “rifle school”) on their officers, including reserve
27 officers, before they are permitted to use those weapons in the field.

28 Reserve officers work regularly as part of the staffing of many police and sheriff’s

1 departments in nearly every law enforcement capacity, subject to the limitations and requirements
2 set forth in section 832.6. Prior to appointment, “reserve officers” must meet the same minimum
3 eligibility standards as full-time officers set forth California Government Code § 1031.

4 Under Penal Code section 832.6(a)(1) & (2), Level I and Level II “reserve officers” are
5 assigned to the “prevention and detection of crime and the general enforcement of the laws of this
6 state.” POST Commission Procedure H-1, § 1-2, subsection (f) provides that the “prevention and
7 detection of crime and the general enforcement of the law of this State refers to the peace officer
8 authority of a Level I or Level II reserve officer assigned to investigate crime, or patrol a
9 geographic area, and personally handle the full range of requests for police services, and take
10 enforcement action on the full range of law violations for which the reserve’s department has
11 enforcement responsibility.” This is often a patrol function, but can also be special details, such
12 as vice, surveillance, or task force duties targeting specific crimes (such as robberies, assaults,
13 and other dangerous crimes). Reserve officers are permitted and often do work these
14 assignments.

15 A Level I “reserve officer’s” specific duties are determined by his or her employer. As
16 directed by his or her employer, a Level I “reserve officer” is legally permitted to work alone and,
17 when on duty, may perform the same duties as full-time regular peace officers. (Rene Decl., ¶¶ 2-
18 3.) Most Level I reserve officers work patrol in a marked police vehicle in full police uniform
19 with the authority to take any law enforcement action as may be necessary to uphold the laws of
20 the State of California.

21 “Designated” Level I “reserve officers” (as defined by section 830.6(a)(2)), whether on
22 duty or off duty, have the full powers and duties of a “peace officer” as provided by section 830.1
23 (the section which governs most full-time law enforcement officers in California). (Rene Decl., ¶
24 3.) They are, in essence, law enforcement officers “24 hours a day.”

25 The peace officer authority of all non-designated Level I “reserve officers” (as defined by
26 section 830.6(a)(1)) extends only for the duration of the person’s specific assignment. (Rene
27 Decl., ¶ 4.) Non-designated Level I “reserve officers”—regardless of level under section 832.6—
28 therefore, have no law enforcement authority while off duty. (*Ibid.*)

1 Level II “reserve officers” (as described in section 832.6(a)(2)) must complete the
2 firearms training course required by section 832, as well as specified coursework prescribed by
3 POST, which consists of a minimum of 333 training hours, and must satisfy the continuing
4 professional training requirement prescribed by POST. (Rene Decl., ¶ 5.) POST Regulation
5 1007(a)(2) does not require Level II “reserve officers” to complete a POST-approved Field
6 Training Program. (*Ibid.*)

7 Level II “reserve officers” may be assigned, without immediate supervision, to those
8 limited duties authorized for a Level III “reserve officer.” (Rene Decl., ¶ 6.) For all other
9 “general law enforcement” (typically patrol) assignments, Level II “reserve officers” must work
10 under the immediate supervision of a peace officer who has completed the basic training course
11 for deputy sheriffs and police officers. (*Ibid.*)

12 Level III “reserve officers” (as described in section 832.6(a)(3)) must complete specified
13 coursework prescribed by POST, which consists of a minimum of 144 training hours. (Rene
14 Decl., ¶ 9.) POST Regulation 1007(a)(3) does not require Level II or Level III “reserve officers”
15 to complete a POST-approved Field Training Program, although in the case of most Level II
16 reserve officers, their agencies require them to complete the functional equivalent of this Field
17 Training Program before they will be deployed in a patrol capacity. (*Ibid.*)

18 Level III “reserve officers” may be deployed, and are authorized only, to carry out limited
19 support duties not requiring general law enforcement powers in their routine performance (e.g.,
20 traffic and crowd control, parking enforcement, evidence transportation, and other duties that are
21 not likely to result in physical arrests). (Rene Decl., ¶ 10.)

22 Level III “reserve officers” generally must be supervised in the accessible vicinity by a
23 full-time or Level I reserve officer or a full-time, regular peace officer employed by a law
24 enforcement agency authorized to have reserve officers. (Rene Decl., ¶ 11.) However, Level III
25 “reserve officers” may be assigned, without immediate supervision, to transport prisoners,
26 provided they have completed the firearms training course required by section 832 and any other
27 training prescribed by POST. (*Ibid.*)

28 In sum, reserve peace officers are highly trained law enforcement officers who receive

1 vastly more training than most of the other categories of “peace officers” as defined in the Penal
2 Code. They work patrol and other law enforcement duties which require a high degree of skill
3 and judgment. They drive police vehicles, wear police uniforms and badges, carry police
4 equipment (firearms, handcuffs, batons, pepper spray, and Tasers) and are relied upon by their
5 agencies to keep the public safe. They are, in every sense of the word, true “professionals.”

6 There is no POST or other legal requirement for “reserve officers” to work a minimum
7 number of hours each month. (Rene Decl., ¶ 12.) However, most agencies require “reserve
8 officers” to serve a minimum number of hours per deployment period (typically 16 to 24 hours
9 per month). (*Ibid.*) “Reserve officers” also may be permitted to serve in excess of this minimum
10 commitment and often do. (*Ibid.*) In addition to any minimum hours requirement, “reserve
11 officers,” are subject to being called in by their employing agency for duty in instances of staffing
12 shortages, public emergencies or other critical incidents. (Rene Decl., ¶ 13.)

13 “Reserve officers” may be compensated by their employing agency and receive employee
14 benefits, such as workers’ compensation, disability, life insurance, legal representation and line of
15 duty death benefits. (Rene Decl., ¶¶ 15-16.)

16 “Reserve officers” are typically issued by their agencies a firearm, baton, handcuffs, duty
17 belt, uniform and other necessary law enforcement equipment. (Rene Decl., ¶ 19.) When they go
18 on patrol in the field, they may be assigned a marked police vehicle, a radio, camera, safety and
19 other police equipment. (Rene Decl., ¶ 20.) They may testify in court on behalf of their
20 employing agencies in civil and criminal actions. (Rene Decl., ¶ 22.)

21 “Reserve officers” are required to abide by all of their agencies’ policies both while on-
22 duty and off-duty. (Rene Decl., ¶ 21.) “Reserve officers” are subject to discipline and termination
23 by their employing agencies. (Rene Decl., ¶ 17.)

24 Duly appointed “reserve officers” are exempt from the state’s laws prohibiting the
25 carrying of firearms in public. (Pen. Code, §§ 25450, 25900, 26170; 18 U.S.C. § 926B; Rene
26 Decl., ¶ 26.) Law enforcement agencies specified in section 30625 have authorized “reserve
27 officer” employees to receive and register “assault weapons” pursuant to section 30630(b). (Rene
28 Decl., ¶ 23.) At present, many reserve peace officers serving in law enforcement agencies

1 throughout California currently use such rifles for law enforcement purposes, with the full
2 knowledge, oversight and sanctioning of their law enforcement agency employers, which is
3 required by law. Neither party is aware of any “reserve officer” ever misusing a registered
4 “assault weapon.”

5 **D. Petitioner Officer Martin Llanos**

6 Officer Llanos was appointed and sworn in by the San Bernardino Police Department
7 (“SBPD”)—an agency specified in Section 30625—as a paid employee (Level I reserve) police
8 officer under Penal Code section 830.6. (Llanos Decl., ¶ 4.) Officer Llanos meets the
9 qualification requirements found in Penal Code Section 832.6(a)(1). (Llanos Decl., ¶ 2.) As such,
10 he is a Level-1 “reserve officer” but is not a “designated reserve officer” (as defined in section
11 830.6(a)(2)) insofar as the City of San Bernardino has not sought to pass an ordinance or
12 resolution “designating” its Level I reserve peace officers. Notwithstanding, when on-duty he is a
13 “peace officer” for all purposes under California law.

14 Subject to the discretion of SBPD, Petitioner Llanos is authorized to perform the same
15 functions as full-time, regular police officers while on duty. (Llanos Decl., ¶ 7.)

16 In compliance with Penal Code section 30630, Officer Llanos:

- 17 a. obtained a letter signed by the Chief of Police for the San Bernardino Police
18 Department, his employing law enforcement agency, identifying Officer Llanos as
19 a “sworn peace officer” and authorizing him to obtain a specific type “assault
20 weapon” for use on patrol (attached as Exhibit “B”);
- 21 b. delivered the letter to a properly licensed firearms dealer who sold him the
22 indicated rifle; and
- 23 c. within 90 days of receiving the rifle, properly completed the “Peace Officer
24 Assault Weapon Registration Application” form required by BOF and mailed it to
25 BOF, (attached as Exhibit “C”), along with a check for the required \$20 fee and a
26 copy of the letter signed by his employer authorizing the purchase;

27 Despite so complying with all statutory requirements to qualify for the exception, Officer
28 Llanos received a letter from the BOF, dated April 29, 2016, (attached as Exhibit “D”), rejecting

1 his Peace Officer Assault Weapon Registration Application on the grounds that:

2 Penal Code section 30625 allows for assault weapons to be used and purchased by sworn
3 peace officers and nothing precludes you from using an agency issued assault weapon.
4 However, we have found no clear statutory authority to support the proposition that a
reserve officer may purchase one for his or her own use.

5 The letter also stated that BOF had notified Officer Llanos's employing agency of the
6 rejection, and instructed him to either "[r]ender the weapon permanently inoperable" or
7 "[s]urrender the weapon to a law enforcement agency."

8 Preceding BOF's denial of Officer Llanos's registration, counsel for CRPOA had already
9 been engaged in communications with BOF representatives disputing the denial of other reserve
10 officers' registrations. (Brady Decl., ¶ 1.) Those representatives confirmed their position that
11 "reserve officers cannot purchase assault weapons." (*Ibid.*) On or about January 15, 2016, counsel
12 for CRPOA submitted a letter to BOF explaining why "reserve officers" do meet the legal
13 requirements to register an "assault weapon" with authorization from their employing agency, and
14 requesting that BOF clarify that authorized "reserve officers" are indeed allowed to register such
15 firearms under state law. (*Ibid.*)

16 On or about March 12, 2016, BOF attorney, Robert Wilson, responded to CRPOA's
17 counsel in the form of an email explaining that BOF believes there is no provision in California
18 law allowing a reserve officer to register an "assault weapon" for personal use. (Brady Decl., ¶ 2.)
19 Mr. Wilson confirmed BOF's view in a March 18, 2016, email replying to and in spite of
20 CRPOA's counsel's clarification that the firearm was for "law enforcement purposes." (*Ibid.*)
21 Particularly, Mr. Wilson contended that there was an absence of a provision specifically
22 authorizing sworn *reserve* officers, as distinguished from every other class of California peace
23 officers, to acquire "assault weapons." (*Ibid.*)

24 Hearing no response, on June 13, 2016, outside counsel for CRPOA and Officer Llanos
25 submitted another letter to Respondents explaining that BOF's position is erroneous because the
26 Penal Code provides a *categorical* exemption for any person who is a "sworn peace officer" and
27 reserve peace officers meet that definition. (Brady Decl., ¶ 3.)

28 Again hearing no response to their June 13, 2016, letter, outside counsel for CRPOA and

1 Officer Llanos followed up with an email to BOF attorney, Robert Wilson, on July 8, 2016,
2 asking if BOF has a response to the letter. (Brady Decl., ¶ 4.)

3 On July 12, 2016, Mr. Wilson responded to the email, stating that BOF “has taken another
4 look at this issue and is of the opinion that its position is sound. We cannot revise our stance on
5 this issue at this time.” (Brady Decl., ¶ 5.)

6 **E. Defendants’ “Assault Weapon” Registration Policy for “Reserve Officers”**

7 The BOF had for many years been accepting “assault weapon” registrations by “reserve
8 officers” who had the proper authorization from their agencies to obtain a rifle meeting the
9 “assault weapon” definition. Also, in 2009, the BOF issued a notice concerning the peace officer
10 exemption for acquiring “large capacity magazines” under Penal Code Section 30630 (former
11 Section 12020(b)(20))—which is essentially identical in form to the exemption in Section
12 30630—stating that: “A *person who is properly identified as a reserve peace officer is a ‘sworn*
13 *peace officer.’*” (State of California, Department of Justice, Important Notice (December 10,
14 2009) (emphasis added).) Attached as Exhibit E and incorporated by reference as if fully set forth
15 herein. The BOF continues to recognize that exemption for “reserve officers” to this day.

16 Sometime in 2016, however, the BOF began to reject such registrations, including those
17 of Petitioner Llanos and other CRPOA reserve officer members. Defendants have since instructed
18 law enforcement agencies to cease the practice of authorizing “reserve officers” to acquire
19 “assault weapons” directly from a licensed firearms dealer. Defendants do not dispute that
20 “reserve officers” may possess and use “assault weapons” provided by their employing agency
21 “for law enforcement purposes.”

22 **ARGUMENT**

23 **I. A DECLARATION THAT “RESERVE OFFICERS” CAN QUALIFY FOR**
24 **PENAL CODE SECTION 30630(b)(1)’s EXEMPTION TO THE**
25 **RESTRICTION ON ACQUIRING AND POSSESSING “ASSAULT**
26 **WEAPONS”**

27 Petitioners are entitled to declaratory relief. Declaratory relief is available where a party
28 demonstrates (1) a proper subject of declaratory relief, and (2) an actual controversy involving
justiciable questions relating to those rights or obligations. (*Wilson & Wilson v. City Council of*
Redwood City (2011) 191 Cal.App.4th 1559, 1582; Code Civ. Proc. § 1060.) Both criteria are

1 satisfied here. The duties of a public agency like the BOF are proper subjects for declaratory
2 relief. (*See City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 79 [“[a]n action for declaratory relief
3 lies when the parties . . . dispute whether a public entity has engaged in conduct or established
4 policies in violation of applicable law.”][citation omitted].) And this case presents a live and
5 justiciable controversy because the BOF’s contested rejection of valid “assault weapon”
6 registration requests by sworn “reserve” peace officers is occurring now and, without judicial
7 relief, will continue indefinitely. Accordingly, declaratory relief is appropriate, and the Court
8 should issue a declaration that Penal Code section 30630(b)(1) applies to exempt “reserve
9 officers” from the restrictions on acquiring and possessing “assault weapons.”

10 **A. Petitioners Meet the Definition of “Peace Officers” Contemplated in Section**
11 **30630(b)(1)**

12 As explained above, all peace officers in California derive their peace officer status under
13 Chapter 4.5 of Title 3 of Part 2 (commencing with Section 830). It is undisputed that “reserve
14 officers” who satisfy the criteria in section 830.6, subdivision (a), are “peace officers” as defined
15 in Chapter 4.5 of Title 3 of Part 2. It is also undisputed that “reserve officers” can be, and
16 Petitioners are, “sworn” members of agencies specified in Section 30625, which includes police
17 and sheriff departments. As such, they meet the criteria to be eligible for the exemption under
18 Section 30630(b), if they have their employer’s authorization.

19 Nevertheless, the BOF has rejected, and continues to reject “assault weapon” registrations
20 from Petitioners, and people similarly situated to them—despite express approval by police chiefs
21 and sheriffs to obtain such firearms—because Defendants assert that “reserve officers” are
22 undeserving of Penal Code section 30630(b)(1)’s exemption. Specifically, Defendants assert that
23 “reserve officers” cannot meet section 30630(b)’s exemption because, when off-duty or not on a
24 particular assignment, they may have no law enforcement authority and cannot serve a public
25 safety function. But, application of Penal Code section 30630(b)(1)’s exemption does not depend
26 on whether a “peace officer” has *authority* as a peace officer at any given time. Rather, it only
27 asks whether an individual has the *status* of “peace officer” to be entitled to its exemption. The
28 exemption is “categorical” and neither qualified nor limited by the “authority” of that person at
any given moment in time (a critical distinction and one described in more detail below).

1 **B. Because Petitioners Are “Peace Officers” They Qualify for Section 30630(b)(1)’s**
2 **Exemption and Are Entitled to Register Their “Assault Weapons” Authorized by**
3 **Their Employers**

4 “When the language of the statute is clear, we need go no further.” (*Nolan v. City of*
5 *Anaheim* (2004) 33 Cal. 4th 335, 340.) That is, “[i]f the words themselves are not ambiguous, we
6 presume the Legislature meant what it said, and the statute's plain meaning governs.” (*Wells v.*
7 *One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1190, 48 Cal.Rptr.3d 108, 141 P.3d 225;
8 *See also Lee v. Hanley* (2015) 61 Cal. 4th 1225.) Courts will adopt a literal interpretation of a
9 statute unless it is repugnant to the obvious purpose of the statute, (*Lungren v. Deukmejian* (1988)
10 45 Cal.3d 727, 735), or the “interpretation of statutory language lead[s] to absurd results”
11 (*People v. Loeun* (1997) 17 Cal.4th 1, 9.)

12 Where the text of statute is clear the Court should not inquire into legislative intent. (*J.A.*
13 *Jones Const. Co. v. Superior Court* (1994) 27 Cal.App.4th 1568, 1575). The courts may not
14 speculate that the legislature meant something other than what it said, nor may they alter or
15 otherwise rewrite a statute so as to make it express an intention that does not appear from the
16 language involved. (*Page v. MiraCosta Community College Dist.* (2009) 180 Cal.App.4th 471,
17 492; *In re Hoddinott* (1996) 12 Cal.4th 992, 1002). “Where the statutory language is not clear
18 and allows more than one meaning, the courts nevertheless have a duty to accept the meaning that
19 the Legislature intends if its intention is ascertainable.” (*Service Employees Internat. Union v.*
20 *City of Redwood City* (1995) 32 Cal. App. 4th 53, 58-59.) To clarify ambiguities and to discern
21 legislative intent, it is appropriate to refer to extrinsic aids such as the legislative history and
22 context. (*Id.* at p. 59; *Long Beach Police Officers Assn. v. City of Long Beach* (1988) 46 Cal. 3d
23 736, 743; *Sand v. Superior Court* (1983) 34 Cal. 3d 567, 570.)

24 **1. Section 30630(b)(1)’s Plain Language Creates a Categorical Exemption**
25 **for Qualified “Peace Officers”—Whether They Maintain Peace Officer**
26 **Authority at All Times Is Irrelevant**

27 The plain language of Penal Code section 30630(b)(1) exempts from California’s
28 possession and acquisition restrictions on “assault weapons” any “peace officer” employed by
 police or sheriff departments (agencies specified in Section 30625) who is duly authorized by his
 or her employer to obtain such a firearm. There is no dispute that reserve officers are “peace

1 officers” and that they are employed by the contemplated agencies. That should be the end of the
2 inquiry, in favor of Petitioners. But, Defendants assert that the plain language does not control
3 here, and that “reserve officers”—while admittedly sworn “peace officer” members of police and
4 sheriff departments—are not entitled to Penal Code section 30630(b)(1)’s exemption because
5 they may lack peace officer authority to serve a public safety function while off duty. But, this
6 view is demonstrably erroneous under current California case law.

7 Stanislaus County made the identical argument as Defendants do here in claiming its
8 custodial sheriff deputies are not entitled to Penal Code Section 25450’s “peace officer”
9 exemption from the general concealed firearm carry restriction when off-duty because they do not
10 have “peace officer” authority during that time. The Court of Appeal for the Fifth District flatly
11 rejected that argument in *Stanislaus County Deputy Sheriffs’ Assoc. v. County of Stanislaus*
12 (2016) 2 Cal.App.5th 368.

13 In doing so, the Court explained that “when the Legislature wishes to restrict or qualify
14 the scope of the peace officer exemption with respect to a particular classification of peace
15 officer, the Legislature does so—either in the exemption statute itself, or by explicitly addressing
16 the matter of carrying firearms within the applicable provision of chapter 4.5.” *Ibid* at 379. And,
17 because it found neither statute contained such a restriction, the Court granted the deputies’
18 request for a judicial declaration that they are entitled to Section 25450’s “peace officer”
19 exemption.

20 The *Stanislaus* Court’s analysis in reaching that conclusion is extremely instructive here,
21 if not dispositive, because the exemptions are so similar in nature. On the first question, the Court
22 reasoned that because it “grants the exemption to “[a]ny peace officer, listed in Section 830.1,””
23 “there is no indication in the wording of section 25450, subdivision (a) itself—which plainly
24 confers the exemption on broad categories of listed peace officers . . .—that the exemption was
25 meant to turn on and off like a light switch depending on the individual’s particular activities,
26 location or circumstances in a given moment.” *Ibid* at 377–78. And, in turning to the definitional
27 statute (Section 830.1) itself, the Court found the absence of any mention about firearm
28 restrictions sufficient evidence that nothing therein intended to limit application of the exemption.

1 Like Section 25450, the text of Penal Code section 30630(b) also exempts “a broad
2 category of “peace officers”—in fact, it exempts *any* “sworn peace officer” in Chapter 4.5, with
3 the only qualification being the officer’s employer sanctions it. And nothing in Chapter 4.5
4 addresses the authority (or lack thereof) to possess “assault weapons”—certainly nothing in
5 Section 830.6 (conferring “peace officer” authority on “reserve officers”) does. As such, there is
6 no indication the Legislature intended to do anything other than what the statute says on its face,
7 exempt *any* peace officer with authorization.

8 As the *Stanislaus* Court makes clear, where the Legislature wishes to qualify or limit a
9 peace officer exemption to a specific sub-category of peace officers, it knows how to do so,
10 explicitly. Examples of it doing so abound, including the exemptions from the 10-day waiting
11 period for the purchase of a firearm as specified in Penal Code Section 27650(a)(1) (which only
12 applies to “*full-time paid* peace officers”), and the Penal Code Section 26950 limit on purchasing
13 a handgun within a 30-day period (also only applicable to “*full-time paid* peace officers).² But the
14 Legislature tellingly omitted any such express qualification for the Penal Code section 30630(b)
15 exemption.

16 Instead, the Legislature gave executive officers (*i.e.*, Police Chiefs and Sheriffs) discretion
17 to determine whether a particular “peace officer” should be able to obtain an “assault weapon”
18 under Penal Code section 30630(b). This approach makes sense. Rather than the Legislature
19 micromanaging who should and should not be allowed to have an “assault weapon,” it left that
20 determination up to the police chiefs and sheriffs, the people in the best position to assess whether
21 an “assault weapon” in a particular officer’s hands would further public (and officer) safety. The
22 exemption allows discretion to even deny an “assault weapon” to a full time officer. This suggests
23 that the Legislature intended for *any* “peace officer” to be eligible for Penal Code section
24 30630(b)’s exemption, including “reserve officers,” subject to the decision of an informed
25 authority—the police chief or sheriff. It certainly did not leave this discretion up to Defendants to
26 nullify the exemption for “reserve officers” and to usurp the statutory authority of Police Chiefs
27

28 ² See also the plethora of Labor Code Sections (Labor Code Sections 1309.5(a) and (b), 3212.1(a)(4), 3212.5,
3212.85, 3212.12, 4709(a)) and the Business and Professions Code (Sections 21665 and 25755(b)), which qualify or
limit the “peace officer” exemption to a sub-category of peace officers as specified in those provisions.

1 and Sheriffs. But, with BOF’s policy of denying “reserve officer” “assault weapon” registrations,
2 that is exactly what Defendants are doing.

3 In sum, the Court’s reasoning in *Stanislaus* precludes Defendants’ from taking the
4 position that they have here, that “reserve officers” are not entitled to the exemption because they
5 sometimes lack “peace officer” authority.

6 **2. Interpreting the term “Sworn Peace Officer” to Include “Reserve**
7 **Officers” for Section 30630(b)(1)’s Exemption Does Not Create an Absurd**
8 **Result Nor Is Doing So Repugnant to that Statute**

9 The *Stanislaus* Court’s interpretation that the “peace officer” exemption to the general
10 concealed carry restriction—which is effectively identical to that of Section 30630(b)(1)—applies
11 to off-duty custodial deputies, who have no “peace officer” authority while off-duty, alone shows
12 there would be no absurd result in interpreting Section 30630(b)(1) the very same way. To the
13 contrary, it would violate canons of statutory construction to interpret the two essentially identical
14 provisions differently. (*Droeger v. Friedman, Sloan & Ross* (1991) 54 Cal. 3d 26, 52 (holding
15 that it is the duty of the court to harmonize two statutory provisions on the same subject so that
16 they do not conflict with one another); *Shirk v. U.S. ex rel. Dept. of Interior* (9th Cir. 2014) 773
17 F.3d 999, 1004 (holding that “[a] basic principle of interpretation is that courts ought to interpret
18 similar language in the same way, unless context indicates that they should do otherwise.”); see
19 also Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 170-73
20 (2012).)

21 What is most telling that such an interpretation does not create an absurd result is
22 Defendants’ own longstanding interpretations of similar exemptions under the Penal Code. For
23 example, Penal Code 32405 (relating to “large-capacity magazines”) has nearly identical
24 language as Section 30630. Specifically, Penal Code Section 32405 states:

25 Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of,
26 or importation into this state of, a large-capacity magazine *by a sworn peace officer, as*
27 *defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is*
28 *authorized to carry a firearm in the course and scope of that officer's duties.*

(CAL. PENAL CODE § 32405 (emphasis added))

The BOF issued a notice concluding: “A *person who is properly identified as a reserve*
peace officer is a ‘sworn peace officer.’” (State of California, Department of Justice, Important

1 Notice (December 10, 2009) (emphasis added.) The BOF’s position that the exemption for
2 “peace officers” found in Penal Code Section 32405 is applicable to “reserve officers” forecloses,
3 under common canons of statutory construction, any argument that the term “sworn peace
4 officer” means something else for purposes of Penal Code Section 30630. Both exemptions
5 simply use the term “sworn peace officer” or in a straightforward manner, without any
6 qualifications, as would be expected in common usage if they were intended to be treated
7 differently.

8 What’s more, in considering the duties of “reserve officers,” there is nothing repugnant to
9 the statute or absurd about including them in Section 30630(b)(1)’s exemption. To the contrary, it
10 would be odd to exclude them. Level I “reserve officers” must meet the same hiring and training
11 requirements as full time peace officers, and the training for Level II and Level III reserve
12 officers far exceeds the training required of most other categories of peace officers specified in
13 the Penal Code. Likewise, “reserve officers” are faced with many of the same duties, and thus
14 same dangers, as full time officers. It, therefore, would make sense for the Legislature to grant
15 them the ability to have the same tools as full time law enforcement officers. It makes even more
16 sense where the statute only allows those “reserve officers” whose employer believes have a need
17 for an “assault weapon” for duty use to be eligible for the exemption.

18 As such, qualified “reserve officers,” like Petitioners, are entitled to acquire and have
19 registered “assault weapons” under Section 30630(b)(1).

20 **II. A WRIT OF MANDATE SHOULD ISSUE COMPELLING DEFENDANTS TO** 21 **REGISTER PETITIONERS’ “ASSAULT WEAPONS”**

22 **A. Legal Standard for Issuance of a Writ of Mandate**

23 A court has the authority to issue a writ of mandate “to compel the performance of an act
24 which the law specially enjoins, as a duty resulting from an office, trust, or station.” (CCP §
25 1085). Mandate lies when: (1) the respondent has a clear present duty to act; and (2) the petitioner
26 has a beneficial right to performance of that duty. *People ex rel Younger v. County of El Dorado*
27 (1971) 53d. 480, 491; *TransdynlCresci JV v. City and County of San Francisco* (1999) 72 CA
28 4th 746, 752. Code of Civil Procedure § 1086 provides that when a verified petition is submitted

1 by a party “beneficially interested,” a writ “*must* issue where there is not a plain, adequate speedy
2 remedy in the ordinary course of law.”

3 **1. Respondents-Defendants Have a Clear, Present, and Ministerial Duty to Register any**
4 **“Assault Weapon” from Authorized Sworn Peace Officers Under Penal Code Section**
5 **30625**

6 A ministerial duty is one that a public agency is *required* to perform. *Santa Clara Cty. Counsel*
7 *Attys. Assn. v. Woodside*, 7 Cal. 4th 525, 540 (1994). It is a duty that a government actor is
8 required to perform without the exercise of independent judgment or opinion. *Ellena v.*
9 *Department of Ins.* 230 Ca. 4th 198, 205 (2014); *County of San Diego v. State* 164 Ca. 4th 580, 593
10 (2008).

11 As provided above, Penal Code Section 30630(b)(1) states in relevant part:

12 Sections 30600, 30605, and 30610 *shall not prohibit* the sale, delivery, or transfer of an
13 assault weapon . . . to, or the possession of an assault weapon . . . by, a *sworn peace*
14 *officer member of an agency specified in Section 30625* if the peace officer is authorized
15 by the officer's employer to possess or receive the assault weapon [].³

16 (CAL. PENAL CODE § 30630 (emphasis added).)

17 This provision—by stating “shall not prohibit”—unequivocally deprives Defendants of any
18 discretion whatsoever to deny to a “sworn peace officer member of an agency specified in Section
19 30625” who has the required authorization from his or her employer, the acquisition or possession
20 of an “assault weapon.”

21 And, because Section 30630(b)(2) requires that “peace officers” who qualify for Section
22 30630(b)’s exemption register with the BOF any “assault weapon” they acquire, in order for the
23 exemption to apply, the BOF’s refusal to perform the registration would be tantamount to
24 prohibiting the officers from acquiring or possessing an “assault weapon”—an act that Section
25 30630 expressly forbids. BOF does not have such discretion. Defendants, therefore, have a
26 ministerial duty to approve the registration of any “assault weapon” submitted to the BOF by a
27 “sworn peace officer member of an agency specified in Section 30625” with the authorization of
28 the officer’s employer, if the registration complies with Section 30900(a)’s procedural
requirements.

³ All references to “.50BMG rifles” are redacted because they are not at issue in this litigation.

1 **2. Petitioners Have a Clear, Present, and Beneficial Interest in the Outcome of this**
2 **Proceeding Because They Are Being Denied the Lawful Registration of their**
3 **Firearms which the Legislature Allowed them to Acquire in order to Protect the**
4 **Public, their Fellow Officers, and Themselves.**

5 The second requirement is that a petitioner must also have a “clear, present and beneficial
6 right” to the performance of the duty allegedly owed by the respondent. *Ellena v. Department of*
7 *Ins.*, 230 Ca. 4th 198, 205 (2014). A petitioner can establish a beneficial right to the performance
8 of a duty owed by a respondent, if he or she can show some special interest to be served or
9 particular right to be preserved or protected over and above the interest held in common with the
10 public at large. *Save the Plastic Bag Coal. v. City of Manhattan Beach*, 52 Cal. 4th 155, 165
11 (2011).

12 As explained above, any “sworn peace officer member of an agency specified in Section
13 30625” who has the required authorization from his or her employer to obtain an “assault
14 weapon” is *entitled*, under Section 30630(b), to an exemption from the general restrictions on
15 possessing or acquiring one *and* to have it registered by the BOF, if the officer properly seeks
16 registration. Without the mandatory registration being completed, they would be unable to
17 lawfully enjoy the exemption. Accordingly, any such peace officers have a special interest and
18 statutory right provided by the Penal Code to have their “assault weapons” registered. An interest
19 and a right that Defendants deny Petitioners—who are such peace officers—by refusing to
20 register their “assault weapons.”

21 **3. Petitioners Have no Plain, Speedy, Or Adequate Legal Remedy from the Ongoing**
22 **Harm Caused by Respondents’ Policy of Rejecting All “Peace Officer Assault**
23 **Weapon Registration Application Forms from Reserve Peace Officers in**
24 **Contradiction of State Law.**

25 Whether a potential alternate remedy is available “in the ordinary course of law” involves an
26 examination of: (1) the legal foundation for that remedy; and (2) how the remedy relates to the
27 relief sought by the plaintiff. *Villery v. Dep’t of Corr. & Rehab.*, 246 Cal. App. 4th 407, 414
28 (2016). Courts have regarded this examination as one of fact imposed by the circumstances of
29 each particular case.

30 Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law
31 because state law requires them to register their “assault weapons” with the BOF but the BOF

1 prohibits them from doing so. There is no alternative to having the right equipment when serving
2 as a “peace officer.” It can mean the difference between life and death. Petitioner Llanos has no
3 way to use his rifle while on duty, unless and until Defendants register it. And his employing
4 department does not have rifles to let him use.

5 This is a problem that money cannot solve. As such, the only remedy is to compel
6 Defendants to register Petitioners’ “assault weapons.”

7 **CONCLUSION**

8 For the foregoing reasons, Petitioners respectfully requests that this Court declare that
9 “peace officers meeting the definition under Penal Code section 830.6 (i.e., “reserve officers”) are
10 eligible for Penal Code section 30630(b)’s exemption, enjoin Defendants from refusing to register
11 “assault weapons” to “reserve officers” who meet the requirements of Penal Code section
12 30630(b), and issue a writ of mandate compelling Defendants to register Petitioner Llanos’s
13 “assault weapon” and that of any other “reserve officer” who meets the requirements of Penal
14 Code section 30630(b).

15
16 Dated: July 3, 2017

MICHEL & ASSOCIATES, P.C.



Sean A. Brady
Attorney for Plaintiffs and Petitioners

EXHIBIT “A”



**CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
Peace Officer Assault Weapon Registration Application**

| Applicant Information | | | | | | | |
|---------------------------------|---------|-------------|-------------|--------------|--|----------------|-----------|
| Last Name: | | First Name: | | Middle Name: | | Date of Birth: | |
| Sex: | Height: | Weight: | Hair Color: | Eye Color: | CA Driver License or Identification No.: | Telephone No.: | |
| Physical Residence Address: | | | | City: | | State: | Zip Code: |
| Mailing Address (if different): | | | | City: | | State: | Zip Code: |

| Assault Weapon Information | | | | | | | |
|----------------------------|-------------|----------|--------|-------|----------|----------------|--|
| Date of Acquisition: | Serial No.: | Make: | Model: | Type: | Caliber: | Barrel Length: | |
| From Whom Acquired: | | Address: | | City: | State: | Zip Code: | |
| Date of Acquisition: | Serial No.: | Make: | Model: | Type: | Caliber: | Barrel Length: | |
| From Whom Acquired: | | Address: | | City: | State: | Zip Code: | |
| Date of Acquisition: | Serial No.: | Make: | Model: | Type: | Caliber: | Barrel Length: | |
| From Whom Acquired: | | Address: | | City: | State: | Zip Code: | |

| Declaration | |
|--|--|
| <input type="checkbox"/> I am a qualifying peace officer for assault weapon registration pursuant to Penal Code section 30630 subdivision (b)(1). <p align="center"><i>I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</i></p> <p>Signature _____ Date _____</p> | |

| Applicant Right Thumb Print |
|-----------------------------|
| |

| Instructions |
|---|
| <ol style="list-style-type: none"> If you have an existing peace officer assault weapon registration on file with the Department of Justice, please place your Assault Weapon Registration number in the space provided in the bottom left corner of this application. The Peace Officer Assault Weapon Registration Application fee is \$20.00 per person regardless of the number of weapons listed. Please submit a check or money order made payable to the Department of Justice. A required agency authorization letter must accompany this application. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing that person to receive or possess that specific assault weapon. (Pen. Code § 30630, subd. (b)(1).) To register more than three (3) assault weapons please use additional pages of this application as necessary. Applicants must check the box certifying he/she is a qualifying peace officer for assault weapon registration. Applicants must also sign and date the perjury statement. Applications submitted without signature will be returned unprocessed. The applicant's right thumb print must be provided in the space indicated. Applications with unacceptable thumb prints will be returned unprocessed. Submit completed, signed application, along with required documentation and fee to the address listed below. Incomplete applications will be returned unprocessed. If you have any questions, please contact the Firearms Licensing and Permits Section at (916) 227-2153. <p align="center"> Department of Justice Firearms Licensing and Permits Section - AWR P.O. Box 160367 Sacramento, CA 95816-0367 </p> |

| |
|---------------------------------------|
| Assault Weapon Registration No. _____ |
|---------------------------------------|

| Official Use Only | | | |
|-----------------------|-----------------|--|-----------------|
| Date Received: _____ | Initials: _____ | Date Paid: _____ | Initials: _____ |
| Date Processed: _____ | Initials: _____ | Auth. Ltr. Attached <input type="checkbox"/> | Initials: _____ |

EXHIBIT “B”



POLICE DEPARTMENT
JARROD BURGUAN - CHIEF OF POLICE

P.O. Box 1559 • San Bernardino • CA 92402-1559
909.384.5742
www.sbcty.org

Date: February 11, 2016

MMI Wholesale
5375 Industrial Drive, Suite 107
Huntington Beach, CA 92649

Re: Firearm(s) Purchase Authorization in Lieu of Federal Form 4473 or 5300.35 and NICS Compliant Record Check of Officer.

Officer Name: Reserve Officer Martin Llanos

TO WHOM IT MAY CONCERN:

I hereby certify that the above-named law enforcement officer will use the requested firearm(s) for use in performing official duties. I further certify that a records check has been conducted on the law enforcement officer who is purchasing the firearm(s) and reveals no conviction for misdemeanor crimes of domestic violence.

The above named individual is a sworn peace officer pursuant to Penal Code 830.6 and is eligible to receive the firearm listed below for use in performing official duties.

| | |
|--|----------------------------------|
| <u>LMT, CQBPS16, 5.56 caliber, LMT Rifle, Assault Weapon</u> | <u>LMT79100</u> |
| Firearm Description | (Model / Serial #) |
| <u>Reserve Officer Martin Llanos</u> | <u><i>MAL</i> 021116</u> |
| Name of Purchasing Officer | Signature / Date |
| <u>Chief Jarrod Burguan</u> | <u><i>J. Burguan</i> 2/11/16</u> |
| Name and Title of Person of Authority | Signature / Date |

Only the head of the agency has the authority to sign for a 10-day waiver letter.

PFCA072014

EXHIBIT “C”



**CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
Peace Officer Assault Weapon Registration Application**



| Applicant Information | | | | | | | |
|--|------------------|-----------------------|----------------------|-----------------------|--|--------------------------------|--------------------|
| Last Name: LLANOS | | First Name: MARTIN | | Middle Name: | | Date of Birth: 03/01/1973 | |
| Sex: M | Height: 6'00" | Weight: 180 | Hair Color: BLACK | Eye Color: BROWN | CA Driver License or Identification No.: A4922578 | Telephone No.: 760-985-7155 | |
| Physical Residence Address: 16343 RIDGE VIEW DR | | | | City: APPLE VALLEY | | State: CA | Zip Code: 92307 |
| Mailing Address (if different): | | | | City: | | State: | Zip Code: |

| Assault Weapon Information | | | | | | | |
|---|-------------------------|---|-------------------|---------------------------|------------------|----------------------|--------------------|
| Date of Acquisition: 02/23/2016 | Serial No.: LMT79100 | Make: LEWIS MACHINE & TOOL | Model: CQBPS16 | Type: RIFLE | Caliber: 5.56 | Barrel Length: 16 | |
| From Whom Acquired: MMI WHOLESALE AW PERMIT #06928 | | Address: 5375 INDUSTRIAL DR, STE 107 | | City: HUNTINGTON BEACH | | State: CA | Zip Code: 92649 |
| Date of Acquisition: | Serial No.: | Make: | Model: | Type: | Caliber: | Barrel Length: | |
| From Whom Acquired: | | Address: | | City: | | State: | Zip Code: |
| Date of Acquisition: | Serial No.: | Make: | Model: | Type: | Caliber: | Barrel Length: | |
| From Whom Acquired: | | Address: | | City: | | State: | Zip Code: |

| Declaration | |
|--|----------|
| <input checked="" type="checkbox"/> I am a qualifying peace officer for assault weapon registration pursuant to Penal Code section 30630 subdivision (b)(1). | |
| I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. | |
| | 02/23/16 |
| Signature | Date |

| Applicant Right Thumb Print |
|-----------------------------|
| |

| Instructions |
|--|
| 1. If you have an existing peace officer assault weapon registration on file with the Department of Justice, please place your Assault Weapon Registration number in the space provided in the bottom left corner of this application. |
| 2. The Peace Officer Assault Weapon Registration Application fee is \$20.00 per person regardless of the number of weapons listed. Please submit a check or money order made payable to the Department of Justice. |
| 3. A required agency authorization letter must accompany this application. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing that person to receive or possess that specific assault weapon. (Pen. Code § 30630, subd. (b)(1)). |
| 4. To register more than three (3) assault weapons please use additional pages of this application as necessary. |
| 5. Applicants must check the box certifying he/she is a qualifying peace officer for assault weapon registration. Applicants must also sign and date the perjury statement. Applications submitted without signature will be returned unprocessed. |
| 6. The applicant's right thumb print must be provided in the space indicated. Applications with unacceptable thumb prints will be returned unprocessed. |
| 7. Submit completed, signed application along with required documentation and fee to the address listed below. Incomplete applications will be returned unprocessed. If you have any questions, please contact the Firearms Licensing and Permits Section at (916) 227-2153. |
| Department of Justice Firearms Licensing and Permits Section - AWR P.O. Box 160367 Sacramento, CA 95816-0367 |

| | | | | |
|---------------------------------|-----------------|-----------|---|-----------|
| Assault Weapon Registration No. | Date Received: | Initials: | Date Paid: | Initials: |
| | Date Processed: | Initials: | Auth. Ltr. Attached <input checked="" type="checkbox"/> | Initials: |

FEB 29 2016

MARTIN LLANOS
PAMELA LLANOS

16343 RIDGE VIEW DR.
APPLE VALLEY, CA 92307-1243

90-7162
3222 44079

603

DATE

02/24/16

PAY TO THE
ORDER OF

DEPARTMENT OF JUSTICE

\$ 20,00

TWENTY

DOLLARS



Security Features
Included.
Details on Back.

CHASE



JPMorgan Chase Bank, N.A.
www.Chase.com

MEMO

LMT 79100 REGISTRATION

MP

⑆322271627⑆

98011592710603

EXHIBIT “D”

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF FIREARMS
P.O. Box 160367
Sacramento, CA 95816-0367
Telephone: (916) 227-2153
Fax: (916) 227-1021

April 29, 2016

Martin Llanos
16343 Ridge View Dr.
Apple Valley, CA 92307

Re: Peace Officer Assault Weapon Registration – Rejection Notice

This letter serves as notification that the California Department of Justice, Bureau of Firearms (the Bureau) is rejecting your Peace Officer Assault Weapon registration.

In the Assault Weapons Control Act of 1989, the California Legislature found and declared that each assault firearm "poses a threat to the health, safety, and security of all citizens of this state..." (Pen. Code, § 30505.) Because of this legislation, restrictions were placed on the use of such weapons and a registration and permit procedure for their lawful sale and possession was established. (Ibid.)

Penal Code section 30625 allows for assault weapons to be used and purchased by sworn peace officers and nothing precludes you from using an agency issued assault weapon. However, we have found no clear statutory authority to support the proposition that a reserve officer may purchase one for his or her own use.

Your local law enforcement agency has been notified of this rejection. You must immediately do one or more of the following:

- Render the weapon permanently inoperable
- Surrender the weapon to a law enforcement agency

If you have any questions, please contact the Firearms Licensing and Permit Section at (916) 227-2153.

Sincerely,

A handwritten signature in black ink, appearing to read "Shanon Thompson".

SHANON THOMPSON, Manager
Bureau of Firearms

For KAMALA D. HARRIS
Attorney General

cc: Jarrod Burguan, Chief of Police (cover letter only)

BOF/POAWR-0009

FIRM:

MICHEL & ASSOCIATES, P.C.
180 E. OCEAN BLVD.
SUITE 200
LONG BEACH CA 90802
PH: 562/216-4444

Signal
ATTORNEY SERVICE
INCORPORATED

DATE: 8-3-16 CONTACT: L. Wessada ATTORNEY: SAB ATTORNEY FILE #: 2116 1189494

Long Beach 562-595-1337
Torrance 310-316-1256
Fax 562-595-6294

DO TODAY X RETURN TODAY
Mark X for Special assignment(s). RUSH CHARGES APPLY

PLAINTIFF: Llanos / CRPOA
VS.
DEFENDANT: Harris / Lindley

COURT: LASC
JUDICIAL DIST: Stanley Mosk
CITY: Los Angeles CASE #:

APPROVED DIRECT BILLING:
CARRIER NAME:
ADDRESS:
CITY, STATE, & ZIP:

ADJUSTER:
INSURED:
CLAIM NUMBER:
DATE OF LOSS:

LIST ALL DOCUMENTS: HEARING DATE FEES PAID/ DATE FEES ATTACHED

- ① petition for peremptory writ
 - ② summons
 - ③ civil cover sheet
 - ④ civil cover sheet addendum
- ⑤ check for filing fee

INSTRUCTIONS: FILE BY 8/3/16 SERVE BY

DEPT. 810 CLERK

| | |
|-----------|-------------------------------------|
| IMPORTANT | <input checked="" type="checkbox"/> |
| FILE | <input checked="" type="checkbox"/> |
| SERVE | <input type="checkbox"/> |
| DELIVER | <input type="checkbox"/> |
| COPY | <input type="checkbox"/> |
| OTHER | <input type="checkbox"/> |

Please file and return conformed copies. If any questions, call Laura at (562) 216-4444

- RESIDENCE
- BUSINESS

MALE ___ FEMALE ___ RACE ___ AGE ___ HT ___ WT ___ HAIR ___

| | |
|--|--|
| DATE: 8/3 ORIGINAL SUBMIT RUNNER: 714 | DATE: _____ 2 nd SUBMIT RUNNER: _____ |
| PS/63796 | |
| OKAY <input type="checkbox"/> | OKAY <input type="checkbox"/> |
| BACK TO COURT <input type="checkbox"/> | BACK TO COURT <input type="checkbox"/> |
| REJECTED <input type="checkbox"/> | REJECTED <input type="checkbox"/> |

| OFFICE USE | |
|----------------------|-----|
| COURT | 416 |
| PROCESS | |
| DELIVERY | |
| RETURN | |
| ADV FEE | |
| ADV CHG | |
| TIME | |
| POSTAGE | |
| COPIES | |
| TOTAL | 416 |
| SPECIAL ASSIGNMENT # | |
| 6045939 | |
| 8-3079102 | |

| | | | | | | | | | | | |
|------------|---------|----------|---------|---------|--------|--------|---------|---------|--------|--------|------|
| NO CONFORM | SHERIFF | COURTESY | DROP CW | DROP DP | RCV CW | RCV DP | FILE CW | FILE DP | ATY CK | OUR CK | CASH |
|------------|---------|----------|---------|---------|--------|--------|---------|---------|--------|--------|------|

Corporate Mailing Address: P.O. Box 91985 • Long Beach, CA 90809-1985

ORIGINAL

LASC - FILINGS
111 N. HILL STREET
LOS ANGELES CA 90012

DATE PAID: 08/03/16 02:07 PM
RECEIPT #: CCH520872024

CIT/CASE: B3163796
LEA/DEF#:

| | | |
|-----------|----------|-----|
| PAYMENT: | \$435.00 | 310 |
| RECEIVED: | | |
| CHECK: | \$435.00 | |
| CASH: | \$0.00 | |
| CHANGE: | \$0.00 | |
| CARD: | \$0.00 | |

RECEIVED
LASC - FILINGS
111 N. HILL STREET
LOS ANGELES CA 90012
AUG 03 2016 02:07 PM
CCH520872024

EXHIBIT “E”

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



P.O. Box 160487
Sacramento, CA 95816-0487
Telephone: (916) 263-0699
Fax: (916) 263-0676

IMPORTANT NOTICE

December 10, 2009

All Licensed California Firearms Dealers

Re: Large Capacity Magazines

The Bureau of Firearms has recently been made aware that some licensed firearms dealers in the state have questions about the exemption for sworn peace officers to buy large capacity magazines, as set forth in Penal Code¹ section 12020, subdivision (b)(20) and how it applies to reserve peace officers. This notice is intended to clarify the issue.

Section 12020, subdivision (b)(20) is largely self-explanatory. A person who is properly identified as a reserve peace officer is a "sworn peace officer." If the reserve peace officer is also "authorized to carry a firearm in the course and scope of his or her duties," the reserve peace officer can lawfully purchase a large-capacity ammunition magazine in California.

Section 12020, subdivision (b)(20) does not specify the type of identification, or authorization necessary for a "sworn peace officer" to qualify for the exemption. Some dealers may have questions about how to determine whether a reserve peace officer is, in fact, "authorized to carry a firearm in the course and scope of his or her duties" and therefore whether the reserve officer would qualify for the exemption.

Some reserve officers are authorized to carry firearms while on duty based upon their status, defined by California law, and therefore have the inherent ability (if properly identified) to purchase large-capacity ammunition magazines. Level I Reserve Officers (§ 832.6, subd. (a)(1)) and Level II Reserve Officers (§ 832.6, subd. (a)(2)) are "duly appointed peace officer[s]" because they are either "assigned specific police functions" (§830.6, subd. (a)(1)), or "assigned to the prevention and detection of crime and the general enforcement of the laws of this state," (§ 830.6, subd. (a)(2)) and therefore have the ability to carry firearms while on duty. (§§ 12027, subd. (a)(1)(A), 12031, subd. (b)(1).) Accordingly, these reserve peace officers qualify for the exemption in Section 12020, subdivision (b)(20).

However, not all reserve peace officers have the inherent ability to carry firearms in the course and scope of their duties. Level III Reserve Officers are not necessarily authorized by their employing agencies to carry firearms while on duty because they are "authorized only to carry out limited support duties not requiring general law enforcement powers in their routine

¹ All further statutory references are to the California Penal Code, unless otherwise indicated.

Important Notice -- Large Capacity Magazines

December 10, 2009

Page 2

performance." (§ 832.6, subd. (a)(3)). Accordingly, these reserve peace officers may or may not qualify for the exemption in Section 12020, subdivision (b)(20). It will depend on whether the Level III is authorized to carry a firearm while on duty.

Many reserve peace officer identification cards indicate the classification or level of the reserve officer (for example, Level I, Level II or Level III) with a reference to the Penal Code section which corresponds to each reserve level (for example, § 832.6, subd. (a)(1), (a)(2) or (a)(3) correspond with Level I, II, and III respectively), and/or the fact that the reserve officer is authorized to carry a firearm. However, there is no uniform standard for the contents of reserve peace officer identification cards in the state. In the event that the reserve peace officer's identification card does not clearly identify the level of the reserve peace officer, identify a reference to the applicable section of the Penal Code, as mentioned above, or state that the reserved officer is authorized to carry a firearm on duty, it is the responsibility of the reserve officer to obtain and provide to the dealer with proper documentation of his or her reserve status and/or ability to carry a firearm on duty.

When the level and/or the ability of the reserve officer to carry a firearm on duty is unclear from the reserve officer's identification, the dealer may rely upon separate documentation from the law enforcement agency regarding the reserve officer's status and/or ability to carry firearms. For example, the reserve officer could present separate documentation from the head of the law enforcement agency (or his or her designee), indicating that the reserve peace officer is "authorized to carry a firearm in the course and scope of his or her duties." Likewise, the reserve officer could present documentation from the head of the law enforcement agency (or his or her designee), describing the levels of reserve officers in the agency and the ability of those levels of reserve officers to carry firearms in the course and scope of their duties. When combined with the reserve officer's identification, such documentation would establish the reserve officer's authority to carry a firearm in the course or scope of his or her duties, and therefore the ability of the reserve peace officer to lawfully purchase a large capacity ammunition magazine pursuant to the exemption in Section 12020, subdivision (b)(20).

If there are questions, or concerns about this issue, please contact DOJ Administrator Karen Millard of the Bureau of Firearms, at (916) 263-4878, or Deputy Attorney General Allison Morriles, at (916) 274-6136.

Sincerely,



William J. Brown, Chief
Bureau of Firearms

For EDMUND G. BROWN JR.
Attorney General

