

EXHIBIT 6

John Cooke
August 10, 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHELLE FLANAGAN, SAMUEL GOLDEN, DOMINIC NARDONE,
JACOB PERKIO, and THE CALIFORNIA RIFLE & PISTOL
ASSOCIATION, 2:16-CV-06164-JAK-AS

Plaintiffs,

vs.

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

Defendants.

VIDEOCONFERENCED DEPOSITION OF JOHN COOKE
August 10, 2017

PURSUANT TO WRITTEN NOTICE and the appropriate
Rules of Civil Procedure, the videoconferenced deposition
of JOHN COOKE, called for examination by the Defendants,
was taken at the offices of U.S. Legal Support, 1580
Lincoln Street, Suite 930, Denver, Colorado, commencing
at 10:28 a.m. on August 10, 2017, before Deborah A.
VanDemark, RPR, CRCR, and Notary Public in and for the
State of Colorado.

U.S. LEGAL SUPPORT
(415) 362-4346

John Cooke
August 10, 2017

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P R O C E E D I N G S

JOHN COOKE,

having been first duly sworn, was examined and testified
as follows:

EXAMINATION

BY MS. LI:

Q. Good morning.

A. Morning.

Q. My name is Patty Li. I'm from the
California Attorney General's Office, and I represent the
defendant in this matter. The defendant is Attorney
General Xavier Becerra, and this case is Flanagan versus
Becerra.

Can you please state your name for the
record and spell your last name out..

A. Certainly. John Cooke, C-o-o-k-e.

Q. Do you understand that you are testifying
today under the same oath that you would take if you were
testifying in a courtroom?

A. I do.

Q. Have you ever been deposed before?

A. Yes.

Q. And when was that most recently?

A. Probably -- probably three -- about three
years ago, three and a half years ago.

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1 police department, you might still be assisting or taking
2 over large investigations; is that right?

3 A. That's correct. If there's a homicide or
4 a serious rape case or something, we would usually handle
5 that for these smaller communities.

6 Q. Do you know what the most populated town
7 was for which the Weld County Sheriff's Office had
8 primary jurisdiction?

9 A. Let's see. They were pretty much all the
10 same size. I would say probably the town of Severance,
11 and that was 2,500, 3,000.

12 Q. In your career as a law enforcement
13 officer, were you ever disciplined for any actions you
14 took as a law enforcement officer?

15 A. Yes and no.

16 Q. Can you explain?

17 A. Certainly. When I was in Breckenridge, I
18 was up there for only about six, seven months. And there
19 was a jail escape, and it was a juvenile held on like
20 four -- and I was at the police department, not at the
21 sheriff's office. So there was a jail escape of this
22 juvenile who was out on felony charges, and he was
23 running down Main Street. And word got out in the
24 newspaper or heard it.

25 So he -- the newspaper guy was running

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1 sex offenders on law enforcement websites when in
2 2005 the Colorado legislature finally passed a law
3 allowing agencies to do so." Is that an accurate reading
4 of what's written there in Paragraph 11?

5 A. Yes, ma'am.

6 Q. So if I understand this paragraph
7 correctly, it sounds like Weld County was posting
8 information on registered sex offenders before 2005,
9 correct?

10 A. Yes.

11 Q. And in 2005 the Colorado legislature
12 passed a law permitting law enforcement agencies to post
13 this information about registered sex offenders; is that
14 correct?

15 A. Yes.

16 Q. So it sounds like you were -- and I think
17 this is what it says. It sounds like the Weld County
18 Sheriff's Office was posting information on registered
19 sex offenders on its website before it was permissible to
20 do so under Colorado law; is that correct?

21 A. Yes.

22 MR. BRADY: Objection, calls for a legal
23 conclusion.

24 A. Yes.

25 Q. (By Ms. Li) Can you tell me why you -- I

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1 threatened -- the sheriff's office was threatened a few
2 times with litigation on this issue, but it never
3 materialized?

4 A. Correct.

5 Q. And it sounds like you -- you believe your
6 implementation of the law before 2005 met the standards
7 of the law at the time because you said on the website,
8 Welcome to the Weld County Sheriff's Office and the other
9 things you described. Is that your interpretation?

10 A. Yes.

11 Q. Okay. And you described it as pushing the
12 envelope, this interpretation?

13 A. Yes, I believe it was.

14 Q. Do you -- do you think that's in the -- do
15 you think that is kind of the best practice for law
16 enforcement officials to be pushing the envelope on the
17 interpretation of the law?

18 MR. BRADY: Objection, argumentative. Go
19 ahead.

20 A. Yes, I think that's our responsibility,
21 and we have discretion in law enforcement. You know,
22 laws aren't -- they're open for interpretation, a lot of
23 them. So that's why we have attorneys, and that's why we
24 have a court system.

25 Q. (By Ms. Li) The -- I think you mentioned

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1 earlier that you as sheriff opposed the -- certain gun
2 control measures that were enacted in 2013; is that
3 right?

4 A. Yes.

5 Q. And I think you said earlier was it a ban
6 on large-capacity magazines?

7 A. It was a ban on standard-capacity
8 magazines.

9 Q. Standard-capacity magazines. Can you
10 describe what that means for me?

11 A. Certainly. If you have an AR-15, the
12 standard capacity magazine is 30 rounds. You might have
13 a handgun where the standard capacity is 17 rounds, and
14 so the ban said you can't have anything more than 15
15 rounds. So they banned standard-capacity magazines for
16 certain weapons.

17 Q. So that was one piece of legislation that
18 was enacted in 2013 regarding firearms. Was there
19 another one?

20 A. Yes, there was.

21 Q. And what was that about?

22 A. There was another one that -- concerning
23 background checks and making -- anytime you transfer a
24 weapon to another individual, you had to go through a
25 background check.

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1 Q. Okay. And did you make any -- or public
2 announcements or take a public position on this -- on
3 these -- on these laws?

4 A. Yes.

5 Q. Okay. What was your position on these
6 laws?

7 A. I opposed -- opposed those laws.

8 Q. By "opposed," does that mean before they
9 were enacted you were on record as saying they were a bad
10 idea?

11 A. Yes.

12 Q. Okay. And what about after they were
13 enacted?

14 A. Yes, very much so.

15 Q. Just to clarify, so after they were
16 enacted, you were also on record as indicating you did
17 not agree with these laws, and you thought they were a
18 bad idea essentially?

19 A. That's correct.

20 Q. Okay. Did you ever make any public
21 statements or announcements about your intention to
22 enforce or not enforce these laws?

23 A. Yes, I did.

24 Q. And what was the substance of those
25 statements?

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1 A. That I wouldn't enforce them.

2 Q. Was that as to both laws?

3 A. Yes.

4 Q. Did you give any reasons for saying that
5 you would not enforce either law?

6 A. Yes. They were unenforceable. And I felt
7 they were in violation of people's rights, the
8 constitutional right or Second Amendment rights. You
9 know, as law enforcement we have discretion on what we
10 enforce and what we don't enforce sometimes. I said, you
11 know, they're unenforceable. I'm not going to waste my
12 time. I would rather be catching burglars, rapists, and
13 child molesters, drug dealers than I would going after
14 somebody that has a standard-capacity magazine. When I
15 say me, I meant the agency.

16 MS. LI: Okay. Let's go off the record
17 very quickly.

18 (Recess taken from 11:45 a.m. to 11:52 a.m.)

19 MS. LI: So we're just coming back from a
20 break now, and I would like to ask the court reporter to
21 mark Exhibit 3 and provide it to the witness.

22 (Exhibit 3 was marked.)

23 Q. (By Ms. Li) So Exhibit 3 is an article --
24 a reprint of an article from the Greeley Tribune dated
25 March 15, 2013. And the headline is, "Cooke won't

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1 laws that we've been discussing passed in 2013. You
2 know, I would assume the legislature thought they were
3 important for public safety, and that was one of the
4 reasons -- one of the main reasons they were enacted.
5 With the jaywalking example, nothing happens when you
6 don't enforce that, when you don't give a ticket for
7 jaywalking; is that right? There's no immediate or dire
8 consequences?

9 MR. BRADY: Objection, assumes facts not
10 in evidence, calls for speculation. Go ahead.

11 A. There could be consequences for not
12 enforcing it. I assume they had the same reason on
13 public safety because somebody could get hit by a car,
14 ran over, something along those lines. I'm not sure the
15 legislature knows much about public safety. So I believe
16 they didn't have public safety in mind. Like I said in
17 the article, it was a knee-jerk reaction, I believe.

18 Q. (By Ms. Li) So it sounds like you disagree
19 with the legislature's public policies assessment of
20 what's necessary to protect public safety?

21 MR. BRADY: Objection, misstates
22 testimony, assumes facts not in evidence, argumentative.

23 A. Yes, I disagree with it.

24 Q. (By Ms. Li) And you think it's appropriate
25 as a law enforcement official to basically override the

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1 did they ever have that policy?

2 A. No.

3 Q. But the sheriff's office did have a policy
4 of never enforcing these laws that were enacted in 2013
5 that we've been discussing?

6 A. Yes.

7 Q. And that was because, in your judgment,
8 the legislature got it wrong?

9 MR. BRADY: Objection, misstates
10 testimony.

11 A. Yes.

12 THE DEPONENT: Oh, sorry.

13 MR. BRADY: It's okay. Go ahead.

14 Q. (By Ms. Li) And doesn't a refusal to
15 enforce a law that's been enacted by the legislature
16 undermine your credibility as a law enforcement expert?

17 MR. BRADY: Objection, argumentative,
18 ambiguous as to undermine credibility, misstates
19 testimony, assumes facts not in evidence, calls for
20 speculation. Go ahead.

21 A. No, I don't believe it does.

22 Q. (By Ms. Li) And can you explain why?

23 A. Because the legislature -- and I know this
24 from being down there -- doesn't always get it right.
25 And as a matter of fact, they get it wrong a lot of

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1 times. And so I don't think it undermines my credibility
2 at all. And if anything, I think it might enhance my
3 credibility.

4 Q. But isn't there a separation-of-powers
5 problem there?

6 MR. BRADY: Objection, argumentative, asks
7 for a legal conclusion, beyond the scope of what the
8 expert was called to testify about, calls for
9 speculation, ambiguous. Go ahead.

10 A. I don't believe so. They're in charge of
11 writing the laws. We're in charge of enforcing or not
12 enforcing.

13 Q. (By Ms. Li) And what kind of discretion is
14 appropriate for law enforcement to have when it -- when
15 deciding whether to have a blanket policy of enforcing or
16 not enforcing a particular law?

17 MR. BRADY: Objection, ambiguous,
18 incomplete hypothetical, calls for speculation.

19 A. There are -- actually, we have a lot of
20 discretion unless the laws say "shall." Like on domestic
21 violence it says we shall arrest. On there we have no
22 discretion. There might be a couple other ones that have
23 we shall do something. Other than that, we have a lot of
24 discretion on what we enforce and don't enforce.

25 Q. (By Ms. Li) Well, I'm talking about having

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1 a blanket policy of, you know, completely not enforcing
2 the law. When is that appropriate?

3 A. When the elected official from that
4 jurisdiction says that's bad for public safety of the
5 people that elected me.

6 Q. Elected you as the sheriff?

7 A. Correct, yes.

8 Q. When you were sheriff, what was the policy
9 of the sheriff's office with regard to conducting a law
10 enforcement stop of someone that was armed with a
11 firearm?

12 A. Can you give me a little more detail?

13 Q. Sure. I'll get a little more specific.

14 A. Okay.

15 Q. So if a deputy is conducting a stop of
16 someone who happens to be armed with a firearm, what is a
17 deputy supposed to do with that person's weapon?

18 MR. BRADY: Objection, incomplete
19 hypothetical.

20 A. With the firearm or the stop? And I --

21 Q. (By Ms. Li) When conducting --

22 A. Go ahead. I'm sorry.

23 Q. Sorry: Go ahead.

24 A. Well, I guess there's other -- so many
25 other factors that could be involved. Did the person

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1 MR. BRADY: Objection, ambiguous.

2 A. Well, first off, I don't know -- I don't
3 remember anybody else shooting other than the cops and
4 the bad guys. So I don't know what he means by who the
5 good guys are versus the bad guys when everyone starts
6 shooting. I don't know who "everyone" means.

7 Q. (By Ms. Li) Do you remember that one
8 aspect of this active shooter situation was that there
9 were people at this protest who were exercising their
10 statutory rights to carry weapons openly? Do you
11 remember that about this event in reading of the news
12 accounts?

13 A. No, I don't remember that.

14 Q. Would the fact that there were people at a
15 community protest openly carrying long guns when the
16 sniper started shooting at police officers, would the
17 fact that those open carry persons were present, in your
18 opinion, would that complicate the police response to the
19 sniper situation?

20 MR. BRADY: Objection, incomplete
21 hypothetical, calls for speculation. Go ahead.

22 A. Maybe under that one particular incident
23 it's possible that it would cause some confusion.

24 Q. (By Ms. Li) So it sounds like you think
25 there are -- it is possible, at least sometimes, maybe

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1 not all the time, but at least sometimes for the presence
2 of someone carrying openly in the vicinity of a violent
3 crime to cause some confusion about who the perpetrator
4 is. Is that fair to say?

5 A. It's possible, sure.

6 Q. Did you ever experience -- or did the
7 sheriff's office ever have experience with a situation
8 like that while you were with the sheriff's department?

9 A. Like this? No.

10 Q. Well, I guess maybe not a community
11 protest where there was a sniper, but did the sheriff's
12 office have experience with a violent crime in progress
13 and having, you know, complications or confusion arise
14 from the presence of other people in the area who are
15 carrying weapons openly?

16 A. Not that I'm aware of, no.

17 Q. Did the Weld County Sheriff's Office ever
18 receive calls for service about, you know, someone
19 complaining, oh, there's someone -- someone on the street
20 carrying a firearm, can you come check it out? Did you
21 ever get calls for service like that?

22 A. Not that -- not that I could remember, no.

23 Q. What about calls in other contexts, not
24 just someone walking down the street? But were there
25 ever any calls for service generally complaining or

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1 communities.

2 Q. (By Ms. Li) Do you know under what
3 circumstances it is lawful to carry a firearm openly in
4 California?.

5 A. From what --

6 MR. BRADY: Objection, assumes facts not
7 in evidence, calls for a legal conclusion.

8 A. From what I understand, there aren't any,
9 or there's very little bit that you can carry openly.

10 Q. (By Ms. Li) What's your understanding of
11 the law on open carry in California counties with a
12 population of less than 200,000?

13 MR. BRADY: Objection, calls for
14 speculation, calls for a legal conclusion, beyond the
15 scope of what the witness was called to testify about.
16 Go ahead.

17 A. I don't know if -- I'm not sure of the
18 designation of 200 -- more than 200 or less than 200,000.
19 So I just thought it was statewide.

20 Q. (By Ms. Li) Would it surprise you to learn
21 that it is possible to receive a permit to carry a
22 firearm openly in California counties with a population
23 of less than 200,000?

24 MR. BRADY: Objection, assumes facts not
25 in evidence.

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1 A. Yeah, it would probably surprise me a
2 little bit.

3 Q. (By Ms. Li) Do you know how the population
4 density of California compares with the population
5 density of Colorado?

6 A. Well, you're probably five times larger or
7 more. But as far as the density, California is a large
8 state, so per mile, I don't know the difference.

9 Q. Well, five times is actually a good guess.
10 Would it surprise you to learn that California is almost
11 five times as densely populated as Colorado?

12 MR. BRADY: Objection, ambiguous, and
13 vague as to densely populated.

14 A. No, it wouldn't surprise me.

15 Q. (By Ms. Li) Do you have any sense of how
16 the population density of Weld County compares to the
17 population density of Los Angeles County here in
18 California?

19 A. Probably a lot less in Weld County.

20 Q. Would it surprise you to learn that
21 Los Angeles County is about 37 times more densely
22 populated than Weld County?

23 A. Not at all.

24 MR. BRADY: Objection, vague, ambiguous as
25 to densely populated.

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I, JOHN COOKE, the deponent in the above deposition, do hereby acknowledge that I have read the foregoing transcript of my testimony, and state under oath that it, together with any attached Amendment to Deposition pages, constitutes my sworn testimony.

 I have made changes to my deposition
 I have NOT made any changes to my deposition

John B Cooke

JOHN COOKE

Subscribed and sworn to before me this 22ND
day of September, 2017.

My commission expires: _____

Juanita R Hill

NOTARY PUBLIC

JUANITA R HILL
Notary Public
State of Colorado
Notary ID # 20004030158
My Commission Expires 10-14-2020

Cooke won't enforce new state gun laws, 2013 WLNR 6647521

NewsRoom

3/15/13 Greeley Trib. (Pg. Unavail. Online)
2013 WLNR 6647521

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March 15, 2013

Cooke won't enforce new state gun laws

Whitney Phillips

Greeley Tribune, Colo.

March 15--Weld County Sheriff John Cooke said he won't enforce either gun-control measure waiting to be signed into law by Gov. John Hickenlooper, saying the laws are "unenforceable" and would "give a false sense of security."

One bill passed Friday would expand requirements to have background checks for firearm purchases. Hickenlooper is expected to sign it into law within two weeks.

Earlier this week, Colorado lawmakers approved a 15-round limit on ammunition magazines. It also is awaiting the expected approval of the governor.

Cooke said Democratic lawmakers are uninformed but are scrambling in reaction to recent tragedies in the nation.

"They're feel-good, knee-jerk reactions that are unenforceable," he said.

Cooke said the bill requiring a \$10 background check to legally transfer a gun would not keep firearms out of the hands of those who use them for violence.

"Criminals are still going to get their guns," he said.

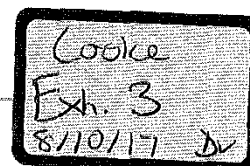
Cooke said the other bill would also technically ban all magazines because of a provision that outlaws any magazine that can be altered. He said all magazines can be altered to a higher capacity.

Cooke said he, like other county sheriffs, "won't bother enforcing" the laws because it will be impossible for them to keep track of how the requirements are being met by gun owners. He said he and other sheriffs are considering a lawsuit against the state to block the measures if they are signed into law.

The vice president praised passage of the background check bill.

"Congrats to Colorado House and Senate for passing universal background checks," read a tweet sent by the office of Vice President Joe Biden from his official @VP account.

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Cooke won't enforce new state gun laws, 2013 WLNR 6647521

It was followed by another tweet referring to the theater shooting that read, "The families of Aurora deserved a vote and got one. Now U.S. Congress must act too."

Congress also is considering a number of new firearm restrictions.

Colorado is the first state outside the East Coast to significantly ratchet back gun rights after the theater and school shootings. Colorado's gun debate was being watched closely because it's considered a swing state with both a gun-loving frontier past and an unfortunate history of mass shootings, including the 1999 Columbine High School attack.

"Are we going to stop all criminals from getting guns? No," said Democratic Rep. Beth McCann, a sponsor of the background checks bill. "But are we going to put a barrier there, make it more difficult for them? Yes."

The move to expand background checks would be one of the most sweeping responses by Colorado to the shootings last year in Aurora and at the elementary school in Newtown, Conn.

In Colorado, expanded checks have been a top priority for Hickenlooper, who called for the proposal during his State of the State address in January.

The Associated Press contributed to this report.

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--- Index References ---

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