

1 C. D. Michel - S.B.N. 144258
Glenn S. McRoberts - SBN 144852
2 Clinton B. Monfort - S.B.N. 255609
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, LLP
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: 562-216-4444
5 Facsimile: 562-216-4445
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs
7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 ESPANOLA JACKSON, PAUL COLVIN,) CASE NO. C09-2143 RS
THOMAS BOYER, LARRY BARSETTI,)
12 DAVID GOLDEN, NOEMI MARGARET) **DECLARATION OF MASSAD AYOOB IN**
ROBINSON, NATIONAL RIFLE) **SUPPORT OF PLAINTIFFS' REPLY TO**
13 ASSOCIATION OF AMERICA, INC. ,SAN) **DEFENDANTS' OPPOSITION TO MOTION**
FRANCISCO VETERAN POLICE) **FOR PRELIMINARY INJUNCTION**
14 OFFICERS ASSOCIATION,)

15 Plaintiffs)

16 vs.)

17 CITY AND COUNTY OF SAN)
FRANCISCO, THE MAYOR OF SAN)
18 FRANCISCO, AND THE CHIEF OF THE)
SAN FRANCISCO POLICE)
19 DEPARTMENT, in their official capacities,)
and DOES 1-10,)

20 Defendants.)
21

DECLARATION OF MASSAD AYOOB

1
2 1. I, Massad Ayoob, make this declaration of my own personal knowledge and, if called
3 as a witness, I could and would testify competently to the truth of the matters set forth herein.

4 2. My areas of expertise include the following: 1) dynamics of violent encounters; 2)
5 training standards for safe weapons handling (law enforcement/civilian); 3) training standards of
6 firearms and use of force (police/civilian); 4) homicide/use of force investigation; 5) personal and
7 professional security; 6) weapon retention/disarming; and 7) law enforcement internal
8 investigation/discipline.

9 3. My expertise as outlined above is based on decades of experience, including but not
10 limited to my career in law enforcement, the extensive training I have received as a law
11 enforcement officer and as a civilian, my studies concerning law enforcement and self-defense
12 tactics, and the vast amount of instruction I have provided to both law enforcement and civilians.

13 4. My career in law enforcement included the following:

14 A) **Hooksett, New Hampshire Police Department:** 1972-73, auxiliary
15 policeman, 1973-1980, fully sworn Police Officer. Duties under four chiefs
16 included patrol, firearms training, community relations and crime prevention
17 assignments. I was the department firearms instructor for most of this period.
18 Served in part time capacity with full police authority.

19 B) **Deerfield, New Hampshire Police Department:** 1982-1990. Fully sworn
20 officer, rank of Sergeant ('82-'84) in charge of all police training, and Lieutenant
21 ('84-'90), in charge of police training and crime prevention activities. Served in
22 part time capacity with full police authority.

23 C) **Grantham, New Hampshire Police Department:** 1990-present. Fully sworn
24 Captain and Police Prosecutor, in charge of training, research, and other
25 administrative functions. Serve in part time capacity with full police authority.

26 5. My personal training includes the following:

27 A) **Smith & Wesson Academy:** Advanced Combat Shooting (1st in class),
28 Instructor course; Instructor Update (twice); Officer Survival Course (1st in class);

- 1 Weapon Retention instructor course; and advanced revolver shooting course.
- 2 B) **Glock Firearms:** Glock Instructor Course; and Glock Armorer Course.
- 3 C) **Firearms Instructor Courses:** National Rifle Association.
- 4 D) **Ordnance Expo:** Firearms and Ballistic Evidence; Officer Involved Shooting
- 5 Investigation; Advanced Officer Involved Shooting Investigation; Officer Survival;
- 6 and Management of Barricaded Suspects.
- 7 E) **International Police Academy:** Defensive Tactics (Unarmed Combat and
- 8 Restraint) Instructor Course, rated Master Instructor by sensei James Morell.
- 9 F) **NYPD:** “Hostage Negotiation for Supervisors”, “Post Shooting Tactics”,
- 10 “House Clearing Techniques”, “Off Duty Confrontation Tactics”, “Summary of
- 11 Violent Encounter Patterns”, and “Police Shotgun Program.”
- 12 G) Advanced Homicide Investigator school, by Vern Geberth, NYPD Ret., author
- 13 of “Practical Homicide Investigation.”
- 14 H) International Homicide Investigators’ Seminar (2 occasions).
- 15 I) **PPCT:** Pressure Point Control Tactics, taught by Bruce Siddle.
- 16 J) **Federal Law Enforcement Training Center:** BOSS program including officer
- 17 survival, intelligence briefings on outlaw bike gangs, booby traps, counter-ambush
- 18 tactics, arrest techniques.
- 19 K) **Knife/Counter-Knife courses:** Master Paul Vunak, Hank Renhardt, Sensei
- 20 Jim Maloney, Michael de Bethencourt.
- 21 L) Studying personally with world handgun champions Ray Chapman, Rob
- 22 Leatham, Jerry Miculek, and Frank Garcia in advanced shooting programs.

23 6. I have studied special units and their training on site as follows:

- 24 A) NYPD Firearms & Tactics Unit, Emergency Services Unit, Armed Robbery
- 25 Stakeout Unit.
- 26 B) LAPD SWAT, Firearms Training Unit.
- 27 C) FBI Firearms Training Unit.
- 28 D) Metro-Dade Police Firearms/SWAT Training Unit

1 E) Illinois State Police Ordnance Section.

2 F) NH State Police SWAT, EVOC, Firearms Training.

3 G) Kentucky State Police, Firearms Training and SRT Training.

4 H) Arizona Highway Patrol Firearms Training.

5 I) London, England Metropolitan Police firearms training and special services unit
6 (D.11, PT-17, SO-19).

7 J) I have reviewed or audited numerous other law enforcement firearms training
8 programs.

9 7. My instruction/teaching experience includes the following:

10 A) Director, Massad Ayoob Group, 2009-present.

11 B) Director, Lethal Force Institute, 1981-2009.

12 C) Chair of firearms committee, American Society of Law Enforcement Trainers
13 (ASLET), 1987-2007. Also served on Ethics Committee, and led an annual Panel
14 of Experts on firearms/deadly force issues at ASLET's international seminars.

15 D) Special Instructor, Chapman Academy, 1981-88.

16 E) International Instructor, PR-24 baton; has lectured several times at annual
17 international seminar. Trains other instructors and trainers of instructors.

18 F) Advisory Board member, International Law Enforcement Educators' and
19 Trainers' Association, has lectured there on investigation and management of
20 police use of force cases since the organization's inception.

21 G) National Instructor, Weapon Retention & Disarming, National Law
22 Enforcement Training Center. Trains other instructors and trainers of instructors.
23 1990-2009.

24 H) Assistant professor teaching weapons and chemical agents, Advanced Police
25 Training Program of New Hampshire, 1974-77.

26 I) Co-instructor (with former world pistol champion Ray Chapman) of Advanced
27 Officer Survival Seminars through Police Marksman Assn., in the 1980s.

28

1 J) International Instructor, Persuader Mini-Baton, certified by Joe Truncale.

2 K) Instructor, Kubotan self-defense, certified by Soke Takayuki Kubota.

3 L) National Instructor, Telescoping baton, certified by CASCO.

4 M) Instructor, straight baton, certified by COPSTK.

5 N) I have taught relevant topics for National, International, and Regional seminars
6 of International Association of Law Enforcement Firearms Instructors; regional
7 seminars for CLE credit on defending deadly force cases (NACDL, MA. CDL
8 Assn); International Homicide Investigators' Seminar (investigation of
9 officer-involved shootings and characteristics of self-defense shootings); McGill
10 University School of Medicine (medico-legal aspects of gunshot and knife
11 wounds); officer survival tactics (Ordnance Expo, Los Angeles; National Tactical
12 Invitational; New England SWAT Seminar; DEA National Academy; Metro-Dade
13 Police Academy; DEA/Miami).

14 L) I have appeared in several self-defense and law enforcement training videos.

15 8. I have been quoted as an authoritative reference in numerous publications including,
16 but not limited to, the following: 1) FBI Journal; 2) "Law Enforcement Handgun Digest"
17 (Grennell); 3) "Gun Digest Book of Combat Handgunnery", 1st edition (Lewis & Mitchell), 2nd
18 and 3rd editions (Karwan); 4) "Shooting Schools: An Analysis" (Winter); 5) "Street Survival:
19 Tactics for Armed Encounters," (Adams, McTernan, Remsberg); 6) "Tactical Edge: Tactics for
20 High Risk Patrol" (Remsberg); 7) "Handgun Retention System" (Lindell); 8) "The Street Smart
21 Gun Book" (Farnam); 9) "Police Handgun Manual" (Clede); 10) "Police Shotgun Manual"
22 (Clede); 11) "High Tech SWAT Weapons" (Bane); 12) "PR-24 Baton Manual" (Starrett); and
23 13) "Police Officers Guide" (Clede).

24 9. I have received various awards and recognitions for my expertise, including the
25 Honorary Distinguished Expert award from the Federal Law Enforcement Training Center.

26 10. Based on my experience in self-defense scenarios, fractions of seconds can mean the
27 difference between the victim successfully repelling an attacker and the victim being subdued.

28 11. Police officer training often includes an exercise known as the Tueller Drill, which

1 demonstrates to officers an attacker who is 21 feet away can close the entire distance between
2 himself and the victim in approximately one second-and-a-half. The Tueller Drill is designed to
3 make officers aware that even having a loaded firearm readily accessible may not protect them
4 from an attacker who is within 21 feet, more or less, even if the officer is aware of the attacker
5 being a threat.

6 12. Based on my training and experience, the amount of time it takes for a person with
7 proper firearms training to draw a readily accessible firearm, and hit well placed shots on a
8 person-sized target at seven yards is approximately about one and one-half seconds. For a not so
9 well trained individual, it could take two and a half to four seconds to do so.

10 13. In performing the Tueller Drill, the officers are aware of the threat existing and have a
11 readily available firearm, with which they are generally trained to use. This means that the drill
12 does not take into account the necessary reaction time if someone who is not aware of the threat to
13 recognize the threat, locate one's firearm, confirm the threat warrants use of deadly force,
14 engaging the target, and decide to pull the trigger, and accurately fire the weapon.

15 14. Even with prior knowledge of the threat and a readily accessible weapon, some
16 officers are unable to effectively draw and fire shots before the attacker reaches them during the
17 Tueller Drill.

18 15. The Tueller Drill demonstrates that threats existing within 21 feet of a victim, give the
19 victim about one and a half second to react effectively. If the victim's firearm is in a locked
20 container or with a trigger lock affixed to it, it will take the victim extra time to effectively engage
21 the attacker. According to the City, it takes approximately an additional 3-4 seconds to retrieve a
22 firearm from a locked container or remove a trigger lock.

23 16. Imposing an additional delay of 3-4 second severely restricts the ability of a potential
24 victim to engage in self-defense when facing a violent attack.

25 17. San Francisco's estimate of three to four seconds to retrieve a loaded gun from a lock
26 box appears to be highly optimistic. I have tested such gun boxes. I have seen some that did not
27 work. I was present at a National Mid-Winter Championship event of the International Defensive
28 Pistol Association in which one stage involved retrieving the gun from a lock box and shooting,

1 with an electronic timer running. The stage had to be eliminated from the championship because
2 the lock box malfunctioned so many times, preventing the shooter from getting the gun out of it at
3 all.

4 18. Many lock boxes work electronically, and are dependent on batteries. If the batteries
5 have died, the box will not open, and the shooter will have to retrieve and apply a key to open the
6 box.

7 19. Some lock boxes require a key to open in any case. This requires the user to find the
8 key, insert it exactly into the (usually small) keyhole, and turn the key. This is a fine motor skill,
9 the type of skill which degrades severely in human beings under stress due to vasoconstriction
10 (loss of blood flow to the extremities) and also due to tremors induced by internally-generated
11 adrenaline (epinephrine). This is a well-known physiological reaction that has been in the
12 medical literature and training literature for a century or longer, defined as "fight or flight"
13 response by Dr. Walter Cannon at Harvard Medical School before World War I.

14 20. Other lock box designs may require complex dial combinations (impractical or
15 impossible to operate while hiding in the dark from an intruder, and extremely fumble-prone for
16 the reasons described above).

17 21. Still other "high tech" lock box designs work off biometrics, i.e., fingerprint
18 recognition. It is well known in the security field that biometrics applied in this respect are not yet
19 a perfect science. There are people whose fingerprints will be recognized by the machines, and
20 people whose fingerprints will not. In any case, no biometric device can recognize fingerprints
21 that are obscured with clothing, dirt, or blood before accessing the lock box.

22 22. In self-defense situations, fractions of a second often mean the difference between life
23 and death. Even assuming that a firearm can be safely and effectively removed from a locked
24 container under the duress of a violent attack in 3-4 seconds, based on my training and
25 experience, taking additional time to remove a firearm from a locked box or remove a trigger lock
26 greatly reduces an potential victim's ability to defend against a violent attacker in a self-defense
27 emergency.

28 ////

