

1 INJUNCTION

2 NOTICE OF
3 UNCONSTITUTIONALITY OF STATE
4 STATUTE (i.e. PENAL CODE
5 SECTIONS 12027, 12031(b),
6 12050-12054, and California Assembly
7 Bill 1044 which goes into affect January
8 1, 2004)

9 INTRODUCTION

10 1. **Plaintiffs will be seeking all CCW records and applications, both accepted and**
11 **rejected over the last 14 years, and is hereby placing all Defendants on notice not to**
12 **destroy such records.** (See Cal. Penal Code Sections 12027, 12031(b), 12050-12054 relating
13 to these records and AB1044's provision for the destruction of the California DOJ's archives of
14 this material.).

15 2. Plaintiffs, by and through their attorneys, file this civil action against Defendants
16 jointly and severally, individually and alleges that Defendants violated certain rights guaranteed
17 under the United States Constitution by wrongfully and without just cause intentionally
18 impeding and denying Plaintiffs' right to obtain concealed weapons permits, as typically granted
19 to others similarly situated, except for the fact that those who receive the CCW permits have
20 also provided campaign contributions to elected officials, and who are predominately Caucasian
21 and/or were/are formerly affiliated with law enforcement as a peace officers or advocates for
22 peace officers. The decision making Defendants implemented and established a policy and
23 custom of violating the equal protection clause of the Fourteenth Amendment, and have now
24 passed a law that on January 1, 2004, allows the state to destroy records, (and implies that local
25 agencies may do the same) of those unlawfully denied a CCW. This complaint is prepared and
26 signed by the attorneys representing Plaintiffs, and such averments are based upon the
27 information and belief of Plaintiffs with the assistance of counsel.

28 3. Plaintiffs specifically challenges any CCW scheme as being unconstitutional under
the Second Amendment, the Ninth Amendment, and the Fourteenth Amendment's Privileges
and Immunities Clause, Equal Protection Clause and Due Process Clause incorporating the Bill
of Rights.

1 4. Discretionary carry laws are a breeding ground for police corruption and an
2 anachronism that should not exist in a society that prides itself on fair and equal treatment for all
3 citizens.

4 5. In addition, even assuming arguendo that such a permit scheme is constitutionally
5 permissible, Plaintiffs allege that in form, substance and application it is applied in a
6 discriminatory fashion in violation of the Fourteenth Amendment's Equal Protection Clause and
7 the First Amendment.

8 6. This complaint challenges the constitutionality of Penal Code Sections 12027,
9 12031(b), 12050-12054 in that it exempts retired law enforcement personnel from those
10 provisions and burdens which are held applicable to common good citizens. The holding in
11 *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir.)(Reinhardt, J), rehearing en banc denied, 328 F.3d
12 567 (9th Cir. 2003)(six dissents) is controlling, which struck down an identical exemption in the
13 State's Semi-Automatic Rifle's statute. Similarly, Penal Code 12050 makes exceptions in the
14 statutory scheme for state and federal court judges as well.

15 7. Plaintiffs further allege that County Defendants have maintained an unconstitutional
16 policy that mirrored Penal Code Sections 12027, 12031(b), 12050-12054 in that it exempts
17 retired law enforcement personnel from those provisions and burdens which are held applicable
18 to common good citizens.

19 8. For instance, an officer who worked one day on the job, honorably retires because of
20 injury, or just voluntarily, is granted a privilege to carry a concealed handgun for life, whereas all
21 other citizens are not granted the same privilege.

22 9. Based upon information and belief, Defendants have constructively conspired to
23 conceal evidence and evade the holding of *CBS vs. Block*.

24 10. *Zelig V. County of Los Angeles, et al*; (2002) 27 Cal. 4th 1112 held in a unanimous
25 California Supreme Court decision that government agencies and law enforcement officers have
26 no duty to protect an individual from harm. Beginning on page 1141 of the opinion, "We have
27 alluded above to the statutory immunity of both a public entity and a public employee "for
28 failure to provide sufficient police protection services.: (Gov. Code section 845.) This

1 provision supports our conclusion that the relevant parts of the Tort Claims Act do not impose
2 liability upon either the public entity defendants or their policy making officers and employees
3 under the facts alleged in the present complaint. Even before the enactment of the Tort Claims
4 act, public entities enjoyed sovereign immunity in most instances from liability for their failure
5 to provide police protection. (See *Gates v. Superior Court* (1995) 32 Cal. App. 4th 481, 500, 38
6 Cal. Rptr. 2d 489, and cases cited.) As noted, "the overwhelming weight of case law 'rejects
7 liability based on a failure to provide police protection.' " (Slansky, *The Private Police*, supra,
8 46 supra, 46 UCLA. L.Rev. at pp. 1281-1282.) In recommending adoption of the language of
9 Government Code section 845 as part of the Tort Claims Act, the California Law Revision
10 Commission stated: "This section grants a general immunity for failure to provide police
11 protection or for failure to provide enough police protection. Whether police protection should
12 be provided at all, and to the extent to which it should be provided, are political decisions which
13 are committed to the policy-making officials of government. To permit review of these
14 decisions by judges and juries would remove the ultimate decision-making authority from those
15 politically responsible for making the decisions." *Zelig v. County of Los Angeles* (2002) 24 Cal.
16 4th 1112, 1141.

17 11. California Assembly Bill 1044 was part of a deliberate effort to conceal massive
18 wrongdoing in the handling of Concealed Weapons (CCW) permit applications across
19 California, including wrongful actions on the part of state Attorney General Bill Lockyer.
20 Defendants Rossi and Lockyer have taken specific steps in violation of the California Public
21 Records Act to mask the local misconduct. Lockyer also drafted AB1044 to eliminate the
22 records of CCW denial at the California DOJ headquarters and potentially at each local agency.
23 These records have already been declared public by the California Supreme Court (*CBS vs.*
24 *Block*, 230 Cal.Rptr. 362) for the specific purpose of examining equal protection issues in the
25 handling of CCW applications.

26 12. Attached hereto as **Exhibit "A"** is a CCW Application required to be used by all
27 local government law enforcement agencies in issuing CCWs, but yet State Defendants allege
28 that they have no control over local issuance standards. Penal Code section 12051(a)(3)(A)

1 requires the Attorney General to prescribe a statewide standard application form for a CCW
2 license. Therefore, the State does have control over CCW issuance by the precise method the
3 form is designed, which is to give preferential treatment to retired peace officers and campaign
4 contributors – it allows local law enforcement to abuse their discretion.

5 13. For instance, the so-called “good cause” standard for Plaintiffs and other average
6 citizens is addressed by the form in the form of “investigator’s interview notes”, but information
7 for the “prima facie” good cause standard for retired peace officers is not addressed in the
8 application itself – even though the County Defendants have such a policy.

9 14. By stating “investigator’s interview notes” in the application itself, state Defendants
10 have conveniently circumvented the holding in *CBS v. Block*.

11 15. In 1999, Lockyer was tasked with creating a new state-standard CCW application
12 form to replace those forms created and used by local agencies. Significant changes to the
13 application form could only be made under existing protocols, which required publishing the
14 proposed regulation, accepting and responding to public comments, and publishing the finished
15 regulation and its number with the Office of Administrative Law pursuant to Government Code
16 11340 et. seq. as referenced in Penal Code 12051.

17 16. Instead, in early 1999, Lockyer created a commission within the California DOJ to
18 create the forms, with advice from five sheriffs and police chiefs. They met in secret, stamped all
19 of their documents 'confidential,' and in mid-1999 released a CCW application form on which
20 applicants no longer provided their 'good cause for issuance,' age, occupation or similar details.
21 Instead, these were to be dictated onto the form by the applicant in an interview with a peace
22 officer from the local department. They labeled this section of the form 'police investigator's
23 notes,' knowing that such notes aren't public under the state Public Records Act.

24 17. Had Defendants taken the required public comments for a change this drastic,
25 someone could have pointed out that the 'good cause data' was declared public by the Supreme
26 Court in 1986 [*CBS v. Block*], for the specific purpose of evaluating equal protection claims.
27 Lockyer apparently believes he can overturn a state Supreme Court decision with an illegal,
28 secret regulation and then quietly get the legislature's approval after the fact once caught red

1 handed. AB1044 has provisions to destroy records at the central California DOJ headquarters
2 that they claim are "superfluous," but that doesn't explain why they wanted to destroy records of
3 denials at the local agency level as initial drafts of the bill specified or why they want the
4 legislature to whitewash illegality on LOCKYER's part dating back to 1999.

5 18. Defendants, individually and collectively, are responsible for the issuance of
6 concealed weapons permits under California Statute (i.e. California Penal Code 12027,
7 12050-12054). The failure of any citizen to obtain such a permissive use permit is subject to
8 prosecution and incarceration.

9 19. Plaintiff has applied several times for concealed weapons permits, and is
10 systematically impeded and rejected in the obtaining of such a permit.

11 20. As such, this is a claim for retrospective and/or prospective relief, as well as
12 monetary damages, if applicable.

13 JURISDICTION

14 21. Jurisdiction conferred on this court by 28 U.S.C. §§ 1331 and 1343 which provides
15 for original jurisdiction of this court and all actions authorized by 42 U.S.C. § 1983.
16 Supplemental Jurisdiction is founded upon 28 U.S.C. § 1367.

17 VENUE

18 22. The unlawful actions alleged herein have taken place within the jurisdiction of the
19 United States District Court for the Eastern District of California. The illegal acts took place in
20 Sacramento County, California. Venue is proper under 20 U.S.C. § 1391(b).

21 ATTORNEY'S FEES

22 23. Plaintiffs are entitled to attorney's fees pursuant to 42 U.S.C. § 1988, and as private
23 attorney generals.

24 PARTIES AND FACTS

25 24. At all relevant times mentioned herein, Plaintiffs DAVID K. MEHL, (hereinafter
26 "Plaintiff" unless otherwise noted), is at all times herein mentioned, adult male United States
27 citizens and resident Sacramento County, California.

28 25. Plaintiff DAVID K. MEHL; LOK T. LAU; and FRANK FLORES are residents of

1 the County of Sacramento, California.

2 26. Plaintiffs LOK T. LAU are FRANK FLORES non-caucasian, and part of a protected
3 class based upon race and/or national origin.

4 27. Plaintiff MEHL is also part of a protected class based upon national origin.

5 28. Plaintiff MEHL is a husband, and owns real property in Sacramento. He is a
6 chemical engineer, graduate of the University of California, Davis, and a model citizen. He has
7 no criminal history, and is employed by the State of California as a civil servant (Air Quality
8 Engineer)

9 29. Plaintiff LOK T. LAU is a non-Caucasian male, who has applied for a CCW and
10 which is summarily denied. LOK T. LAU has been a paid informant for the federal government
11 for several years, and has been placed at great risk of physical harm or death.

12 30. Plaintiff FRANK FLORES is a non-Caucasian male, who has applied for a CCW and
13 which is summarily denied.

14 31. Plaintiffs own handguns which they would like to carry in their vehicle and/in on
15 their person concealed for protection of themselves, family, and other citizens, just as other
16 privileged and well connected citizens and retired peace officers and the sheriff's various cronies
17 and campaign contributors are allowed to carry a concealed handgun.

18 32. Law enforcement has failed to stop crime; therefore, Plaintiffs have a natural right of
19 self preservation as recognized in both the Ninth Amendment and Fourteenth Amendment's
20 Privileges and Immunities Clause, and the right to self preservation included the right to possess
21 the tools to defend oneself, and this right pre-existed Plaintiffs enumerated Second Amendment
22 rights.

23 33. For instance, Plaintiff MEHL rides his bike to work with his daughter on the
24 American River bike trail, subject to the dangerous homeless and criminal population occupying
25 the American River Parkway, bike trails, and streets of the city and county of Sacramento.
26 Government has failed to make these areas safe.

27 34. If Plaintiff MEHL were to exercise his right to self defense, self preservation, self
28 and family protection, and right to keep and bear arms without obtaining a CCW, he would be

1 arrested, prosecuted, and incarcerated.

2 35. Defendants enforce, and threaten to enforce, all penal codes sections that involve the
3 carrying of a concealed handgun without a CCW.

4 36. Plaintiffs are placed at unnecessary risk of prosecution due to Defendants deliberate
5 discrimination and unconstitutional statutes and/or policies.

6 37. Indeed, law enforcement is not responsible for protecting Plaintiffs, but will
7 prosecute Plaintiffs if Plaintiffs were to carry the means to protect themselves.

8 38. Government officials have paid body guards or are easily granted CCWs.

9 39. Defendant BILL LOCKYER was elected as California's 30th Attorney General in
10 November of 1998 and began his term in January of 1999. The Attorney General is the Chief
11 Law Officer of the State of California and is elected and charged by the State constitution with
12 the responsibility to ensure that State laws are uniformly and adequately enforced.

13 40. Article V, Section 13, of the California Constitution describes the responsibilities of
14 the Attorney General with the following words: "Subject to the powers and duties of the
15 Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of
16 the Attorney General to see that the laws of the State are uniformly and adequately enforced. The
17 Attorney General shall have direct supervision over every district attorney and sheriff and over
18 such other law enforcement officers as may be designated by law, in all matters pertaining to the
19 duties of their representative offices, and may require any of said officers to make reports
20 concerning the investigation, detection, prosecution, and punishment of crime in their respective
21 jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the
22 Attorney General any law of the State is not being adequately enforced in any county, it shall be
23 the duty of the Attorney General to prosecute any violations of law of which the superior court
24 shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a
25 district attorney. When required by the public interest or directed by the Governor, the Attorney
26 General shall assist any district attorney in the discharge of the duties of that office."

27 41. The Attorney General represents the people of California before trial, appellate, and
28 Supreme Courts of California and the United States in criminal and civil matters; serves as legal

1 counsel to State officers, boards, commissions, and departments; and assists district attorneys in
2 the administration of justice.

3 42. Section 11042 of the Government Code requires state agencies to employ only the
4 Attorney General, with few exceptions, as legal counsel to centralize legal work done on behalf
5 of the State. Section 11041 lists those agencies that can represent themselves.

6 43. It is the responsibility of the Attorney General to assist city, county, state, federal,
7 and international criminal justice agencies to ensure the uniformity and adequacy of enforcement
8 of California State laws.

9 44. To support California's local law enforcement community, the Attorney General
10 coordinates State-wide law enforcement efforts, participates in criminal investigations, provides
11 forensic science services, and provides identification and information services and
12 telecommunication support.

13 45. County Defendants have, on occasion, submitted legal filings signed under Rule 11
14 stating that Monell liability cannot attach to the County and it's officials since the Attorney
15 General is the Chief Law Enforcement Officer of the state, and that local sheriff's have to report
16 to him.

17 46. Defendant LOU BLANAS is an elected law enforcement official of Sacramento
18 County, and is charged with issuing CCWs, under the auspices of the State DOJ and Defendants
19 LOCKYER and ROSSI.

20 47. Defendant COUNTY OF SACRAMENTO is an incorporated municipality created
21 under the constitution, laws and statutes of the State of California. COUNTY OF
22 SACRAMENTO, Sheriff's Department is an agency subject to the control of the COUNTY OF
23 SACRAMENTO.

24 48. Defendant COUNTY OF SACRAMENTO, SHERIFF'S DEPARTMENT was and is
25 at all times relevant herein a law enforcement agency which employed duly appointed and acting
26 California Peace Officers.

27 49. At all times mentioned herein, Defendant COUNTY OF SACRAMENTO and
28 Defendant BLANAS, by and through the Defendant SHERIFF'S DEPARTMENT, was acting

1 under color of law, to wit, under color of statutes, ordinances, regulations, policies, customs, and
2 usages of the State of California and/or the COUNTY OF SACRAMENTO, SHERIFF'S
3 DEPARTMENT.

4 50. At all times mentioned herein, Defendant COUNTY OF SACRAMENTO and
5 Defendant BLANAS, by and through the Defendant SHERIFF'S DEPARTMENT, was acting
6 under color of law, to wit, under color of statutes, ordinances, regulations, policies, customs, and
7 usages of the State of California and/or the COUNTY OF SACRAMENTO, SHERIFF'S
8 DEPARTMENT and denied each Plaintiff a CCW.

9 51. State Defendants ROSSI and LOCKYER designed an application (Exhibit A) which
10 is discriminatory on its face since it circumvents the Equal Protection clause in that it has certain
11 blocks delineating differing standards for approval of applicants between peace officers, judges,
12 and common citizens to wit:

13 State of California, Department of Justice
14 **Standard Application for CCW**

15
16
17
18 **Definition**

19 52. At all relevant times mentioned herein, Defendants are public officials subject to the
20 limitations as set forth in the United States Constitution and the laws of the United States of
21 America, including, but not limited to, the First, Second, Ninth and Fourteenth Amendments.

22 53. Defendants, and each of them, were policy makers and ratified and/or supplemented
23 the conduct of the other named defendants, and former Sheriff Glen Craig, and were in a
24 position of power to enforce the laws of the State of California, United States of America, and
25 uphold the Constitution.

26 54. Defendants were, at all times herein mentioned, legally responsible for the acts of
27 their employees, agents, and servants committed in the scope of their employment.

28 55. As a direct and proximate result of the herein acts, omissions, and systematic

1 deficiencies, policies and customs of all and/or part of Defendants, Plaintiffs have been harmed
2 according to proof.

3 56. Plaintiffs have continuously applied for, and been denied CCW permits, and have
4 been denied access to the application forms themselves.

5 57. Defendants set up impediments to even obtaining applications for CCWs by giving
6 citizens the run around about how and where to apply, and how to obtain the applications.

7 58. Each time Plaintiffs attempted to apply, he is given the run around whereby he would
8 visit the same office several times before and employee of Defendant Sheriff's Department
9 would eventually provide him with the application forms.

10 59. Per "Sacramento County Sheriff's Department, Concealed Weapons Permit Issuance
11 Policy and Application Process" (codified in the challenged statutes), "Good cause exists for
12 issuance of a concealed weapons permit as follows: General: The determination of good cause
13 for the issuance of a concealed weapons permit is perhaps the most difficult aspect in this
14 process. While every applicant may believe that he/she has good cause for a license, the Sheriff's
15 determination is based on consideration of public good and safety."

16 60. However, under the same policy, the following is "prima facie [i.e. accepted as so
17 until proved otherwise] evidence of good cause for issuance of a concealed weapons permit:
18 Applicant is an active or honorably separated member of the criminal justice system directly
19 responsible for the investigation, arrest, incarceration, prosecution or imposition of sentence on
20 criminal offenders and has received threats of harm to person or family as a result of official
21 duties."

22 61. Under this policy, all retired and former members of the State DOJ, Judges, District
23 Attorney's Office and Sheriff's Department are automatically granted permits, whereas all other
24 citizens must show good cause, in direct violation of the Equal Protection clause.

25 62. This is especially disturbing considering that members of the armed forces are
26 excluded from the so-called prima-facie good cause standards.

27 63. However, in practice, Defendant BLANAS and Defendant COUNTY go much
28 further in violation of the Equal Protection Clause.

1 64. Former Sheriff Glen Craig, Defendant BLANAS, and Defendants COUNTY and
2 SHERIFF'S DEPARTMENT have established a policy and practice of issuing CCWs to
3 campaign contributors, in direct violation of the First (association and speech) and Fourteenth
4 (Equal Protection) Amendments.

5 65. Based upon information and belief, Defendants issue honorary and low-level reserve
6 law enforcement credentials ("Level 3" untrained reserve status) to political campaign
7 contributors just so that these campaign contributors can carry a concealed weapon.

8 66. Some of the lists of such "low level crony reservists" are NOT held within the
9 sheriff's department or any county building - they are instead held in the offices of a private
10 attorney and not available to the sheriff's department "reserve coordinator".

11 67. For instance, through public records reviewed, it is well documented that Defendants
12 have obtained at least a hundred thousand dollars from individuals for whom Blanas will not
13 release the so-called good cause data for issuance of a CCW; nevertheless, these same
14 individuals were given CCWs in exchange for campaign contributions.

15 68. A police report from Sacramento County explains how the CCW laws are abused in
16 parts of California. The officer (who was thereafter transferred from the Patrol to the department
17 Siberia aka Branch Jail) who typed the report described how he arrested a drunk who apparently
18 showed someone his pistol in an unfriendly manner. The drunk turned out to have a CCW
19 permit issued by then-Sheriff of Sacramento County Glen Craig.

20 69. The officer asked how someone who worked in the construction business was able to
21 obtain one of the hard-to-get permits. The response was: "It is all political. It is just a big game. I
22 am a major contributor of current sheriff Lou Blanas and Glen Craig and they gave me a
23 concealed weapons permit."

24 70. This Policy goes back to at least 1994, as the attached Police Report (incorporated
25 herein fully) demonstrates. See Exhibit "B".

26 71. The abuse of the CCW laws by politicians is not limited to Sacramento, for example,
27 the staunchest supporter of gun control laws in California also has a CCW. See attached letter
28 marked as Exhibit "C".

1 72. Defendant State officials took specific and illegal actions to cover up CCW
2 misconduct, first in Defendant LOCKYER's re-write of the state-standard CCW application
3 form (mandated by mid-1999 in AB2022, Penal Code 12051(a)(3)) in a fashion that violated
4 *CBS vs. Block* (42 Cal.3d 646, 725 P.2d 470, 230 Cal.Rptr. 362) and Government Code 11340 et
5 seq...and when that scheme was exposed, he backed AB1044 to mask over the issues.

6 73. Secondly, State Defendants have created a CCW application that circumvents the
7 state Public Records Act by placing the good cause data outside the purview of public scrutiny,
8 and allows discrimination to take place without public disclosure.

9 74. The intent of the Public Records Act is to safeguard the accountability of government
10 to the public; to verify accountability, individuals must have access to government files to check
11 for the arbitrary exercise of official power and secrecy in the political process. *Coronado Police*
12 *Officers Ass'n v. Carroll* (App. 4 Dist. 2003) 131 Cal.Rptr.2d 553, 106 Cal.App.4th 1001,
13 review denied. Public Records Act was intended to safeguard accountability of government to
14 public, and makes public access to governmental records a fundamental right of citizenship.
15 *Wilson v. Superior Court* (App. 2 Dist. 1996) 59 Cal.Rptr.2d 537, 51 Cal.App.4th 1136, as
16 modified, review denied. Because open governments are a hallmark of a democratic society, the
17 public should have full access to information concerning the working of the government in order
18 to verify accountability, and the California Public Records Act (CPRA) was enacted for this very
19 purpose. *Rackauckas v. Superior Court* (App. 4 Dist. 2002) 128 Cal.Rptr.2d 234, 104
20 Cal.App.4th 169.

21 75. Being that Defendant Lockyer is the Attorney General for the State of California;
22 Defendant Lockyer also knows that he exercises direct supervision over every district attorney
23 and sheriff and over such other law enforcement officers as may be designated by law, in all
24 matters pertaining to the duties of their representative offices. In short, Defendant Lockyer is the
25 chief law enforcement officer in the State of California and is responsible to ensure that the
26 underlying law enforcement agencies are not violating the laws of the State of California or the
27 United States of America as his authority is directly derived from the State Constitution.

28 76. In, *Village of Willowbrook v. Olech*, 120 S.Ct. 1073, 145 L.Ed.2d 1060 (2000), the

1 United States Supreme Court unanimously held that denial of Equal Protection may occur in
2 "class of one" situation where there was no rational basis for intentionally different treatment,
3 which resulted in arbitrariness and capriciousness. Although the court held that there was no
4 liberty or property right to a gun permit, if permit standards constitute a denial of equal
5 protection, a cause of action under was stated. *Guillory v. County of Orange*, 731 F.2d 1379 (9th
6 Cir. 1984)

7 77. California courts have already determined that a racially biased purpose existed in
8 establishing the same 1923 law that created the discretionary CCW system we still use today
9 (*People vs. Rappard* (1972) 28 Cal.App.3d 302).

10 78. Defendant Lockyer and Rossi, and thereby Defendants, created a section for "good
11 cause data" which is not discoverable under the Public Records Act, in that it is contained in the
12 section labeled "Investigator's Interview Notes". Such, "Investigator Interview Notes" are
13 precluded from release under the Public Records Act. However, in *CBS v. Block*, 42 Cal.3d 646
14 (1986), the "good cause data" is critical for the proper sorting out of equal protection violations.
15 And yet the Defendants do not want to maintain the information regarding "good cause data" in
16 order to sort out the equal protection violations, in direct contradiction to Defendants'
17 Constitutional mandate to uniformly and adequately enforce the laws of the State.

18 79. That section reads:

19
20 **Section 7 – Investigator's Interview Notes**

21
22 **Applicant**

23 80. Furthermore, the race and gender of the individual is not even requested in the
24 application itself.

25 81. Defendant Blanas has personally taken in over \$100,000 in campaign contributions
26 from his small CCW permit holder pool of campaign contributors.

27 **FIRST CAUSE OF ACTION**

42 U.S.C. § 1983

28 (Fourteenth Amendment - Equal Protection- Race, National Origin, and Gender)
[All Defendants - Disparate Impact and Treatment]

1 82. Plaintiffs incorporate by reference paragraphs 1 through 81 as though the same were
2 set forth herein at length.

3 83. Defendants ROSSI and LOCKYER tacitly allow Defendants LOU BLANAS,
4 individually and in his official capacity as SHERIFF OF COUNTY OF SACRAMENTO;
5 COUNTY OF SACRAMENTO, SHERIFF'S DEPARTMENT; COUNTY OF SACRAMENTO
6 to knowingly discriminate based upon race, national origin and/or gender since Defendants
7 ROSSI and LOCKYER intentionally disallowed race, national origin and gender information out
8 from the application, factors that would actually be used to determine CCW issuance. (i.e.
9 according to CDC, blacks have a greater chance of dying from violence than whites, and females
10 are far more likely to be attacked and sexually assaulted than males.)

11 84. Defendants LOU BLANAS, individually and in his official capacity as SHERIFF OF
12 COUNTY OF SACRAMENTO; COUNTY OF SACRAMENTO, SHERIFF'S
13 DEPARTMENT; COUNTY OF SACRAMENTO discriminate against individuals because of
14 their race, national origin and gender in the issuance of CCWs.

15 85. Plaintiffs, and similarly situated individuals, have suffered disparate treatment and/or
16 have been adversely impacted by Defendants discriminatory policies of discrimination.

17 86. Any citizen of "good moral character" and who has necessary firearms training, is
18 still not entitled to obtain a concealed weapons permit, nor are they permitted to carry a loaded
19 firearm within an incorporated area, unless they are of a certain race, national origin and/or
20 gender.

21 87. Because of this distinct policy of discrimination, the entire application process is
22 tainted and has caused injury to Plaintiffs.

23 88. Under California law and Defendants policies, Plaintiffs must first apply to the local
24 sheriff or police chief for a permit.

25 89. These permits are issued only to individuals of a particular race, gender, national
26 origin, or who are politically affiliated with the issuing authority, or who made campaign
27 contributions, or are socially related. In other words, they are used as a powerful tool to be
28 exploited as rewards for those in power.

1 90. Sheriffs' and State Law Enforcement officials are currently issuing concealed
2 weapons permits on a discriminatory basis.

3 91. Plaintiffs have been damaged according to proof.

4 **SECOND CAUSE OF ACTION**

42 U.S.C. § 1983

5 (Fourteenth Amendment - Equal Protection - political/social affiliation)

6 [All Defendants]

7 92. Plaintiffs incorporate by reference paragraphs 1 through 91 as though the same were
8 set forth herein at length.

9 93. That is they are issued to campaign contributors and political supporters of the issuing
10 authority.

11 94. In addition, police officers and retired police officers, including federal officers,
12 obtain their concealed weapons authorization under a separate statute, which does not demand a
13 showing of good cause. See Cal. Penal Code S 12031(b).

14 95. In other words, 12031(b) grants to "active or honorably retired" law enforcement
15 officers preferential access to concealed weapons permits due to their *current or former*
16 affiliation to the law enforcement community.

17 96. Though the stated reason is to protect California Peace Officers from possible harm
18 due to their high involvement in crime, other professions carry the same or higher risk, military
19 personnel subject to terrorist attacks and protests, doctors employed at abortion clinics,
20 attorney's dealing with disgruntled litigants and inmates, and so forth.

21 97. There is no rationale basis for this statute as a young black male in California under
22 the age of 25 has a exceedingly far greater chance of being murdered than all law enforcement
23 officers combined throughout the entire United States.

24 98. Non-law enforcement citizens of good moral character and who adequate training
25 and experience in the use of firearms (i.e. hunters, military, etc.) are not granted the same
26 privilege. Therefore, the law has no rationale purpose other than not to disrupt law
27 endorsements support of the current firearms laws.

28 99. If defendants enforced the same gun laws against law enforcement officers, the

1 current gun laws would never have been passed as they would have been opposed by law
2 enforcement.

3 100. Currently, any California resident can carry a concealed weapon simply by
4 becoming a member of a law enforcement agency, then immediately retiring; thus, Plaintiff
5 would have to just join "the club", then quit.

6 101. Plaintiffs are entitled to equal rights, protections and privileges under the law.
7 However, peace officers are given rights simply because they happen to be associated with law
8 enforcement. Enforcement of such laws violates Plaintiffs' equal protection and association
9 rights.

10 102. Plaintiffs have applied for, and attempted to apply for, a CCW with the Defendant
11 County of Sacramento, Sheriff's Department.

12 103. Each time Plaintiffs have applied, or attempted to apply, they are summarily
13 rejected or prevented from obtaining a CCW.

14 104. However, individuals who have made political campaign contributions to Defendant
15 BLANAS', have summarily received both a CCW and/or a honorary deputies badge when they
16 apply for their CCW.

17 105. Under California's statutory scheme, CCWs are sold via campaign contributions.

18 106. The selling of CCWs has been a long tradition since Defendant BLANAS was first
19 brought in by then Sherif Craig to generate campaign contributions.

20 107. Plaintiffs' right to equal protection under the law has been violated, and continues
21 to be violated on a daily basis for the following reasons:

22 108. (A) Penal Code Sections 12027, 12031(b), 12050-12054 are unconstitutional in
23 that this statutory scheme specifically exempts retired law enforcement personnel from those
24 provisions and burdens which are held applicable to common good citizens, including Plaintiff.
25 The holding in *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir.)(Reinhardt, J), rehearing en banc
26 denied, 328 F.3d 567 (9th Cir. 2003)(six dissents) is controlling, which struck down an **identical**
27 **exemption** in the State's Semi-Automatic Rifle's statute. Similarly, Penal Code 12050 makes
28 exceptions in the statutory scheme for state and federal court judges as well.

1 109. Plaintiff can discern no legitimate state interest in permitting retired peace officers
2 to possess and use for their personal pleasure concealed handguns. "Rather, the retired officers
3 exception arbitrarily and unreasonably affords a privilege to one group of individuals that is
4 denied to others, including plaintiffs." See *Silveira*.

5 110. (B) Plaintiff is deprived of equal protection since those who have contributed to
6 political campaigns are summarily given CCWs upon request.

7 111. (C) Defendants BLANAS, COUNTY, and DEPARTMENT have a written policy
8 for the issuance of CCWs which discriminates against anyone who is not a honorably retired
9 peace officer (i.e. Prima Facie good cause standard)

10 112. For *Monell* liability purposes, Defendants BLANAS, SHERIFF'S DEPARTMENT,
11 AND COUNTY have argued and taken the position that Defendant LOCKYER is the policy and
12 decision-maker for Sacramento County.

13 113. However, all Defendants have created and/enforced a unconstitutional statutory
14 scheme and policy of issuing CCWs in violation of the Fourteenth Amendments Equal
15 Protection Clause.

16 114. For instance, an officer who worked one day on the job, honorably retires because
17 of injury, or just voluntarily, is granted a privilege to carry a concealed handgun for life, whereas
18 all other citizens are not granted the same privilege. Plaintiff requests injunctive relief in either
19 having a CCW issued, or having the statutes and County's written policy declared
20 unconstitutional.

21 115. Plaintiff has been damaged and harmed according to proof.

22 116. In addition, the California Constitution, Article I, Section 1 specifically provides
23 that "All people are by nature free and independent and have inalienable rights. Among these
24 are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and
25 pursuing and obtaining safety, happiness, and privacy."

26 117. As a direct and proximate result, if Defendants are not enjoined from enforcing the
27 subject laws, Plaintiffs will be irreparably harmed according to proof, including, but not limited
28 to the loss of use and enjoyment of constitutional rights.

1 118. As a direct and proximate result, Plaintiffs have been damaged according to proof,
2 including, but not limited to the loss of use and enjoyment of constitutional rights.

3 **THIRD CAUSE OF ACTION**

4 42 U.S.C. § 1983

(1st and 14th Amendment - Free Speech and Association)

5 [Defendants LOU BLANAS, individually and in his
6 official capacity as SHERIFF OF COUNTY OF
7 SACRAMENTO; COUNTY OF SACRAMENTO,
SHERIFF'S DEPARTMENT; COUNTY OF
SACRAMENTO only]

8 119. Plaintiffs incorporate by reference paragraphs 1 through 119 as though the same
9 were set forth herein at length.

10 120. Individuals who financially support defendants are provided CCWs upon request,
11 whereas those who do not politically/financially support Defendants are summarily denied
12 CCWs, such as Plaintiffs were denied.

13 121. Because of Defendants policies favoring campaign contributors and political
14 supporters regarding the issuance of CCWs, Plaintiff's First Amendment rights to freedom of
15 expression and association have been violated.

16 122. As a direct and proximate result, Plaintiffs have been damaged according to proof,
17 including, but not limited to the loss of use and enjoyment of constitutional rights.

18 **FOURTH CAUSE OF ACTION**

19 42 U.S.C. § 1983

(2nd and 14th Amendment)

[all Defendants]

20 123. Plaintiff incorporates by reference paragraphs 1 through 122 as though the same
21 were set forth herein at length.

22 124. Plaintiff's right to keep and bear arms has been infringed under the Second
23 Amendment, and as incorporated through the 14th Amendment.

24 125. Plaintiff has been damaged according to proof.

25 **FIFTH CAUSE OF ACTION**

26 42 U.S.C. § 1983

(14TH Amendment - Privileges and Immunities)

[all Defendants]

27 126. Plaintiff incorporates by reference paragraphs 1 through 125 as though the same
28

1 were set forth herein at length.

2 127. Plaintiff's privileges and immunities includes the right to keep and bear arms, and is
3 deemed a personal right. See *Saenz v. Roe*, 526 U.S. 489 (1999). Flack, *The Adoption of the*
4 *Fourteenth Amendment* (Johns Hopkins 1908) is illustrative on this cause of action.

5 128. Defendants have violated Plaintiffs' Privileges and Immunities of the Fourteenth
6 Amendment.

7 129. Plaintiff has been damaged according to proof.

8 **SIXTH CAUSE OF ACTION**
9 42 U.S.C. § 1983
(Ninth Amendment - Right to Self Preservation)

10 [all Defendants]

11 130. Plaintiff incorporates by reference paragraphs 1 through 129 as though the same
12 were set forth herein at length.

13 131. Though, *as held by the Ninth Circuit*, the right to keep and bear arms is a state right,
14 the Ninth Amendment of the U.S. Constitution specifically provides that the rights of the people,
15 though not expressly enumerated, are nevertheless entitled to protection.

16 132. The Ninth Amendment is directly applicable to Plaintiffs since "The State of
17 California is an inseparable part of the United States of America, and the United States
18 Constitution is the supreme law of the land." Article III, Section 1 of the California
19 Constitution.

20 133. In this case, this country has a long and established history of "the people" keeping
21 and bearing military arms; keeping and bearing arms is a natural right which pre-existed the
22 rights enumerated in the constitution.

23 134. The right to keep and bear arms is a natural right that every law abiding citizen
24 posses, this right can never be restricted or taken away by Government.

25 135. Plaintiff has a natural right to self preservation as noted by the Ninth Amendment
26 which means nothing unless he or she is allowed to possess to tools to exercise such a right,
27 which includes the right to keep and bear arms, and is deemed a personal right.

28 136. Defendants have violated Plaintiff's Ninth Amendment.

1 137. Plaintiff has been damaged according to proof.

2 138. Defendants have infringed upon Plaintiffs' natural right to possess, bear and keep
3 firearms. As a direct and proximate result, Plaintiffs have been damaged according to proof,
4 including, but not limited to the loss of use and enjoyment of constitutional rights.

5 **SEVENTH OF ACTION**
6 42 U.S.C. § 1983
(Declaratory and Injunctive Relief)

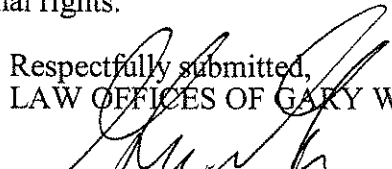
7 139. Plaintiff incorporates by reference paragraphs 1 through 138 as though the same
8 were set forth herein at length.

9 140. Plaintiff seeks a declaration from the court regarding the constitutionality of the
10 CCW statutes and policies enforced and promulgated by Defendants.

11 WHEREFORE, Plaintiffs demand judgment against the Defendants, jointly and severally,
12 including but not limited to:

- 13 1. For general damages in a sum to be determined.
- 14 2. For special damages in a sum to be determined.
- 15 3. For attorney fees and costs.
- 16 8. For issuance of a preliminary and permanent injunction, including, but not
17 limited to, prohibiting further enforcement of any act or law in violation of
18 Plaintiffs' constitutional rights.

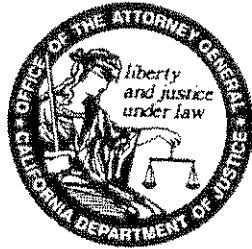
19 DATED: April 23, 2004

Respectfully submitted,
LAW OFFICES OF GARY W. GORSKI


GARY W. GORSKI,
Attorney for Plaintiff

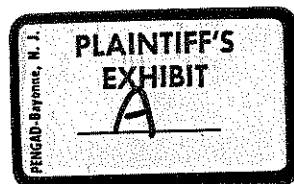
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California Department of Justice



STANDARD APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON (CCW)

BCIA 4012 (6/99)



California Department of Justice
STANDARD APPLICATION
for
LICENSE TO CARRY A CONCEALED WEAPON (CCW)

Authority

California Penal Code (PC) sections 12050 through 12054 provide that a sheriff of a county or the chief or other head of a municipal police department of any city or city and county may issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person (CCW license). PC section 12051(a)(3)(A) requires the Attorney General to prescribe a statewide standard application form for a CCW license.

Who May Be Issued a License

The licensing authority specified in PC section 12050(a)(1) (a sheriff or head of a municipal police department) may issue a license to persons who are of good moral character, who have completed a course of training, and where good cause exists for issuance of the CCW license. All applications for a CCW will be fingerprinted and state records will be checked to determine if they are in a prohibiting class. Attachments 1, 2, and 3 (following page 14 of this application) list all categories that would cause a person to be in a class prohibiting them from possessing firearms and being granted a CCW license. These attachments are updated annually to reflect new legislation and other changes in the law.

Format of CCW License

A CCW license may be issued in either of the following formats:

1. A license to carry concealed, a pistol, revolver, or other firearm capable of being concealed upon the person.
2. Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person

Training Required

PC section 12050(a)(1)(B) and (E) specifies that new license applicants must complete a course of training. The training may consist of any course acceptable to the licensing authority. The licensing authority may require either a course not to exceed 16 hours which includes instruction on at least firearms safety and the law regarding the permissible use of a firearm or a community college course not to exceed 24 hours certified by the Commission on Peace Officer Standards and Training. If the licensing authority requires the community college course, it must be uniformly required for all CCW license applicants. The licensing authority may also require annual qualification on the weapon(s) during the term for which the CCW license is granted.

For license renewal applicants, the course of training may be any course acceptable to the licensing authority, shall be no less than four hours in length, and shall include instruction on at least firearm safety and the law regarding permissible use of a firearm

State of California, Department of Justice
Standard Application for CCW License

Psychological Testing

In addition to licensing requirements as specified by the licensing authority, jurisdictions may require psychological testing on the initial application. If required, the applicant shall be referred to a licensed psychologist used by the licensing authority for the psychological testing of its own employees. Any fees charged will be the responsibility of the applicant and such fees shall not exceed \$150.00 for an initial test. Additional psychological testing of an applicant seeking license renewal shall be required only if there is compelling evidence to indicate that a test is necessary (PC section 12054(c)).

Completing the Application

Answering all the questions on this standard application does not guarantee the issuance of a CCW license. The determination whether or not to issue the license is the prerogative of the licensing authority. Each licensing authority, in addition to using the state standard application form, will have a written policy summarizing what they require pursuant to PC section 12050(1)(1)(A) and (B). Prior to issuing a CCW, the statutes require proof that:

- The applicant is of good moral character,
- Good cause exists to issue the CCW license,
- The applicant meets residence requirements, and
- The course of training prescribed by the licensing authority has been completed.

The application on the following pages sets forth standardized questions to be used by the CCW licensing authority to determine whether a CCW license shall be issued. The applicant shall not be required to complete any additional application or form for a CCW license, or to provide any information other than that necessary to complete this standard application form except to clarify or interpret information provided herein (PC section 12051(a)(3)(C)).

The applicant will certify that all answers provided are true and correct to the best of their knowledge and belief under penalty of perjury. The applicant will also acknowledge that information disclosed on this application may be subject to public disclosure.

Important Instructions

- Fill out, read, and sign Sections 1 through 5, as directed. Use additional pages if more space is required.
- Sections 6, 7, and 8 must be completed in the presence of an official of the licensing agency.
- Review Section 7 and be prepared to answer these questions orally. Do not write anything in Section 7 unless specifically directed to do so by the licensing agency.

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Section 2 – Applicant Clearance Questions 3
Section 3 – Description of Weapon(s) 5
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Standard Application for CCW License

Official Use Only – Type of Permit Requested
() Standard () Judge
() Reserve Officer () 90 Day

Public Disclosure Admonition

I understand that I am obligated to be complete and truthful in providing information on this application. I understand that all of the information disclosed by me in this application may be subject to public disclosure.

Applicant Signature

Date

Witness Signature / Badge Number

Date

Section 1 – Applicant Personal Information

Name: _____
Last First Middle

If Applicable
Maiden Name or other Name(s) Used: _____

City and County of Residence: _____ Country of Citizenship: _____

Date of Birth: _____ Place of Birth: _____
City County State

Height: _____ Weight: _____ Color Eyes: _____ Color Hair: _____

Section 2 – Applicant Clearance Questions

1. Do you now have, or have you ever had a license to carry a concealed weapon (CCW)?
No Yes (If yes, please indicate below. Use additional pages if necessary.)

Issuing Agency _____ Issue Date _____ CCW# _____

2. Have you ever applied for and been denied a license to carry a concealed weapon?
No Yes (If yes, give agency name, date and reason for denial.)

State of California, Department of Justice
Standard Application for CCW License

Section 2 – Applicant Clearance Questions – (continued)

3. Have you ever held and subsequently renounced your United States citizenship?
No Yes (If yes, explain):

4. If you served with the Armed Forces, were you ever convicted of any charges or was your discharge other than honorable? No Yes (If yes, explain):

5. Are you now, or have you been a party to a lawsuit in the last five years?
No Yes (If yes, explain):

6. Are you now, or have you been, under a restraining order(s) from any court?
No Yes (If yes, explain):

7. Are you on probation or parole from any state for conviction of any offense including traffic? No Yes (If yes, explain):

State of California, Department of Justice
Standard Application for CCW License

Section 2 – Applicant Clearance Questions – (continued)

8. List all traffic violations (moving violations only) and motor vehicle accidents you have had in the last five years. (Use additional pages if necessary.)

Date	Violation / Accident	Agency / Citation #

9. Have you ever been convicted for any criminal offense (civilian or military) in the U.S. or any other country?

No Yes (If yes, explain including date, agency, charges, and disposition.)

10. Have you withheld any fact that might affect the decision to approve this license?

No Yes (If yes, explain):

Section 3 – Descriptions of Weapons:

List below the weapons you desire to carry if granted a CCW. You may carry concealed only the weapon(s) which you list and describe herein, and only for the purpose indicated. Any misuse will cause an automatic revocation and possible arrest. (Use additional pages if necessary.)

Make	Model	Caliber	Serial No.
1.			
2.			
3.			

State of California, Department of Justice
Standard Application for CCW License

Section 4 – CCW License Conditions and Restrictions

The licensee is responsible for all liability for, injury to, or death of any person, or damage to any property which may result through any act or omission of either the licensee or the agency that issued the license. In the event any claim, suit, or action is brought against the agency that issued the license, its chief officer or any of its employees, by reason of, or in connection with any such act or omission, the licensee shall defend, indemnify, and hold harmless the agency that issued the license, its chief officer or any of its employees from such claim, suit, or action.

The licensee authorizes the licensing agency to investigate, as they deem necessary, the licensee's record and character to ascertain any and all information which may concern his/her qualifications and justification to be issued a license to carry a concealed weapon and release said agency of any and all liability arising out of such investigation.

While exercising the privileges granted to the licensee under the terms of this license, the licensee shall not, when carrying a concealed weapon:

- Consume any alcoholic beverage.
- Be in a place having a primary purpose of dispensing alcoholic beverages for on-site consumption.
- Be under the influence of any medication or drug, whether prescribed or not.
- Refuse to show the license or surrender the concealed weapon to any peace officer upon demand.
- Impede any peace officer in the performance of his/her duties.
- Present himself/herself as a peace officer to any person unless he/she is, in fact, a peace officer as defined by California law.
- Unjustifiably display a concealed weapon.
- Carry a concealed weapon not listed on the permit.
- Carry a concealed weapon at times or circumstances other than those specified in the permit.

Pursuant to U.S. Government Code – Title 49, Chapter 26, Section 1472(1) and Federal Aviation Regulation 121.583, a license to carry a concealed weapon does not authorize a person to carry a firearm, tear gas, or any dangerous weapon aboard commercial airlines. Further, a person must declare that he/she is carrying such firearm, tear gas, or dangerous weapon BEFORE entering the boarding area of an air terminal where the security checks are made. Such violation can result in arrest by law enforcement.

Any violation of these restrictions or conditions may invalidate the CCW license and may void any further use of the license until reinstated by the licensing authority. Any arrest for a felony or serious misdemeanor, including driving under the influence of alcohol and/or drugs, is cause for invalidating the license.

State of California, Department of Justice
Standard Application for CCW License

Section 5 – Applicable California Penal Code Sections

The following Penal Code sections are of special importance to the holder of a CCW license regarding the use, carrying, and storage of firearms:

Penal Code Section 12051 – Applications for CCW Licenses; False Statements

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor.

(c) Any person who knowingly makes a false statement on the application regarding any of the following shall be guilty of a felony:

- (1) The denial or revocation of a license, or the denial of an amendment to a license, issued pursuant to Section 12050.
- (2) A criminal conviction.
- (3) A finding of not guilty by reason of insanity.
- (4) The use of a controlled substance.
- (5) A dishonorable discharge from military service.
- (6) A commitment to a mental institution.
- (7) A renunciation of United States citizenship.

Penal Code Section 192 – Manslaughter

Manslaughter is the unlawful killing of a human being without malice.

- (a) Voluntary – upon a sudden quarrel or heat of passion.
- (b) Involuntary – in the commission of an unlawful act, not amounting to a felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection; provided that this subdivision shall not apply to acts committed in the driving of a vehicle.

Penal Code Section 197 – Justifiable Homicide; Any Person

Homicide is justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
2. When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or,
3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,
4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

State of California, Department of Justice
Standard Application for CCW License

Section 5 – Applicable California Penal Code Sections – (continued)

**Penal Code Section 198 – Justifiable Homicide; Sufficiency of Fear
(Limitation of Self-defense of Property Rule)**

A bare fear of the commission of any of the offenses mentioned in subdivisions 2 and 3 of Section 197, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone.

Penal Code Section 199 – Justifiable and Excusable Homicide; Discharge of Defendant

The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

Penal Code Section 12035 – Storage of Firearms Accessible to Children

(a) As used in this section, the following definitions shall apply:

- (1) "Locking device" means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.
- (2) "Child" means a person under the age of 16 years.
- (3) "Off-premises" means premises other than the premises where the firearm was stored.
- (4) "Locked container" has the same meaning as set for the in subdivision (d) of Section 12026.2.

(b) (1) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the first degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the second degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or carries the firearm either to a public place or in violation of Section 417.

(c) Subdivision (b) shall not apply whenever any of the following occurs:

- (1) The child obtains the firearm as a result of an illegal entry to any premises by any person.
- (2) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.
- (3) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.
- (4) The firearm is locked with a locking device that has rendered the firearm inoperable.
- (5) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.
- (6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person, or persons.
- (7) The person who keeps a loaded firearm on any premise which is under his or her custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premise.

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Standard Application for CCW License

Section 5 – Applicable California Penal Code Sections – (continued)

Penal Code Section 12036 – Firearms Accessed by Children and Carried Off-premises

(a) As used in this section, the following definitions shall apply:

- (1) "Locking device" means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.
- (2) "Child" means a person under the age of 16 years.
- (3) "Off-premises" means premises other than the premises where the firearm was stored.
- (4) "Locked container" has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) A person who keeps a pistol, revolver, or other firearm capable of being concealed upon the person, loaded or unloaded, within any premise that is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to that firearm without the permission of the child's parent or legal guardian and the child obtains access to that firearm and thereafter carries that firearm off-premises, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) A pistol, revolver, or other firearm capable of being concealed upon the person that a child gains access to and carries off-premises in violation of this Section shall be deemed "used in the commission of any misdemeanor as provided in this code or any felony" for the purpose of subdivision (b) of Section 12028 regarding the authority to confiscate firearms and other deadly weapons as a nuisance.

(d) This Section shall not apply if one of the following circumstances exists:

- (1) The child obtains the pistol, revolver, or other firearm capable of being concealed upon the person as a result of an illegal entry into any premises by any person.
- (2) The pistol, revolver, or other firearm capable of being concealed upon the person is kept in a locked container or in a location that a reasonable person would believe to be secure.
- (3) The pistol, revolver, or other firearm capable of being concealed upon the person is locked with a locking device that has rendered the firearm inoperable.
- (4) The pistol, revolver, or other firearm capable of being concealed upon the person is carried on the person within such a close range that the individual can readily retrieve and use the firearm as if carried on the person.
- (5) The person is a peace officer or a member of the armed forces or national guard and the child obtains the pistol, revolver, or other firearm capable of being concealed upon the person during, or incidental to, the performance of the person's duties.
- (6) The child obtains, or obtains and discharges, the pistol, revolver, or other firearm capable of being concealed upon the person in a lawful act of self-defense or defense of another person or persons.
- (7) The person who keeps a pistol, revolver, or other firearm capable of being concealed upon the person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

State of California, Department of Justice
Standard Application for CCW License

Section 6 – Agreement to Restrictions and to Hold Harmless

I accept and assume all responsibility and liability for, injury to, or death of any person, or damage to any property which may result through any act or omission of either the licensee or the agency that issued the license. In the event any claim, suit or action is brought against the agency that issued the license, its chief officer or any of its employees, by reason of, or in connection with any such act or omission, the licensee shall defend, indemnify, and hold harmless the agency that issued the license, its chief officer or any of its employees from such claim, suit, or action.

I understand that the acceptance of my application by the licensing authority does not guarantee the issuance of a license and that fees and costs are not refundable if denied. I further understand that if my application is approved and I am issued a license to carry a concealed weapon, that the license is subject to restrictions placed upon it and that misuse of the license will cause an automatic revocation and possible arrest and that the license may also be suspended or revoked at the discretion of the licensing authority at any time. I am aware that any use of a firearm may bring criminal action or civil liability against me.

I have read, understand, and agree to the CCW license liability clauses, conditions, and restrictions stated in this Application and Agreement to Restrictions and to Hold Harmless.

I have read and understand the applicable Penal Code sections regarding False Statements on a CCW Application, Manslaughter, Killing in Defense of Self or Property, Limitation on Self-defense and Defense of Property, and Child Access and Firearm Storage, stated in this application.

I have read and understand Attachment 1 – California Prohibiting Categories for a CCW License, Attachment 2 – California Prohibiting Misdemeanors, and Attachment 3 – Federal Prohibiting Categories for Possessing Firearms. I further acknowledge that these Prohibiting Categories can be amended or expanded by state or federal legislative or regulatory bodies and that any such amendment or expansion may affect my eligibility to hold a CCW.

Applicant Signature

Date

Witness Signature / Badge Number

Date

State of California, Department of Justice
Standard Application for CCW License

Section 7 – Investigator’s Interview Notes

Applicant

Name: _____
Last First Middle

Date of Birth: _____ **Age:** _____

Social Security No.: _____

California DL/ID No.: _____

Driver’s License Restrictions: _____

Residence Address:

Number Street Apt. City State Zip

Mailing address (if different):

Number Street Apt. City State Zip

Home / Personal Phone Numbers: (_____)

Spouse’s Name and Address: _____

Applicant Occupation: _____

Business / Employer Name: _____

Business Phone Number: : (_____)

Business Address:

Number Street Apt. City State Zip

1. List all previous home addresses for the past five years.

State of California, Department of Justice
Standard Application for CCW License

Section 7 – Investigator’s Interview Notes – (continued)

2. Have you ever been in a mental institution, treated for mental illness, or been found not-guilty by reason of insanity? No Yes (If yes, explain):

3. Are you now, or have you ever been, addicted to a controlled substance or alcohol, or have you ever utilized an illegal controlled substance, or have you ever reported to a detoxification or drug treatment program? No Yes (If yes, explain):

4. Have you ever been involved in an incident involving firearms?
No Yes (If yes, explain):

5. Have you been involved in a domestic violence incident?
No Yes (If yes, explain):

6. List any arrests or formal charges, with or without disposition, for any criminal offenses with the U.S. or any other country (civilian or military).

State of California, Department of Justice
Standard Application for CCW License

Section 7 – Investigator’s Interview Notes – (continued)

If the CCW license is desired for self-protection, the protection of others, or for the protection of large sums of money or valuable property, you are required to explain and provide good cause for issuance of the license. For example, has your life or property been threatened or jeopardized? Explain incidents and include dates, times, locations, and names of police agencies to which these incidents were reported.

Details of Reason for Applicant desiring a CCW License (use additional sheets if needed).

State of California, Department of Justice
Standard Application for CCW License

Section 8 – Certification and Release of Information

I hereby give permission to the agency to which this application is made to conduct a background investigation of me and to contact any person or agency who may add to or aid in this investigation. I further authorize persons, firms, agencies and institutions listed on this application to release or confirm information about me and statements I have made as contained in this application.

Notwithstanding any other provision of law and pursuant to the Public Records Act (Government Code section 6250 et seq.), I understand that information contained in this application may be a matter of public record and shall be made available upon request or court order.

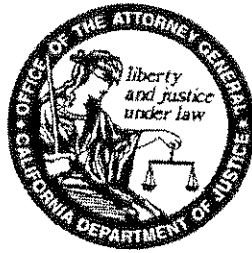
I hereby certify under penalties of perjury and Penal Code section 12051(b) and (c), that the answers I have given are true and correct to the best of my knowledge and belief, and that I understand and agree to the provisions, conditions, and restrictions herein or otherwise imposed.

Applicant Signature

Date

Witness Signature / Badge Number

Date



Attachments

State of California, Department of Justice
Standard Application for CCW License

Attachment 1

**CALIFORNIA PROHIBITING CATEGORIES FOR A CCW LICENSE
As of January, 1999**

- Persons convicted of a felony, or any offense enumerated in section 12021.1 of the Penal Code (PC).
- Persons addicted to the use of narcotics.
- Persons denied firearm possession as a condition of probation pursuant to PC section 12021(d).
- Persons convicted of a specified misdemeanor pursuant to PC section 12021(c)(1) are prohibited from purchasing or possessing firearms for 10 years (see Attachment 2).
- Juveniles adjudged wards of the juvenile court because they committed a 707(b) Welfare and Institutions Code (WIC) offense, an offense described in PC section 1203.073(b) or any offense enumerated in PC section 12021 (c)(!) are prohibited until they reach age 30.
- Persons who are subject to a protective order as defined in section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to sections 527.6 or 527.8 of the Code of Civil Procedure.
- Persons found by a court to be a danger to others because of mental illness.
- Persons found by a court to be mentally incompetent to stand trial.
- Persons found by a court to be not guilty by reason of insanity.
- Persons adjudicated to be a mentally disordered sex offender.
- Persons placed on a conservatorship because they are gravely disabled as a result of a mental disorder or impairment by chronic alcoholism
- Persons who communicate a threat to a licensed psychotherapist, against a reasonably identifiable victim, and the psychotherapist reports to law enforcement pursuant to WIC section 8100(b), are prohibited from purchasing or possessing a firearm for 6 months.
- Persons in a mental health facility certified pursuant to WIC sections 5250, 5260, and 5270.15 are prohibited from possessing or purchasing or attempting to purchase firearms for 5 years.
- Persons who are voluntary patients in a mental facility who are determined to be a danger to self or others are prohibited from purchasing or possessing a firearm between admission and discharge.
- Persons under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year.

State of California, Department of Justice
Standard Application for CCW License

Attachment 2

**CALIFORNIA PROHIBITING MISDEMEANORS
As of January, 1999**

Pursuant to Penal Code (PC) section 12021(c)(1), any person who has been convicted of a misdemeanor violation for any of the following offenses is prohibited from owning, possessing, or having under his or her custody or control any firearms within 10 years of the conviction:

- Threatening public officers, employees and school officials (PC section 71).
- Threatening certain public officials, appointees, judges, staff or their families with the intent and apparent ability to carry out the threat (PC section 76).
- Possessing a deadly weapon with the intent to intimidate a witness (PC section 136.5).
- Threatening witnesses, victims, or informants (PC section 140).
- Attempting to remove or take a firearm from the person or immediate presence of a public or peace officer (PC section 148(d)).

- Unauthorized possession of a weapon in a courtroom, courthouse or court building, or at a public meeting (PC section 171(b)).
- Bringing into or possessing a loaded firearm within the state capitol, legislative offices, etc. (PC section 171c).
- Taking into or possessing loaded firearms within the Governor's Mansion or residence of other constitutional officers, etc. (PC section 171(d)).
- Supplying, selling or giving possession of a firearm to a person for participation in criminal street gangs (PC section 186.28).
- Assault (PC sections 240, 241)

- Battery (PC sections 242, 243).
- Assault with a stun gun or Taber weapon (PC section 244.5)
- Assault with deadly weapon or force likely to produce great bodily injury (PC section 245).
- Assault with a deadly weapon or instrument, by any means likely to produce great bodily injury or with a stun gun or Taber on a school employee engaged in performance of duties (PC section 245.5).
- Shooting at an inhabited or occupied dwelling house, building, vehicle, aircraft, horsecart or camper (PC section 246).

- Discharging a firearm in a grossly negligent manner (PC section 246.3)
- Shooting at an unoccupied aircraft, motor vehicle, or uninhabited building or dwelling house (PC section 247)
- Inflicting corporal injury on a spouse or significant other (PC section 273.5)
- Willfully violating a domestic protective order (PC section 273.6).

State of California, Department of Justice
Standard Application for CCW License

Attachment 2 (Continued)

**CALIFORNIA PROHIBITING MISDEMEANORS
As of January, 1999**

- Drawing, exhibiting, or using any deadly weapon other than a firearm (PC sections 417(a)(1), 417(a)(2)).
- Brandishing a firearm in presence of a peace officer (PC section 417.1 – repealed by stats. 1998).
- Drawing or exhibiting, selling, manufacturing, or distributing firearm replicas or imitations (PC section 417.2).
- Inflicting serious bodily injury as a result of brandishing (PC section 417.6).
- Bringing into or possessing firearms upon or within public schools and grounds (PC section 626.9).
- Stalking (PC section 646.9).

- Armed criminal action (PC section 12023).
- Possessing a deadly weapon with intent to commit an assault (PC section 12024).
- Driver or any vehicle who knowingly permits another person to discharge a firearm from the vehicle or any person who will fully and maliciously discharges a firearm from a motor vehicle (PC sections 12034(b), 12034(d)).
- Criminal possession of a firearm (PC section 12040).
- Firearms dealer who sells or transfers or gives possession of any firearm to a minor or a handgun to a person under the age of 21 (PC section 12072(b)).

- Various violations involving sales and transfers of firearms (PC section 12072(g)(3)).
- Person or corporation who sells any concealable firearm to any minor (PC section 12100(a) – repealed by stats. 1994).
- Unauthorized possession/transportation of a machine gun (PC section 12220).
- Possession of ammunition designed to penetrate metal or armor (PC section 12320).
- Carrying a concealed or loaded firearm or other deadly weapon or wearing a peace officer uniform, while picketing (PC section 12590).

- Bringing firearm related contraband into juvenile hall (WIC section 871.5).
- Bringing firearm related contraband into a youth authority institution (WIC section 1001.5).
- Purchase, possession, or receipt of a firearm or deadly weapon by a person receiving in-patient treatment for a mental disorder, or by a person who has communicated to a licensed psychotherapist a serious threat of physical violence against an identifiable victim (WIC section 8100).
- Providing a firearm or deadly weapon to a person described in WIC sections 8100 or 8103 (WIC section 8101).
- Purchase, possession, or receipt of a firearm or deadly weapon by a person who has been adjudicated to be a mentally disordered sex offender or found to be mentally incompetent to stand trial, or not guilty by reason of insanity, and individuals placed under a conservatorship (WIC section 8103).

State of California, Department of Justice
Standard Application for CCW License

Attachment 3

FEDERAL PROHIBITING CATEGORIES FOR POSSESSING FIREARMS
Gun Control Act of 1968, Title 18 U.S.C. Chapter 44
As of January, 1999

Pursuant to Section 922, any person listed below is prohibited from possessing, shipping, transporting, or receiving any firearm, who:

- Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.
- Is a fugitive from justice.
- Is an unlawful user of or addicted to any controlled substance.
- Has been adjudicated as a mental defective or committed to a mental institution.
- Is an alien illegally or unlawfully in the United States.
- Has been discharged from the Armed Forces under dishonorable conditions.
- Having been a citizen of the United States, has renounced U.S. citizenship.
- Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.
- Has been convicted in any court of a misdemeanor crime of domestic violence.
- Is under indictment for a crime punishable by imprisonment for a term exceeding one year.
- Has an out-of-state prohibitive criminal history.
- Has a prior denial on a previous National Instant Criminal Background Check System (NICS) inquiry.

COLAFRANCESCO PAPERS: Confession To CCW Bribery!

2/SECTION SUSP. --- PENDING CITATION --- CLEARED ADULT FURTR INV --- CLEARED JUV.		SACRAMENTO COUNTY SHERIFF'S DEPARTMENT CRIME REPORT		REPORT NUMBER 94-076998	
LOCATION OF OCCURRENCE 3935 MADISON AVENUE		REPORT DATE 10-02-94		DAY TIME EVENT NO. SUND 115 0016	
OCC. DATE FROM DAY HRS 10-02-94 SUN 0105		OCC. DATE TO DAY HRS		CONNECTED REPORT(S)-TYPE AND NUMBER Citation # 479912	
CODE SECTION 417(2) PC		CRIME TITLE X1 RUDE OR THREATENING DISPLAY OF A FIREARM			
DO SPECIAL CRIME CATEGORIES EXIST? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> WHICH CATEGORY FROM REVERSE					
NAME (Last, First Middle)/FIRM NAME IF BUSINESS McCARVER, WILLY RAY		RES. PHONE 974-0625		BUS. PHONE	
RESIDENCE ADDRESS 3816 AUBURN BLVD., #14, SACTO., CA		BUSINESS ADDRESS (SCHOOL IF JUV.) 3520 AUBURN BLVD., SACTO., CA 95821			
DOB	AGE	SEX	RACE	VICTIM'S VEHICLE (TP., MAKE, MODEL, LIC. NO.)	
Y2	NAME (Last, First Middle)/FIRM NAME IF BUSINESS SMITH, ROSE MARIE		RES. PHONE 974-0625		BUS. PHONE 643-3006
RESIDENCE ADDRESS 3836 AUBURN BLVD. #14 SAC CA		BUSINESS ADDRESS (SCHOOL IF JUV.) MCLELLAN AFB BUILDING #626 A			
DOB	AGE	SEX	RACE	VICTIM'S VEHICLE (TP., MAKE, MODEL, LIC. NO.)	
A. PLACE OF CRIME 1 - STRUCTURE 2 - VEHICLE 3 - RES/YARD		4 - STREET/ALLEY? OTHER 5 - LOT/PARK 6 - BUS/STORAGE		B. DESCRIPTION OF SURROUNDINGS 1 - RESIDENTIAL 2 - BUSINESS 3 - INDUSTRIAL 4 - RECREATIONAL 5 - INSTITUTNL. 6 - CONST. SITE 7 - OPEN SPACE 8 - OTHER	
TYPE OF STRUCTURE C NON-RESIDENTIAL 1 CONVENIENCE 2 FAST FOOD 3 RESTAURANT/BAK. 4 DRUG/MEDICAL 5 GAS STATION 6 RETAIL 7 SCHOOL 8 FINANC. INST. 9 ENTERTAIN/RECI 10 PUBLIC BLDG. 11 OTHER		E RESIDENTIAL 1 SINGLE FAMILY 2 APT/CONDO 3 DUPLEX/TOWN 4 HOTEL/MOTEL 5 MOBILE HOME 6 OTHER		F POINT OF ENTRY 1 N/A 2 FRONT 3 REAR 4 SIDE GR LEV. 5 SIDE UP LEV. 6 OTHER	
D TARGETS 1 SHOP 2 CASH DRAWER 3 OFFICE 4 SAFE/BOX 5 VENDING MACH. 6 DISPLAY ITEMS 7 CLASSROOM 8 OTHER		G TARGET(S) 1 STORAGE BLDG. 2 CLOSET 3 BATHROOM 4 DEN 5 FAMILY ROOM 6 GARAGE/CARPORT 7 KITCHEN 8 LIVING ROOM 9 STORAGE ROOM 10 BEDROOM 11 DINING 12 OTHER		H METHOD OF ENTRY 1 UNKNOW 2 DOOR 3 WINDOW 4 SLIDE GLASS 5 DUCT/VENT 6 ADJ. BLDG. 7 ROOF/FLOOR 8 WALL 9 BASEMENT 10 OTHER	
I ALARM SYSTEM YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> SET OFF?		J INVESTIGATIVE NOTATIONS SUSPECT INFO PAGE (NUMBER OF SUSP) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> PHYSICAL EVIDENCE GATHERED BY R/O YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> CSI REQUESTED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> IDENTIFIABLE PROPERTY YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> ADDITIONAL VICTIMS/WITNESSES YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> NEIGHBORHOOD CANY YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> PROPERTY LOSS YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> PROPERTY LIST ATTACH YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> INVESTIGATIVE DIV/PERS NOTIFIED			
K SUSPECT'S ACTION 1 ENTERED OCCUPIED BUILDING 2 ENTERED UNOCCUPIED BLDG. 3 VACANT RES./BLDG. 4 VANDALIZED/TRANSACKED 5 USED MATCHES/SNOKED AT SCENE 6 DISABLED ALARM 7 ATE/DRANK ON PREMISES 8 VEHICLE NEEDED FOR LOOT 9 USED VICTIM'S TOOLS 10 KNEW LOCATION OF HIDDEN CASH 11 SELECTIVE IN LOOT 12 USED LOOKOUT DRIVER		L PROPERTY TAKEN 13 BOUND/CAGED VICTIM 14 RIPPED/CUT CLOTHING 15 MOLESTED VICTIM 16 FORCED VICTIM TO MOVE 17 DISABLED PHONE/ELECTRIC 18 INJURED VICTIM 19 THREATENED VICTIM 20 MASTURBATED 21 DISROBED FULLY/PARTIALLY 22 FIRED WEAPON 23 SUSPECT ARMED 24 OTHER		M PROPERTY TAKEN 1 LARGE LOSS VALUE 2 TOOK CHECKS/CREDIT CARDS 3 CONSUMABLE GOOD 4 OFFICE EQUIPMENT 5 CAMERA 6 POWER TOOLS/LAWN EQUIP 7 FIREARMS 8 SILVERWARE 9 FINE JEWELRY 10 MONEY 21 OTHER	
N SYNOPSIS OF CRIME V-1 and S-1 engaged in a verbal argument outside a bar. S-1 then pushed back the jacket he was wearing, exposing a .45 caliber automatic on his waistband in a holster. S-1 placed his hand on the gun, as if in a drawing motion, and told V-1, that he "better go the fuck around or there is going to be trouble". V-1 fled as S-1 was detained by a limousine driver. V-1 signed a citizen's complaint for armt. S-1 was cited, cite number 479912.					
INVESTIGATING OFFICER(S)		BADGE		APPROVING SUPERVISOR	

EXHIBIT F

Colafrancesco Police report, page one: it started as a verbal argument, Colafrancesco flashed a gun as a threat.



SACRAMENTO COUNTY SHERIFF'S DEPARTMENT
CONTINUATION REPORT

A	B	C	D	E
F	G	H	I	J

34-076998

REPORT NUMBER

AUTHORITY 417(2) PC	SECTION	FEL	MISD X	INTERVIEW:	MONTH	DAY	YEAR	TIME
COMPLAINANT/VICTIM (LIST FIRST VICTIM IF MORE THAN ONE) McCARVER, WILLY RAY								
PERSON INTERVIEWED (LAST, FIRST MIDDLE) COLAFRANCESCO, JAMES			Y/M/D/S # LOCATION OF INTERVIEW 5-1 SCENE					
TIME/DATE REPORT INFORMATION IN CHRONOLOGICAL ORDER.								

1 to speak with COLAFRANCESCO. Immediately upon entering my patrol car,
2 COLAFRANCESCO demanded to know what he was under arrest for. I advised him
3 that he was under arrest for the rude or threatening display of a firearm,
4 and that it was a misdemeanor in the State of California. I advised him
5 that he was going to be issued a citation and released.

6 While I was looking through COLAFRANCESCO's wallet for his identification,
7 I found two concealed weapons permits signed by Sheriff Glen Craig. I
8 asked COLAFRANCESCO what he did for a living and he stated that he worked
9 construction. I was curious as to why a person who worked construction
10 would need a concealed weapons permit. I asked COLAFRANCESCO what specific
11 duties he had that required him to carry a concealed weapon and to have a
12 concealed weapons permit. COLAFRANCESCO stated the following to me in
13 summary:

14 { It is all political. It is just a big political game. I am a
15 major contributor of Lou Blanas and Glen Craig, and they gave me
16 a concealed weapons permit. They told me not to screw around,
17 and not to mess it up, and I have tried real hard not to. You
18 can call Mo Bailey. You can call Lou Blanas. They know I am a
19 good guy. They know that I would never point my gun at anyone.

20 I advised COLAFRANCESCO that the victim had stated that COLAFRANCESCO had
21 just displayed the gun in a rude or threatening manner and that the victim
22 had not said anything about COLAFRANCESCO pointing the gun at anyone.

23 At this time, COLAFRANCESCO stated the following to me in summary:

INVESTIGATING OFFICER
MCARVER

BADGE
827

DIV.
N. PATROL

APPROVING OFFICER (SIGN)

PAGE
12-25

Can you say "In Vino Veritas"? Note to self: never talk to cops when drunk and guilty as hell...

SACRAMENTO COUNTY SHERIFF'S DEPARTMENT
CONTINUATION REPORT

A	B	C	D	E
F	G	H	I	J

94-076998

REPORT NUMBER

AUTHORITY 417(2) PC	SECTION	FEL	MISC X	INTERVIEW:	MONTH	DAY	YEAR	TIME
COMPLAINANT/VICTIM (LIST FIRST VICTIM IF MORE THAN ONE) McCARVER, WILLY RAY								
PERSON INTERVIEWED (LAST, FIRST MIDDLE) COLAFRANCESCO, JAMES				V/R/W/E # S-1	LOCATION OF INTERVIEW SCENE			
TIME/DATE REPORT INFORMATION IN CHRONOLOGICAL ORDER.								

1 I advised him that a citizen had stated that he had displayed his firearm
2 in a rude or threatening manner, and that the citizen was making a
3 citizen's arrest. I advised COLAFRANCESCO that I was not arresting him,
4 that a citizen was arresting him. COLAFRANCESCO then stated the following
5 spontaneous statement:

7 I think he saw my gun when I was in the bathroom.

9 I advised COLAFRANCESCO that the victim had stated that COLAFRANCESCO had
10 displayed the gun outside of Brother Oliver's. COLAFRANCESCO stated the
11 following to me in summary:

13 No I didn't. He saw it while I was in the bathroom. You're
14 saying, that because I was taking a piss, I am being arrested?

16 I advised COLAFRANCESCO that he was not under arrest for urinating.
17 COLAFRANCESCO then stated the following to me in summary:

19 What am I under arrest for?

21 I again advised COLAFRANCESCO that he was under arrest for the rude or
22 threatening display of a firearm.

24 While completing the citation, I opened COLAFRANCESCO's wallet, in order to
25 find a driver's license or a California identification card. While
26 flipping through COLAFRANCESCO's wallet, I noticed that it was a badge
27 wallet. A badge wallet is a wallet commonly used by law enforcement
28 personnel to hold items normally associated with a wallet, as well as a cur

INVESTIGATING OFFICER McCarver	82	NY PATROL	APPROVING SUPERVISOR	PAGE 17-25
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"No, pissing is still legal in the People's Republic Of California. For now..."

SACRAMENTO COUNTY SHERIFF'S DEPARTMENT
CONTINUATION REPORT

/	A	C	D	E
F	G	H	I	J

94-076998

REPORT NUMBER

AUTHORITY 417(2) PC	SECTION	FEL	MISO X	INTERVIEW:	MONTH	DAY	YEAR	TIME
COMPLAINANT/VICTIM (LIST FIRST VICTIM IF MORE THAN ONE) MCCARVER, WILLY RAY								
PERSON INTERVIEWED (LAST, FIRST MIDDLE) COLAFRANCESCO, JAMES			V/R/M/S # S-1	LOCATION OF INTERVIEW SCENE				
TIME/DATE								
REPORT INFORMATION IN CHRONOLOGICAL ORDER.								

1 out area to insert a badge. This cut out area is usually covered by a thin
2 leather flap. I removed the thin leather flap and found a brass shield
3 inside the wallet. This brass shield, at first glance, appeared to be a
4 law enforcement badge. When given a closer look, there was a ribbon that
5 ran across the shield that had the word "honorary" across it. Directly
6 adjacent this badge was an identification card with COLAFRANCESCO's picture
7 on it, which stated that he was an honorary deputy sheriff with the County
8 of Sacramento. This honorary deputy sheriff identification card was signed
9 by Sheriff Glen Craig.

10
11 I asked COLAFRANCESCO why he carried around this honorary badge and he
12 stated the following to me in summary:

13
14 { I already told you. I got that stuff due to some political ties
15 I have. I am a major contributor to you guys (sheriff's
16 department) and through my political ties, I have been given
17 certain things. I am probably going to loose them all now.

18
19 { Couldn't you please just call Mo Bailey or Lou Blanas so we can
20 sweep this under the rug? Do we really have to do anything about
21 this? Can't we just forget that it happened?

22
23 I advised COLAFRANCESCO that would certainly be an option if I was not
24 dealing with a citizen's arrest. I advised COLAFRANCESCO that because
25 someone had demanded a citizen's arrest, the law stated that I must conduct
26 the arrest. I advised COLAFRANCESCO that I was not going to take him to
27 jail, and that taking him to jail was certainly an option. I advised him
28 that I was merely going to issue him a citation and release him.

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REPORTING OFFICER
RILEY

BADGE
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N.Y. PATROL

APPROVING SUPERVISOR

PAGE
18-25

Final charge: misdemeanor disturbing the peace, and a \$100 fine. Disgusted deputies slipped these pages out. Blanas was "undersheriff", and was Sheriff Craig's hand-picked successor as Sheriff in '98 - he still holds office.

STATE CAPITAL
LEGISLATIVE BUILDING
SACRAMENTO, CA 95833
TEL: (916) 227-3000
FAX: (916) 227-3000

CALIFORNIA LEGISLATURE

DON PERATA
STATE SENATOR



DISTRICT OFFICE
1015 CLAY STREET
SUITE 3000
SACRAMENTO, CA 95811
TEL: (916) 227-3000
FAX: (916) 227-3000

July 2, 1999

Lt. Brian Masterson
Consolidated Criminal Records
Alameda County Sheriff's Office

Re: CCW Renewal Application

Dear Lt. Masterson:

Attached is the information requested by your office for my renewal application.

My reason for seeking renewal is as it has been in previous applications: my public policy efforts to seek rational regulation of firearms have engendered the enmity of some individuals who have made overt threats on my life and the well-being of my family. The rapidly expanding access and anonymous use of the internet have measurably added to this problem.

Enclosed please find the application fee. I completed my range qualification on June 26, 1999.

Thank you for your consideration.

Sincerely,



Don Perata

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4



1 CASE : MEHL v. BLANAS
2 COURT : **IN THE UNITED STATES DISTRICT COURT**
IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA
3 **PROOF OF SERVICE**

4 I, the undersigned, declare that:

5 I am a citizen of the United States, employed in the City of Sacramento,
6 California. My business address is LAW OFFICES OF GARY W. GORSKI, 8549 Nephi Way
Fair Oaks, CA 95628. I am over the age of 18 years and not a party of the within-entitled cause.

7 I am readily familiar with GARY W. GORSKI's practice for collection and
8 processing of correspondence for mailing with the United States Postal Service the same day in
the ordinary course of business.

9 On April 23, 2004, I served the attached:

10 **FIRST AMENDED COMPLAINT**

11 on all parties in said action as addressed below by causing a true copy thereof to be:

12 express mailed:

13 Telecopied by facsimile:

14 Electronic Communication (email)

15 delivered by hand:

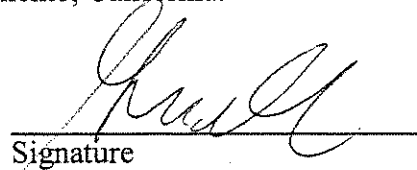
16 Mr. Tim Reiger, Deputy Attorney General
17 Ms. Nancy Palmeiri, Supervisory Deputy Attorney General
18 Bill Lockyer, Attorney General
19 *DEPARTMENT OF JUSTICE*
20 STATE OF CALIFORNIA
1300 I STREET
PO BOX 944255
SACRAMENTO, CA 94244-2550
FAX (916) 322-0206

21 XXX Placed in sealed envelope with postage thereon fully
prepaid via U.S. mail and faxed.

22 JOHN LAVRA, ESQ.
23 LONGYEAR, O'DEA & LAVRA
3620 AMERICAN RIVER DRIVE, SUITE 230
24 SACRAMENTO, CA 95864-0770

25 I declare under penalty of perjury that the foregoing is true and correct and that
26 this declaration is executed April 23, 2004 at Sacramento, California.

27 Gary W. Gorski
28 Name


Signature