

C.D. Michel – SBN 144258
Email: cmichel@michellawyers.com
Joshua R. Dale – SBN 209942
Sean A. Brady – SBN 262007
Anna M. Barvir – SBN 268728
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802
Telephone: (562) 216-4444
Facsimile: (562) 216-4445

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MICHELLE FLANAGAN, et al.,

Plaintiffs,

v.

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

Defendants.

Case No.: 2:16-cv-06164-JAK-AS

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT; DECLARATION OF
ANNA M. BARVIR; EXHIBITS 8 -
10**

Judge: John A. Kronstadt
Hearing Date: November 6, 2017
Hearing Time: 8:30 AM
Courtroom: 10B

Action Filed: August 17, 2016
Trial Date: February 6, 2018

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that, under Federal Rules of Evidence, rule 201, Plaintiffs Michelle Flanagan, Samuel Golden, Dominic Nardone, Jacob Perkio, and the California Rifle & Pistol Association ("Plaintiffs") respectfully request that this Court take judicial notice of the following adjudicative facts and exhibits. This request is made in support of Plaintiffs' Motion for Summary Judgment and is based on the attached declaration of Anna M. Barvir and the exhibits attached thereto.

///

1 1. Plaintiffs request this Court to judicially notice the fact that, as of July
 2 1, 2016, the County of Los Angeles has a population of approximately 10,137,915, a
 3 number that exceeds 200,000. That number is reported by the U.S. Census Bureau
 4 on its official website. U.S. Census Bureau, *QuickFacts: Los Angeles County,*
 5 *California* (July 1, 2016), [https://www.census.gov/quickfacts/fact/table/losangeles](https://www.census.gov/quickfacts/fact/table/losangeles-countycalifornia/PST045216)
 6 [countycalifornia/PST045216](https://www.census.gov/quickfacts/fact/table/losangeles-countycalifornia/PST045216) (Ex. 8).

7 This item is a proper subject for judicial notice under Federal Rules of
 8 Evidence, rule 201(b), because it is a fact that is “generally known within the trial
 9 court’s jurisdiction” or “can be accurately and readily determined from sources
 10 whose accuracy cannot be reasonably questioned.” More specifically, a court may
 11 take judicial notice of the population of a geographical area, as reported by the
 12 United States Census Bureau on its official internet website. *J&J Sports Prods., Inc.*
 13 *v. Cal City Post*, No. 476, No. 10-00762, 2011 WL 2946178, at *8 n.5 (E.D. Cal.
 14 July 21, 2011) (“The United States Census Bureau is a source whose accuracy
 15 cannot reasonably be questioned, and . . . the Internet website for the United States
 16 Census Bureau, and facts included therein, are subject to judicial notice”); *see also*
 17 Jeffery Bellin & Andrew Guthrie Ferguson, *Trial by Google: Judicial Notice in the*
 18 *Information Age*, 108 Nw. U. L. Rev. 1137, 1159 (2014) (“Courts have taken
 19 judicial notice of demographic information published online by the Census Bureau,
 20 such as “the racial breakdown for the Memphis metropolitan area population.”)

21 2. Plaintiffs also ask this Court to take judicial notice of Los Angeles
 22 County Code sections 13.66.050, 13.66.130, and 13.66.500. A copy of these sections
 23 is attached hereto as Exhibit 9.

24 This Court can and should judicially notice local legislative enactments,
 25 including city charters, ordinances, and resolutions. *Rabkin v. Dean*, 856 F. Supp.
 26 543, 546 (N.D. Cal. 1994); *see also Newcomb v. Brennan*, 558 F.2d 825, 829 (7th
 27 Cir. 1977), *cert. denied*, 434 U.S. 968 (1977); *GIC Indemnity Corp. v. Weisman*, 803
 28 F.2d 500, 504 (9th Cir. 1986) (court may take judicial notice of official records and

1 reports). The Los Angeles County Code is adopted by the County Council in
 2 accordance with procedures required by state law and is a proper subject of judicial
 3 notice.

4 3. Plaintiffs also ask this Court to take judicial notice of the Los Angeles
 5 County Sheriff's Department's official policy for the issuance of concealed weapon
 6 licenses, as found on the Department's official internet website. A copy of the
 7 Department's policy is attached hereto as Exhibit 10.

8 It is proper for this Court to judicially notice the Department's policy because
 9 " '[p]ublic records and government documents are generally considered "not to be
 10 subject to reasonable dispute." This includes public records and government
 11 documents available from reliable sources on the Internet.' " *Molina v. Washington*
 12 *Mut. Bank*, No. 09-00894, 2010 WL 431439, at *3 (S.D. Cal. Jan 29, 2010) (quoting
 13 *United States ex rel. Dingle v. BioPort Corp.*, 270 F. Supp. 2d 968, 972 (W.D. Mich.
 14 2003); *see also Ibarra v. Loan City*, No. 09-02228, 2010 WL 415284, at *3 (S.D.
 15 Cal. Jan. 27, 2010). Indeed, " '[i]nformation on government agency websites has
 16 often been treated as properly subject to judicial notice.' " *Id.* (quoting *Paralyzed*
 17 *Vets. of Am. v. McPherson*, 2008 U.S. Dist. LEXIS 69542, at *5 (N.D. Cal. Sept. 8,
 18 2008)); *see also Ibarra*, No. 09-02228, 2010 WL 415284, at *3.

19
 20 Dated: September 11, 2017

MICHEL & ASSOCIATES, P.C.

21
 22 /s/ Sean A. Brady
 23 Sean A. Brady
 24 Attorneys for Plaintiffs
 25
 26
 27
 28

DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare as follows:

1. I am an attorney licensed to practice law in the state of California and before the United States District Court for the Central District of California. I have personal knowledge of all facts set forth herein and could and would testify to the accuracy thereof if called to do so.

2. Attached hereto as Exhibit 8 is a copy of United States Census Bureau population estimates for the County of Los Angeles, California, as of July 1, 2016, as reported on the Census Bureau's website. On September 9, 2017, I visited <https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia/PST045216> and printed the attached pages. The attached pages truly and accurately reflect the web pages displayed.

3. Attached hereto as Exhibit 9 is a true and correct copy of Los Angeles County Code sections 13.66.050, 13.66.130, and 13.66.500. On September 11, 2017, I visited http://lacounty-ca.elaws.us/code/coor_title13_div8_ch13.66, an internet website that publishes Chapter 13.66 of the Los Angeles County Code of Ordinances, pertaining to the regulation of "Firearms, Bows and Arrows." From there, I visited links to sections 13.66.050, 13.66.130, and 13.66.500 and printed the attached pages. The attached pages truly and accurately reflect the web pages displayed.

4. Attached hereto as Exhibit 10 is a copy of the Los Angeles County Sheriff's Department's official policy for the issuance of licenses to carry firearms in a concealed manner. On September 10, I visited the Los Angeles County Sheriff's Department's internet website at <http://sheriff.lacounty.gov> and conducted a "search" for "CCW." That search directed me to <http://shq.lasdnews.net/content/uoa/SHQ/ConcealedWeaponLicensePolicy.pdf>, from which I printed the attached pages. The attached pages truly and accurately reflect the web pages displayed.

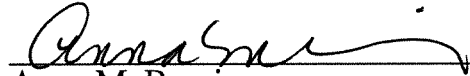
///

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed this 11th day of September 2017 in Long Beach, CA.

3

4


Anna M. Barvir
Declarant

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT 8

**QuickFacts**selected: **Los Angeles County, California**QuickFacts provides statistics for all states and counties, and for cities and towns with a *population of 5,000 or more*.

able

All Topics		Los Angeles County, California	
Population estimates, July 1, 2016, (V2016)			10,137,915
PEOPLE			
Population			
Population estimates, July 1, 2016, (V2016)			10,137,915
Population estimates base, April 1, 2010, (V2016)			9,818,700
Population, percent change - April 1, 2010 (estimates base) to July 1, 2016, (V2016)			3.3%
Population, Census, April 1, 2010			9,818,605
Age and Sex			
Persons under 5 years, percent, July 1, 2016, (V2016)			6.2%
Persons under 5 years, percent, April 1, 2010			6.6%
Persons under 18 years, percent, July 1, 2016, (V2016)			22.2%
Persons under 18 years, percent, April 1, 2010			24.5%
Persons 65 years and over, percent, July 1, 2016, (V2016)			12.9%
Persons 65 years and over, percent, April 1, 2010			10.9%
Female persons, percent, July 1, 2016, (V2016)			50.7%
Female persons, percent, April 1, 2010			50.7%
Race and Hispanic Origin			
White alone, percent, July 1, 2016, (V2016) (a)			71.0%
White alone, percent, April 1, 2010 (a)			50.3%
Black or African American alone, percent, July 1, 2016, (V2016) (a)			9.1%
Black or African American alone, percent, April 1, 2010 (a)			8.7%
American Indian and Alaska Native alone, percent, July 1, 2016, (V2016) (a)			1.5%
American Indian and Alaska Native alone, percent, April 1, 2010 (a)			0.7%
Asian alone, percent, July 1, 2016, (V2016) (a)			15.1%
Asian alone, percent, April 1, 2010 (a)			13.7%
Native Hawaiian and Other Pacific Islander alone, percent, July 1, 2016, (V2016) (a)			0.4%
Native Hawaiian and Other Pacific Islander alone, percent, April 1, 2010 (a)			0.3%
Two or More Races, percent, July 1, 2016, (V2016)			3.0%
Two or More Races, percent, April 1, 2010			4.5%
Hispanic or Latino, percent, July 1, 2016, (V2016) (b)			48.5%
Hispanic or Latino, percent, April 1, 2010 (b)			47.7%
White alone, not Hispanic or Latino, percent, July 1, 2016, (V2016)			28.5%
White alone, not Hispanic or Latino, percent, April 1, 2010			27.8%
Population Characteristics			
Veterans, 2011-2015			304,828
Foreign born persons, percent, 2011-2015			34.7%
Housing			
Housing units, July 1, 2016, (V2016)			3,520,827
Housing units, April 1, 2010			3,445,076
Owner-occupied housing unit rate, 2011-2015			48.0%
Median value of owner-occupied housing units, 2011-2015			\$441,900
Median selected monthly owner costs -with a mortgage, 2011-2015			\$2,279
Median selected monthly owner costs -without a mortgage, 2011-2015			\$518
Median gross rent, 2011-2015			\$1,231
Building permits, 2016			20,591
Families & Living Arrangements			
Households, 2011-2015			3,283,069
Persons per household, 2011-2015			3.02
Living in same house 1 year ago, percent of persons age 1 year+, 2011-2015			87.2%
Language other than English spoken at home, percent of persons age 5 years+, 2011-2015			56.8%

Value Notes

▲ This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick In the left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2016) refers to the final year of the series (2010 thru 2016). *Different vintage years of estimates are not comparable.*

Fact Notes

- (a) Includes persons reporting only one race
- (b) Hispanics may be of any race, so also are included in applicable race categories
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- D** Suppressed to avoid disclosure of confidential information
- F** Fewer than 25 firms
- FN** Footnote on this item in place of data
- NA** Not available
- S** Suppressed; does not meet publication standards
- X** Not applicable
- Z** Value greater than zero but less than half unit of measure shown
- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the low interval of an open ended distribution.

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area SHealth Insurance Estimates, Small Area and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

EXHIBIT 9



[Sign In](#) [Sign Up](#)

- Los Angeles County
 - Code of Ordinances
 - Title 13. Public Peace, Morals And Welfare
 - Division 8. Weapons
 - Chapter 13.66. Firearms, Bows And Arrows*
 - Part 1. General Regulations

§ 13.66.050. Discharging firearms—Prohibited on or along public ways

Latest version.

A. A person shall not shoot, fire or discharge, and a person, firm or corporation shall not cause or permit to be shot, fired or discharged, upon, along or across any public highway, road, street or way, any rifle, shotgun, pistol, revolver or firearm.

B. The exception in Section 13.66.010 to destroying or killing any predatory or dangerous animal does not apply to this section.

(Ord. 7381 § 1 (part), 1958: Ord. 1769 Art. 3 § 305, 1929.)

[About Us](#) | [Contact Us](#)
Copyright © 2013 by eLaws. All rights reserved.



[Sign In](#) [Sign Up](#)

- Los Angeles County
 - Code of Ordinances
 - Title 13. Public Peace, Morals And Welfare
 - Division 8. Weapons
 - Chapter 13.66. Firearms, Bows And Arrows*
 - Part 2. Restricted Shooting Districts

§ 13.66.130. Firearms—Discharge prohibited in designated districts

Latest version.

Except as otherwise provided in this chapter, a person shall not shoot, fire or discharge, and a person, firm or corporation shall not cause or permit to be shot, fired or discharged, in the unincorporated territory lying within the boundaries of any district or area defined in this Part 2, any rifle, shotgun, revolver or firearm of any kind.

(Ord. 7381 § 1 (part), 1958; Ord. 1769 Art. 1 § 100, 1929.)

[About Us](#) | [Contact Us](#)

Copyright © 2013 by eLaws. All rights reserved.



[Sign In](#) [Sign Up](#)

- **Los Angeles County**
 - **Code of Ordinances**
 - **Title 13. Public Peace, Morals And Welfare**
 - **Division 8. Weapons**
 - **Chapter 13.66. Firearms, Bows And Arrows***
 - **Part 3. Less-Restricted Shooting Districts**

§ 13.66.500. Regulations in less-restricted districts

Latest version.

Except as otherwise provided in this chapter, a person shall not shoot, fire or discharge, and a person, firm or corporation shall not cause or permit to be shot, fired or discharged in the unincorporated territory lying within the boundaries of any district or area defined in this Part 3, any firearm of any kind having a firing range of, or capable of propelling any bullet, shot or missile for any distance of one-half mile or more.

(Ord. 7281 § 1 (part), 1958; Ord. 1769 Art. 2 § 150, 1929.)

[About Us](#) | [Contact Us](#)

Copyright © 2013 by eLaws. All rights reserved.

EXHIBIT 10

Los Angeles County Sheriff's Department

Concealed Weapon Licensing Policy

The issuance of licenses enabling a private citizen to carry a concealed weapon (CCW) is of great concern to the Los Angeles County Sheriff's Department. The Department's overriding policy is that no concealed weapon license should be granted merely for the personal convenience of the applicant. No position or job classification in itself shall constitute good cause for the issuance, or for the denial, of a CCW license. Each application shall be individually reviewed for cause, and the applicant will be notified by writing within 90 days of the application, or within 30 days after receipt of the applicant's criminal background check from the Department of Justice, that the CCW license was either approved or denied.

In accordance with California Penal Code § 26150 *et. seq.*, and subject to Department policy and procedures, any Los Angeles County resident may obtain a CCW application for authorization to carry a concealed weapon. Applications may be obtained from any sheriff's patrol station, LASD.org website, or the Hall of Justice 2nd Floor Security Desk. Completed applications may be submitted to any of these units for processing.

Types of Licensing and Expiration Periods for CCWs

There are four distinct categories of CCW licenses: Employment, Standard, Judges, and Reserve Police Officers. The Employment CCW license is issued only by the sheriff of a county to a person who spends a substantial period of time in his or her principal place of employment or business in the county of issuance. The license is valid only in the county issued and for any period not to exceed 90 days. The Standard CCW license is issued to residents of the county or a particular city within the county. The license is valid for any period not to exceed 2 years. The Judge CCW license may be issued to California judges, full-time commissioners, and to federal judges and magistrates of the federal courts. The license is valid for any period not to exceed 3 years. The Reserve Police Officer CCW license may be issued to reserve police officers appointed pursuant to California Penal Code § 830.6. The license is valid for any period not to exceed 4 years, except that it becomes invalid upon the conclusion of the person's appointment as a reserve police officer.

Training Requirements for a CCW License

Regardless of the category, all new license applicants for CCW's must now pass a specified course of training which is acceptable to the licensing authority, the Los Angeles County Sheriff's Department (See attached sheet, "Suggested Training Vendors"). New CCW license applicants must pass a specified course of training acceptable to the licensing authority. The course shall not exceed 16 hours, and the course shall include instruction on firearm safety, the law regarding the permissible use

CCW License Subject to Restrictions

When a license is issued it will be subject to the following general restrictions.

While exercising the privilege granted under the terms of this license, licensees shall not:

1. Consume any alcoholic beverage.
2. Represent to any person that they are peace officers, unless they are in fact peace officers as defined by law.
3. Abuse this privilege by an unjustified display of a deadly weapon.
4. Violate any law of this State or Country.
5. Be under the influence of any medication or narcotic drug.
6. Impede law enforcement officers in the conduct or performance of their duty or activities.
7. Refuse to display their permits or to surrender their concealable firearm to any peace officer for inspection upon demand.

In addition, the Los Angeles County Sheriff's Department may place special limitations further limiting the time, the place, and the circumstances under which the license is valid. When each license is issued, general restrictions and any special limitations will be noted on the reverse side of the card.

Remember, it is a Privilege, not a right to carry a concealed weapon.

Application for CCW License

Upon reviewing the attached policy and meeting all requirements, please **complete the Standard Application form in its Entirety.** Send completed application to Sheriff's Headquarters, 211 West Temple Street, Los Angeles, California 90012, Attention: CCW Coordinator. **A non-refundable fee of \$10.00 Check or Money Order (payable to Los Angeles County Sheriff's Department) must accompany your application.** Incomplete applications will not be processed. Those who successfully pass the initial screening will be charged a required follow-up processing fee.

Revised 3/2013

DISCLAIMER

The County of Los Angeles and the LASD make no other representation or warranties about the trainers listed above or the facilities or equipment they use to conduct training.

- None of these trainers are employees or agents of the County of Los Angeles or LASD.
- None of the trainers was trained in the use of firearms by the County of Los Angeles or LASD.
- None of the facilities and equipment used by these trainers are owned, controlled, or inspected by the County of Los Angeles or the LASD.

Neither the County of Los Angeles nor LASD certify or control the safety of the training conducted by any of these trainers.

You assume fully the risk of any loss, injury or damage attributable to (1) any act or omission of any of these trainers or any of their agents or employees or (2) the condition and premises or equipment used by any of these trainers. The County of Los Angeles and LASD disclaim any responsibility for any such loss, injury or damage.

LASD recommends that before you begin training, you fully investigate the trainers qualifications, training, safety record and condition of premises and equipment.

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Case Name: *Flanagan, et al. v. California Attorney General Xavier Becerra, et al.*
Case No.: 2:16-cv-06164-JAK-AS

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT; DECLARATION OF ANNA M.
BARVIR; EXHIBITS 8 - 10**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Xavier Becerra, Attorney General of California	<i>Attorneys for Attorney</i>
P. Patty Li, Deputy Attorney General	<i>General of the State of</i>
E-mail: Patty.Li@doj.ca.gov	<i>California</i>
Jonathan M. Eisenberg, Deputy Attorney General	
E-mail: Jonathan.Eisenberg@doj.ca.gov	
300 South Spring Street, Suite 1702	
Los Angeles, CA 90013	

I declare under penalty of perjury that the foregoing is true and correct.

Executed September 11, 2017

/s/ Laura Palmerin

Laura Palmerin