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14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**

16 MARK BAIRD and
17 RICHARD GALLARDO,

18 Plaintiffs,

19 v.

20 ROB BONTA, in his official capacity as
21 Attorney General of the State of California,

22 Defendant.

Case No. 2:19-CV-00617

**REPLY DECLARATION OF
AMY L. BELLANTONI IN SUPPORT OF
PLAINTIFFS' THIRD MOTION FOR
PRELIMINARY INJUNCTION**

Date: November 4, 2022
Time: 10:00 a.m.
Room: 3
Judge: Hon. Kimberly J. Mueller

DECLARATION OF AMY L. BELLANTONI

1
2 1. I am an attorney with The Bellantoni Law Firm, PLLC, attorneys for Plaintiffs, Mark
3 Baird and Richard Gallardo. I am admitted to practice law before the United States District Court
4 for the Eastern District of California, *pro hac vice*. I am also admitted to practice law before the
5 United States District Courts for the Southern, Eastern, and Northern Districts of New York, the
6 District of Columbia, the Second Circuit Court of Appeals, and the United States Supreme Court.
7 I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could
8 and would testify competently thereto.
9

10 2. This Third Motion for a Preliminary Injunction¹ is made to enjoin, during the
11 pendency of these proceedings, Defendant Bonta, his agents, servants, employees, and those
12 working in active concert with him, from enforcing and/or giving effect to California Penal Code
13 sections 25850 and 26350 as they relate to the mere possession of a handgun by manner of open
14 carry in public.
15

16 3. The instant motion for a preliminary injunction is made based on the irreparable and
17 continued harm to Plaintiffs resulting from the enforcement and effect of California Penal Code
18 Sections 25850 and 26350, which will continue absent an injunction of the statutes. The plain
19 language of the aforementioned statutes, as well as the *de facto* ban on open carry in the State of
20 California enforced by defendant Attorney General Rob Bonta through the California Department
21 of Justice, his agents, employees, servants, including the respective state's firearms licensing
22 agencies, to wit, the sheriffs and chiefs of police throughout the state, constitutes a violation of the
23 Second Amendment.
24

25
26
27 ¹ During the parties' July 28, 2022 Status Conference with the Court, held by videoconference, the Court granted
28 Plaintiffs' oral application to withdraw their Second Motion for a Preliminary Injunction, filed on April 13, 2021,
which was pending decision.

1 4. It is the opinion of the Ninth Circuit that the concealed carry of a firearm does not
2 fall within the scope of the protections provided by the Second Amendment. Upholding a challenge
3 to California’s “good cause” requirement for the issuance of a CCW license in *Peruta v County of*
4 *San Diego*, 824 F3d 919, 942 (9th Cir 2016) (en banc) (*Peruta II*) (cert. den.), the Ninth Circuit held
5 that the Second Amendment did not protect *in any degree* the right to carry a concealed firearm in
6 public and that *any* prohibition or restriction a state might choose to impose on concealed carry,
7 was not unconstitutional. (emphasis added). Concealed carry, the Circuit reasoned, was a mere
8 privilege, not a ‘right’.

9
10 5. As set forth in the accompanying Memorandum of Points and Authorities and Reply
11 Memorandum of Points and Authorities, with accompanying Declarations, the Supreme Court and
12 history of this nation and the State of California bear out that the open carriage of handguns for
13 self-defense falls squarely within Second Amendment protected activity. A contrary view is
14 irrational and in conflict with the plain text of the Amendment.

15
16 6. As detailed in the accompanying Memoranda, the complained of statutes preclude
17 non-prohibited, regular people, including Plaintiffs, from the free exercise of the right to open carry
18 a firearm for self-defense in public by criminalizing the “mere possession” of a handgun carried
19 open and exposed outside of one’s home, which exposes ordinary individuals to criminal penalties
20 for exercising the right to open carry, whether loaded or unloaded.

21
22 7. Defendant, who alone has the burden, has failed to forth *any evidence* that the
23 challenged regulations – Penal Code sections 25850 and/or 26350 - are consistent with this Nation’s
24 historical traditions of regulating firearms.

25 8. The Supreme Court has, more than once, flatly rejected any manner of ‘public
26 safety’, means-end scrutiny as a response to Second Amendment challenges. See, *D.C. v. Heller*,
27 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 562 U.S. 742 (2010); *NYSRPA v. Bruen*, 142
28

1 S.Ct. 2111 (2022).

2 9. Yet, defiantly, Defendant continues to offer ‘public safety’ arguments, like those
3 espoused by his law enforcement ‘expert’, former Covina Chief of Police Kim Raney, speculating
4 about how open carry will affect public safety. Attached hereto as Exhibit 1 is Mr. Raney’s
5 deposition testimony.
6

7 10. Mr. Raney has never served as a law enforcement officer in an open carry
8 jurisdiction. [Ex. 1 at 19:1-3]. Everything Mr. Raney testified to regarding ‘public safety’ in an
9 open carry jurisdiction is based on speculation.

10 11. While ‘public safety’ is an *improper consideration* when it comes to Second
11 Amendment challenges², Plaintiffs’ law enforcement expert, Chuck Haggard, *does* serve in an open
12 carry jurisdiction and was employed as a police officer when the state of Kansas legalized open
13 carry overnight. No “instant mayhem” occurred, as Raney hypothesizes. [See, the deposition
14 testimony of Chuck Haggard attached hereto as Ex. 2 at pp. 46-48; 61-62].
15

16 12. “So, just the mere fact that somebody’s carrying a gun - - and I’ll go with a holstered
17 handgun, let’s say, in and of itself. It just is what it is. It isn’t a negative or doesn’t have an effect
18 on public safety. The idea that the police would show up and be, “Oh, my God, that guy’s got a
19 gun, we better shoot him” borders on the ridiculous in my mind, that- - and a bunch of that is
20 personal observation.” [Ex. 2 at p. 53]. Mr. Haggard’s observation is based on his personal
21 observation as a police officer and civilian firearms trainer in Kansas, as well as in other states
22 where he has either conducted training or been involved in training including Texas, Oklahoma,
23 Missouri, Utah, and Wyoming, where carrying a firearm open and exposed would garner the
24 reaction, “It’s a sunny day out, that guy’s carrying a gun. It’s not a positive, it’s not a negative, it
25
26

27 _____
28 ² *D.C. v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 562 U.S. 742 (2010); *NYSRPA v. Bruen*, 142 S.Ct. 2111 (2022).

1 just is.” [Ex. 2 at pp. 53-54]. “I can tell you I’ve walked up on car stops where I’ve had people with
2 shotguns and rifles in the back window of a pickup truck, guns in consoles, guns laying on seats,
3 I’ve dealt with people who are wearing holstered guns on their hip, that sort of thing, and, quite
4 frankly, the guns that I can see, the weapons that I can see, I was never very worried about. I was
5 worried about the behavior of the people who were, you know, literally being furtive, who were
6 trying to conceal what they were up to. It was more behavior-focused...It’s what you don’t know
7 that is a problem.” [Ex. 2 at p. 70-71].

9 13. Attached hereto as Exhibit 3 is the deposition testimony of Richard Gallardo, which
10 indicates that he was compliant with California Penal Code 171 (b)(B)(3) when he had his firearm
11 on the CAL FIRE property in his locked vehicle; the statute allowed him to have his concealed
12 weapon on CAL FIRE property with the concealed weapons permit that he had at the time. [Ex. 3
13 at 19]. Mr. Gallardo further showed a co-worker his handgun at the co-worker’s request, he did
14 ‘display’ it in any sort of threatening manner as Defendant would have the Court believe. “Working
15 at CAL FIRE, we were there anywhere from three days a week to two to three weeks in a row. And
16 so, you know, lunchtime or evening hours or whenever we were not on the formal clock, what’s
17 called hard time, we’re allowed to talk about that kind of stuff, so we talked about it often. And one
18 of my fellow employees at the time was thinking about getting his concealed weapons permit, and
19 he asked me what kind of gun I carried, and so I showed it to him.” Mr. Gallardo was compliant
20 with the law. [Ex. 3 at 38-40]. Revoking his permit because he disagreed with an officer during a
21 traffic stop also demonstrates the problem with California’s subjective, discretionary licensing
22 scheme. [Ex. 3 at 24].

25 14. The within Declaration, exhibits, and accompanying Memoranda of Points and
26 Authorities warrant the requested relief and issuance of an order enjoining defendant Bonta, his
27 agents, servants, employees, and those working in active concert with him, from enforcing and/or
28

1 giving effect to California Penal Code sections 25850 and 26350 as they relate to merely carrying
2 a handgun open and exposed on one's person in public during the pendency of this proceeding.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5
6 Dated: October 11, 2022

Amy L. Bellantoni

Amy L. Bellantoni, Esq.
Attorney for Plaintiffs
Pro Hac Vice
abell@bellantoni-law.com

EXHIBIT 1

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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MARK BAIRD and RICHARD)
GALLARDO,)
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)
Plaintiffs,)

vs.

) Case No. 2:19-cv-00617-KJM-AC

ROB BONTA, in his official)
capacity as Attorney General of)
the State of California, and)
DOES 1-10,)

) November 29, 2021

Defendants.)
_____)

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DEPOSITION OF KIM RANEY
TAKEN REMOTELY FROM LaQUINTA, CALIFORNIA

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Reported Remotely By:
Lynne A. Howe, CSR
License No. 13003

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INDEX

KIM RANEY	PAGE
Examination by Ms. Bellantoni.....	5

INDEX OF EXHIBITS

Exhibit 1, Plaintiffs' Amended Notice of Deposition of Expert Witness Kim Raney.....	16
Exhibit 2, Expert Declaration and Report of Former Covina Chief of Police Kim Raney.....	17

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REMOTE APPEARANCES

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Also Present: Mark Baird

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BE IT REMEMBERED, that pursuant to Notice of this deposition, and on Monday, the 29th day of November, 2021, commencing at the hour of 12:03 p.m. thereof, taken remotely with the witness appearing in LaQuinta, California, before me, LYNNE A. HOWE, a Certified Shorthand Reporter in and for the State of California, the following proceedings were held.

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KIM RANEY

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

EXAMINATION

BY MS. BELLANTONI:

Q. Good afternoon, Mr. Raney.

A. Good afternoon.

Q. My name is Amy Bellantoni and I am the attorney
representing the plaintiffs in this matter entitled Baird
v. Bonta, the plaintiffs being Mark Baird and Richard
Gallardo. And I'll be asking you some questions today in
connection with your retention as an expert for the
defendants in this case.

Before we begin, can you state your full name
and spell your last name, please.

A. Kimber James Raney, R-a-n-e-y.

Q. Have you been deposed before?

A. Yes.

Q. So you're familiar with kind of the ground rules
in moving forward with a deposition.

There is a court reporter here who will be
taking down everything that we say. So it's important
that we don't talk over one another, which can sometimes
happen in the course of the deposition. You may

1 anticipate once I'm halfway through a question what the
2 rest of my question might be and begin answering before
3 I'm finished, and likewise I may anticipate what the rest
4 of your answer's going to be and start on my next
5 question, which I've done many times in past depositions.

6 So I will make my best efforts not to speak over
7 you, and I would ask that you make your best efforts not
8 to speak over me so we can have a clear record. Sound
9 good?

10 A. I understand.

11 Q. Do you understand that you've been sworn in to
12 tell the truth under the penalty of perjury and as such,
13 your testimony here in this deposition is the same as if
14 you would be testifying in a courtroom?

15 A. Yes, I do.

16 Q. If you need to take a break at any time, just
17 let me know. I would only ask that if there is an open
18 question that you answer the question first before we
19 take a break and then if you -- after the break, you need
20 to clarify something about your testimony in answering
21 that question, you can feel free to do so. All right?

22 A. Okay.

23 Q. If at any time during the deposition you think
24 back to an answer that you gave or one that you weren't
25 sure about or were unable to give at the time and you'd

1 like to clarify an earlier answer, please let me know so
2 that we can ensure that we have an accurate and clear
3 record. All right?

4 A. Okay.

5 Q. At the end of the deposition you will be
6 provided with a copy of the transcript when it's been
7 prepared by the court reporter, and you'll have an
8 opportunity to review your testimony in that transcript
9 and to make any changes or corrections to your testimony
10 here today.

11 I would only let you know that in doing so, I
12 would be allowed to comment on any of the changes that
13 you made. You understand?

14 A. I understand.

15 Q. From time to time your attorney may have an
16 objection to a question that I ask, maybe to the form of
17 the objection or to the substance, and your attorney will
18 state that objection on the record.

19 You will still be required to answer that
20 question unless your attorney specifically tells you not
21 to answer or instructs you not to answer that question.
22 Do you understand?

23 A. I understand.

24 Q. If at any time I ask you a question that you're
25 not sure what I'm asking or the form of the question just

1 is a little confusing -- that may happen because
2 sometimes my questions are lengthy and they're not meant
3 to confuse or to cause an unclear record. But if that
4 does happen and you're unsure of what I'm asking, please
5 let me know and I'll try to rephrase the question or make
6 it a little more clearer. Okay?

7 A. Okay.

8 Q. If I ask a question and you answer, I'm going to
9 assume that you understood what I was asking. I want to
10 make sure we're both on the same page. All right?

11 A. Okay.

12 Q. Is there anything that would affect your ability
13 as you sit here to understand and respond truthfully and
14 in a responsive manner to my questions today?

15 A. No.

16 Q. Have you ever testified in court before?

17 A. Yes.

18 Q. And is that in your capacity as a law
19 enforcement officer?

20 A. A law enforcement officer and then after
21 retirement I've testified as an expert witness.

22 Q. And how many -- in court?

23 A. Yes.

24 Q. How many times have you testified as an expert
25 witness in court?

1 A. Once.

2 Q. In what case was that?

3 A. I think it was Moreno, et al, versus The City of
4 Beverly Hills.

5 Q. And what was the scope of your expertise in that
6 case?

7 A. A lawsuit was filed by several members of the
8 Beverly Hills Police Department command staff, and I was
9 retained as an expert witness by the city in regards to
10 police department management questions, leadership
11 questions, in that area.

12 Q. And generally, just briefly, what was the issue
13 in that case? What was the case about? What were they
14 suing for?

15 A. They were suing the chief of police for
16 discrimination, hostile work environment, inappropriate
17 comments. Just there were I think 22 different
18 allegations.

19 Q. Nothing in that case had to do with open carry
20 or open carry policies?

21 A. No.

22 Q. And so many times throughout of the course of
23 this deposition I will be using the term or the phrase
24 "open carry." And by open carry, I'm referring to the
25 open --

1 (Technical difficulties)

2 THE COURT REPORTER: I'm sorry, Ms. Bellantoni.

3 You were breaking up. I missed half that question.

4 MS. BELLANTONI: All right. Can you hear me
5 now?

6 THE COURT REPORTER: Yes.

7 BY MS. BELLANTONI:

8 Q. Mr. Raney, during the course of this deposition
9 I'll be using the phrase "open carry," and by that term I
10 mean the open carriage of a handgun that is holstered and
11 carried upon the person.

12 Can we agree on that definition of that term?

13 A. I understand that, yes.

14 Q. Were you retained as an expert for the defendant
15 in this case?

16 A. Yes.

17 Q. And were you also retained as an expert in the
18 case Flanagan versus Becerra?

19 A. Yes.

20 Q. And other than those two cases and the case
21 involving Beverly Hills, have you been retained as an
22 expert in any other case?

23 A. Yes.

24 Q. In which case?

25 A. I don't know the name of the defendants. One

1 was a case that commenced several command staff members
2 of the Buena Park Police Department making allegations of
3 discrimination against the chief of police for failure to
4 promote them.

5 I've been retained by the City of Ontario for a
6 case where two police volunteers are suing the police
7 department and chief of police for I guess discrimination
8 and unlawful termination.

9 I was retained by the City of Chandler, Arizona,
10 in a lawsuit filed by a motorcycle club against the city
11 for closing down a business.

12 And those are the only ones I can remember right
13 now.

14 Q. Is the Chandler, Arizona, case in the nature of
15 First Amendment claim?

16 A. No. It was more of I think licensing
17 discrimination where they alleged that the City of
18 Chandler, Arizona, the police department, closed them
19 down because of their affiliation to the Hell's Angels.

20 Q. Is it fair to say that your retention as an
21 expert has only been on behalf of the defendants in
22 litigation?

23 A. Yes.

24 Q. And you've not been retained as an expert for
25 plaintiffs in litigation; is that correct?

1 A. That's correct.

2 Q. Were you deposed in the Flanagan versus Becerra
3 case?

4 A. I was.

5 Q. And did you review your deposition in that
6 matter in preparation for your deposition here today?

7 A. I did.

8 Q. And when did you have the opportunity to review
9 that deposition?

10 A. I believe it was two or three weeks ago before
11 the last deposition was canceled.

12 Q. Has your opinion on open carry changed since you
13 gave that deposition?

14 A. No.

15 Q. And have you conducted any additional research
16 on the issue of open carry since you gave the deposition
17 in that matter?

18 A. Well, I've read a lot of newspaper articles,
19 periodicals. Just because for the last three or four
20 years since that deposition there's been a lot of public
21 information about Second Amendment issues, so I've tried
22 to stay contemporary.

23 Q. And the research that you've conducted since
24 your deposition in the Flanagan case, was that research
25 specific to open carry?

1 A. No. And I wouldn't necessarily call it
2 research. It's more of just reading information that was
3 available on Second Amendment issues, sometime the
4 conflict between Second Amendment and First Amendment
5 issues with all the public demonstrations that have
6 happened in the country the last two or three years. So
7 more in that vein.

8 Q. So what, if anything, have you read since that
9 time that was specifically addressing open carry or open
10 carry jurisdictions?

11 A. I reviewed a report by I think it's Professor
12 John Donohue out of Stanford on open carry. Another
13 document, and I don't remember what organization put it
14 out, dealt with I think research over from January 2020
15 until June 2021 kind of the dichotomy between First
16 Amendment and public demonstrations versus the Second
17 Amendment rights and some issues that have popped up
18 around the country.

19 Q. And regarding that article, was that specific to
20 open carry?

21 A. No. It wasn't specific to open carry. It was
22 more about the presence of firearms at First Amendment
23 demonstrations.

24 Q. Do you recall who published that article --

25 A. I don't.

1 Q. -- or authored?

2 A. I don't.

3 Q. Would you be able to provide a copy of it if you
4 do remember to your counsel?

5 A. Yes.

6 Q. And the information that you read that had been
7 published by Mr. Donohue, was that specific to open
8 carry?

9 A. Well, I believe it was from knowledge he used
10 was right to carry. So I don't know if it was specific
11 to open carry in regards to handguns or open carry
12 regards to both handguns and long guns.

13 Q. Aside from whether it referenced or was
14 pertaining to handguns versus long guns, I'm just going
15 to ask again just for clarification for myself and the
16 record, was that dealing with -- the Donohue periodical,
17 was that specific to open carry or was it geared towards
18 concealed carry?

19 A. That was open carry.

20 Q. Do you still have a copy of that periodical?

21 A. Might have a link to it.

22 Q. All right. Do you think you could provide that
23 to your attorney?

24 A. I could, yes.

25 Q. Thank you very much.

1 MS. BELLANTONI: And Mr. Wise, I would just ask
2 if you could forward that along, I would appreciate that.

3 MR. WISE: Sure.

4 BY MS. BELLANTONI:

5 Q. Other than those two articles or publications,
6 do you recall anything else that you reviewed since the
7 Flanagan deposition that dealt specifically with open
8 carry of a handgun?

9 A. Not specifically, no.

10 Q. And are you being compensated for your time as
11 an expert for the defendants?

12 A. I am.

13 Q. How so?

14 A. \$250 an hour for document review, written
15 reports, et cetera, and \$350 an hour for deposition and
16 trial testimony.

17 Q. Have you read the complaint that was filed in
18 this matter and/or the amended complaint, because the
19 complaint was amended once as well?

20 A. Yes.

21 Q. Have you read both?

22 A. I believe the amended complaint.

23 Q. And what do you understand the plaintiffs'
24 claims to be?

25 A. I understand that the plaintiffs are suing the

1 State of California for their inability to get a permit
2 from -- for them as rural counties, populations of less
3 than 200,000, to openly carry a handgun. And I believe
4 they're contesting the lack of a process of an
5 application that they haven't been able to submit to
6 openly carry their handguns I think in those specific
7 counties and I believe one of them also mentioned
8 throughout the state of California.

9 Q. Can you describe how you prepared for your
10 deposition today?

11 A. I prepared my declaration for the attorney
12 general's office I think in August of this year. I
13 reviewed the declaration of your expert witness. I
14 reviewed his deposition transcripts. I reviewed my
15 deposition transcripts in the Flanagan matter. And I
16 reviewed the Penal Code sections in California regarding
17 the open carry codified sections.

18 Q. I'm going to share my screen here to show you
19 Exhibit 1.

20 (Whereupon, Plaintiffs' Exhibit 1 was marked for
21 identification purposes only and attached hereto.)

22 BY MS. BELLANTONI:

23 Q. Are you able to see this document on screen?

24 A. Yes.

25 Q. And this document, for the record, is entitled

1 Plaintiff's Amended Notice of Deposition of Expert
2 Witness Kim Raney.

3 And Mr. Raney, do you recognize the document as
4 being the notice for your deposition to bring you here
5 today?

6 A. Yes.

7 Q. All right. And now having switched to the
8 second document, which will be marked as Exhibit 2, which
9 for the record is entitled Expert Declaration and Report
10 of Former Covina Chief of Police Kim Raney.

11 (Whereupon, Plaintiffs' Exhibit 2 was marked for
12 identification purposes only and attached hereto.)

13 BY MS. BELLANTONI:

14 Q. Mr. Raney, can you see this document clearly?

15 A. Yes.

16 Q. I'm just going to scroll through. Do you
17 recognize this as being the declaration that was
18 submitted in connection with this case on your behalf?

19 Is that your declaration, sir?

20 A. Yes.

21 Q. And is that your signature there on Page 9?

22 A. Yes.

23 Q. Did you prepare this declaration or was it
24 prepared for you?

25 A. I prepared it.

1 Q. Okay. And when you prepared it, did you provide
2 a copy, a draft copy to Mr. Wise?

3 A. Yes.

4 Q. And is this the same -- is the document that
5 you're looking at here the same in substance and form as
6 the first draft that you had sent to Mr. Wise?

7 A. Yes.

8 Q. And going past Page 9 at Exhibit A, can we also
9 find a copy of your curriculum vitae?

10 A. Yes.

11 Q. And that CV is comprised of two pages?

12 A. Yes.

13 Q. And does this declaration here and your expert
14 report at Exhibit 2, does that document reflect your
15 opinions in this matter in regard to open carry?

16 A. Yes, it does.

17 Q. And what specifically were you assigned to do?
18 What were you asked to do in connection with this case?

19 A. I was asked to comment as a municipal chief of
20 police my opinion on the concept or the laws around open
21 carry in the state of California.

22 Q. And other than the documents that are referenced
23 in this declaration, were there any other documents or
24 information that you relied on in coming to your opinion?

25 A. No.

1 Q. Have you ever served as a law enforcement
2 officer in an open carry jurisdiction?

3 A. No.

4 Q. And what, if any, research, other than the
5 information that we discussed earlier from Mr. Donohue,
6 his publication, and the publication that you had
7 referenced regarding First Amendment issues and Second
8 Amendment issues surrounding protests, what, if any,
9 other research have you conducted regarding public safety
10 issues in connection with the open carriage of handguns
11 in public?

12 A. As far as specific point of research, none other
13 than than what's been mentioned. But in 39 years of law
14 enforcement in California and the last 15 years as a
15 chief of police, it was 15 years of being at the table
16 both at the municipal level, the county level, and the
17 state level, the majority of the public policy
18 conversations and decisions that were made in all those
19 jurisdictions, so I think quite extensive experience in
20 regard to public safety policy for the State of
21 California.

22 Q. What personal experience do you have related to
23 public safety regarding the open carriage of handguns?

24 A. The only personal experience again would be a
25 period in I believe in 2010 or 2011 when some people

1 associated with, and I'll just use my term, the open
2 carry or in the open carry movement were showing up at
3 places like Starbucks and different coffee shops
4 throughout Southern California, most of them in
5 possession of long guns openly exposed, just to create a
6 law enforcement response and then document that contact.

7 Q. How many such occurrences were there?

8 A. My jurisdiction was involved in several of
9 those, and it was the topic of discussion at Los Angeles
10 County Police Chiefs Association wherein there were
11 anywhere of a dozen or so throughout the jurisdictions in
12 Los Angeles County.

13 Q. Over the course of what time period as far as
14 Covina is concerned?

15 A. I would say a period of a month.

16 Q. And during what time period? In what year?

17 A. Yeah, I believe it was 2010 or 2011, but I'm not
18 not quite sure of the exact time period. There was just
19 a movement from a group in what's called the South Bay
20 Area of Los Angeles County where they were going out in
21 the region and just I think seeing what the law
22 enforcement response would be to a call for service if
23 they showed up at a Starbucks openly carrying rifles.

24 Q. Were any of these individuals in Covina, were
25 any of them open carry handguns?

1 A. I believe they were open carry of rifles.

2 Q. Not handguns?

3 A. I don't believe so.

4 Q. And with regard to -- well, I'm going to
5 withdraw that.

6 Can you describe what you mean by the phrase
7 "open carry movement"?

8 A. I believe there's a segment of the population
9 who actively are working to use their Second Amendment
10 rights, including in California as in this case, just
11 trying to do what they can to openly carry a handgun. In
12 this case, it looks like in conformance with the state
13 laws. And their claims, to my understanding, is that
14 they have been unable to get into the permit process in
15 the one or two counties that they have applied to.

16 Q. I just want to back up. So I'm asking you about
17 the open carry movement that you were describing in
18 Covina that involved only the possession of long guns.

19 What specifically were you referring to when you
20 say "open carry movement"?

21 A. Well, I believe there's again a segment of
22 society who wants the ability to carry -- openly carry in
23 communities handguns and rifles pursuant to their
24 interpretation of the Second Amendment.

25 Q. And during that time period, which I believe you

1 described as around 2010 or 2011, it was completely legal
2 in California to open carry a rifle or a handgun,
3 correct?

4 A. I believe it was -- it wasn't illegal. I think
5 there was a loophole or a gap in the law, and so I think
6 part of that was closed by legislation 2011, 2012.

7 But yes, I think there was -- it wasn't a
8 criminal act to openly carry a rifle in California.

9 Q. And it was also not illegal to carry a handgun
10 open and exposed if it was unloaded at that point in
11 time, correct?

12 A. Correct.

13 Q. And putting Covina to the side, during that same
14 period you mentioned that there were certain gatherings
15 in Los Angeles County as well.

16 Were those events, did those involve long guns
17 or handguns or both?

18 A. I don't know. It was just -- the Los Angeles
19 Police Chiefs Association is made up of 45 municipal
20 police chiefs and we have a monthly meeting. At that
21 meeting there's a round table conversation about any
22 issues going on in your jurisdiction, and several of the
23 chiefs just shared their experience when those situations
24 arose in their jurisdictions. Basically is information
25 with other chiefs that seem to be an organized practice

1 that was starting throughout Los Angeles County.

2 Q. Of individuals carrying openly in public? That
3 was the movement?

4 A. Well, it was more where they were going to a
5 Starbucks with several people and just seeing if there
6 was a law enforcement call for service and the reaction
7 of that call for services.

8 Q. Well, how do you know that was their intention
9 or their motive --

10 A. I don't know if that -- that just seemed to be
11 where the calls were coming from was coffee shops.

12 Q. But you don't know if the individuals
13 specifically intended to see what the law enforcement
14 response would be or to cause a law enforcement response?

15 A. Well, I don't know what their intent was. I
16 know what happened because the chiefs shared that there
17 were calls for service. And it seemed like there was
18 dialogue.

19 I know in our jurisdiction there was dialog with
20 the group that was there and I think it was basically --
21 it wasn't a confrontational situation. It was more of
22 just what was going to be the law enforcement response,
23 what was the officers' knowledge of the law in California
24 at that time.

25 Q. And what was the response in your jurisdiction?

1 A. I wasn't there. I was briefed on it. It was a
2 call for service. There was more than one person who was
3 at a Starbucks or a coffee shop location when they were
4 contacted by the police. They just explained what they
5 were doing. They weren't breaking any laws. I think the
6 weapons were checked to ensure they weren't loaded. I
7 think there was just an exchange of information and the
8 parties left and the law enforcement left.

9 Q. Sounds pretty uneventful; would you agree?

10 A. I wouldn't agree with the term "uneventful." I
11 don't know what happened, how the call was dispatched. I
12 think it was resolved appropriately.

13 Q. Would you characterize it as being
14 nonconfrontational?

15 A. Again I wasn't there. I wasn't briefed that
16 there was a confrontation, so I'd have to make an
17 assumption.

18 Q. Were you the chief of police at the time?

19 A. Yes.

20 Q. And you were briefed on the incident?

21 A. Yes.

22 Q. And no arrests were made, right?

23 A. No.

24 Q. And these people that were carrying the rifles,
25 were they creating a disturbance of the peace or charged

1 with any disturbance?

2 A. I don't know what they were creating, but it did
3 generate a call for service. As far as violating any
4 laws, no, they were not arrested.

5 Q. So what was the major complaints at the chiefs
6 of police meeting regarding these events?

7 A. It was more of a heads-up that, and again I'm
8 just going to paraphrase the information that came out
9 from the meeting, that this was an organized effort to
10 gauge the law enforcement response to see if law
11 enforcement was going to make an arrest, even though from
12 all the information we had it wasn't a codified criminal
13 act. More of a gauge just to gauge the law enforcement
14 response to the calls.

15 Q. Was it an uncodified criminal act?

16 A. No. It wasn't a criminal act.

17 Q. Did these events have any -- well, withdrawn.

18 Did these events motivate the passing of the law
19 in I think it was 2012, 2013 to criminalize the open
20 carry of a loaded handgun?

21 MR. WISE: Objection. Calls for speculation.

22 BY MS. BELLANTONI:

23 Q. Well, do you know any of the -- were you
24 involved in or do you know of the legislation behind such
25 a law?

1 A. I'm familiar with the legislation, but I wasn't
2 involved in the formation or the discussions around that
3 legislation.

4 Q. Did you have any discussions with individuals
5 who were involved in creating that legislation?

6 A. No.

7 Q. Was it an inconvenience to the police department
8 to respond to these handful of calls?

9 A. I don't know if I'd use the word "inconvenient"
10 even though I don't disagree with that term. I think it
11 was just unnecessary.

12 Q. And why is that?

13 A. Because I think the -- again this is my
14 opinion -- that the purpose of the conduct was to
15 generate a call from the public so there would be a
16 confrontation with the police to see how the police
17 handled it.

18 Q. But you don't know that to be the actual
19 purpose?

20 A. No. I just said that was my opinion. I don't
21 know what the persons involved in this or person involved
22 in this, I don't know what their motivation was.

23 Q. Have you reviewed any law enforcement policies
24 in any jurisdictions in which open carry is lawful?

25 A. No.

1 Q. Have you spoken with anyone in law enforcement
2 in an open carry jurisdiction regarding their policies or
3 their procedures regarding open carry?

4 A. No.

5 Q. Have you spoken with anyone in law enforcement
6 in an open carry jurisdiction regarding whether open
7 carry has affected public safety in their communities?

8 A. No.

9 Q. You read the declaration of Chuck Haggard that
10 was submitted in this case I believe you testified to,
11 correct?

12 A. Correct.

13 Q. Have you reached out to Mr. Haggard to discuss
14 with him how the change in the open carry laws has
15 affected public safety in Kansas?

16 A. No.

17 Q. Can you describe or just clarify for me what a
18 man with a gun call is in terms of law enforcement?

19 A. A man with a gun call is generated by a member
20 of the public calling 911 or their local police
21 department saying that there's a man with a gun in their
22 vicinity, whether it's in a business, whether it's in a
23 park. But obviously, they've made an observation that
24 there is an armed person within their eyesight and
25 they're calling for law enforcement response.

1 Q. And were these -- I'm just going to call them I
2 guess the Starbucks incidents. Were those considered man
3 with a gun call or responses?

4 A. Yes.

5 Q. And you know that's how they came in to the 911
6 dispatch?

7 A. That's how I was told them came in as a 911. It
8 was a 911 call was a man with a gun. I haven't reviewed
9 the tapes.

10 Q. And when the police responded, do you know if
11 the officer drew their weapons?

12 A. I don't know what the officers' conduct was.

13 Q. If the officers -- well, withdrawn.

14 In connection with the law enforcement response,
15 if an officer draws their weapon, is there necessarily a
16 certain procedure that takes place?

17 A. I'm not sure what you mean by "procedure."

18 Q. Well, is there -- withdrawn.

19 If an officer had drawn their firearm in
20 responding to that type of event, is that something that
21 you would have been alerted to?

22 A. No.

23 Q. Have you had the opportunity to speak with
24 anyone in law enforcement in an open carry jurisdiction
25 regarding how they handle man with a gun complaints?

1 A. No.

2 Q. In the context of this litigation here, what
3 exactly is your expertise?

4 A. Again 39 years of municipal law enforcement
5 experience, increasing responsibility the last 15 years
6 as chief of police responsible for providing public
7 safety to a city of 50,000.

8 On top of that, president of the Los Angeles
9 County Police Chiefs Association where I represented the
10 45 police chiefs in 2008 in a majority, if not all, the
11 public regional public safety conversations that occurred
12 in Los Angeles. And then from 2011 through 2014 on the
13 executive board of the California Police Chiefs
14 Association, including president in 2014, where we were
15 involved in the majority of the state-wide issues that
16 came up with public safety legislation.

17 Q. Specific to open carry, what is your expertise?

18 A. Again my expertise would be both working and
19 living in a community where if firearms are available and
20 openly carried in the public, from my experience and my
21 opinion, what that could create and especially in the
22 urban and suburban areas of California.

23 Q. And how do you know that those results will
24 actually take place?

25 MR. WISE: Objection. Vague.

1 BY MS. BELLANTONI:

2 Q. Well, you said you're giving your opinion on
3 what could possibly happen if your jurisdiction allowed
4 for lawful open carry. And how do you know that the
5 events that you think are going to happen will actually
6 take place?

7 A. I think by my experience as a resident of
8 California for 64 years, as my experience as a police
9 officer, it would be a seismic shift for the state of
10 California. And in my opinion, it will create
11 unnecessary law enforcement responses. It will create
12 unnecessary anxiety and concern in communities. It would
13 be -- even if it were a legal practice, it would be an
14 unwise or an unsafe practice. There would be a lot of
15 unanticipated consequences as a result of that, and I
16 think the risks outweigh the benefits.

17 Q. What risks would those be?

18 A. Well, I think they're multiple. I think if you
19 go to an environment where you have open carry, you're
20 setting up an environment where there could be a
21 multitude of issues that have to be dealt with.

22 One is the person with open carry could very
23 well be the victim of an assault themselves. Their gun
24 could be taken from them. I'm not sure what their weapon
25 retention skills are, what the quality of their holsters

1 are. If they were in a business where there's about to
2 be a robbery and they were openly carrying, there's a
3 likelihood or a possibility they would be the first
4 victim. They would either be disarmed or the first
5 victim shot.

6 If they had to lock up that gun or put that gun
7 away, say there was restrictions on in what public places
8 you could carry that gun or areas you could carry that
9 gun, I would expect that most people then put the weapons
10 in their cars. That could lead to a rash of guns being
11 stolen out of cars.

12 And the environment we have right now where
13 vehicle burglaries are on the rise in California, you
14 have people out there who you don't know what their
15 de-escalation skills are. You don't know what their
16 emotional maturity is, you don't know what their
17 intoxication levels are, and now they're making decisions
18 and sometimes split-second decisions on whether they're
19 going to use deadly force or not. And I think just the
20 risks far outweigh the benefits.

21 Q. And what are the benefits?

22 A. Well, I think the benefit would be if somebody
23 who was openly carrying and was going to be the immediate
24 victim of a violent crime or saw a violent crime
25 happening in their presence or a deadly crime, if it was

1 appropriate, they would have the option to, you know,
2 engage with that firearm to end the circumstances and the
3 contact.

4 But it's a lot of discretion to give somebody
5 who is -- you don't know again their training, their
6 maturity level, their intoxication, whether the incident
7 they perceive is really that incident or it's just a
8 perception issue and there's a way to retrieve or
9 de-escalate. There's a lot of variables.

10 Q. Can we agree that retreat is not always an
11 option to a victim of a violent confrontation?

12 A. I think it's always an option. It might not be
13 the best option, but it's always an option.

14 Q. It's your opinion that retreat is always an
15 option?

16 A. Unless you're barricaded or you have no means of
17 retreat. I mean, I don't know what the physical
18 environment is you're describing, but I think retreat
19 would almost always be an option. I don't know if it
20 would be the appropriate option, but it's always an
21 option.

22 Q. Do you agree that every individual has the right
23 to self-defense?

24 A. Yes.

25 Q. Do you agree that that's a

1 Constitutionally-protected right?

2 MR. WISE: Objection. Calls for a legal
3 conclusion.

4 BY MS. BELLANTONI:

5 Q. Is a law enforcement officer sworn to uphold the
6 Constitution?

7 A. You broke up for a second.

8 Q. As a law enforcement officer, were you sworn to
9 uphold the United States Constitution?

10 A. Yes.

11 Q. And were you also sworn to uphold the
12 Constitution of the State of California?

13 A. Yes.

14 Q. And can we agree that the Second Amendment of
15 the United States Constitution protects the right to keep
16 and carry firearms or weapons for self-defense?

17 MR. WISE: Objection. Calls for a legal
18 conclusion.

19 MS. BELLANTONI: Well, he's testified that it
20 was his job to uphold the Constitution, to know the
21 Constitution.

22 BY MS. BELLANTONI:

23 Q. So what is your understanding, Mr. Raney, of the
24 Second Amendment?

25 A. I understand the Second Amendment to provide

1 people with the right to bear arms.

2 Q. And what does that mean to you?

3 A. For me, it means the right to own firearms, to
4 keep a firearm in your home for protection, and if
5 necessary, to use that firearm in your home to protect
6 yourself or your family.

7 Q. Are you aware that there's no duty of law
8 enforcement to protect under the law, to protect any
9 particular individual?

10 MR. WISE: Objection. Calls for a legal
11 conclusion.

12 BY MS. BELLANTONI:

13 Q. Are you aware of a statute in California that
14 absolves law enforcement for refusing or failing to
15 protect a specific individual?

16 MR. WISE: Same objection.

17 BY MS. BELLANTONI:

18 Q. You can answer.

19 A. I'm not sure I understand your question.

20 Q. Are you aware of the statute in California that
21 absolves or provides protection for law enforcement
22 officers from being sued for failing to protect an
23 individual resident of California?

24 A. Well, I know there's -- I don't know if it's a
25 statute or if it's a case law decision, but I know

1 there's a mechanism that describes what you're talking
2 about.

3 Q. And what is your understanding of that
4 mechanism?

5 A. That the police don't have a duty to respond or
6 protect.

7 Q. So how is an individual to protect themselves
8 from violent crime in public if they're not allowed to
9 carry a weapon for self-defense?

10 MR. WISE: Objection --

11 THE WITNESS: I don't agree --

12 MR. WISE: -- I'm sorry. Objection. Calls for
13 speculation.

14 BY MS. BELLANTONI:

15 Q. Well, it's your testimony, Mr. Raney, that your
16 understanding of the Second Amendment is that it only
17 protects the right to have a handgun in your home; is
18 that accurate?

19 MR. WISE: Objection. Misstates earlier
20 testimony.

21 MS. BELLANTONI: Well, I'm asking him if it's
22 accurate.

23 THE WITNESS: My understanding of the Second
24 Amendment is the right to bear arms. I know there's
25 language in there about a militia.

1 So anyway, I think -- again I'm not a
2 Constitutional scholar, but I think that's the issue
3 that's going to the Supreme Court right now as far as
4 interpretation and application of the Second Amendment.

5 BY MS. BELLANTONI:

6 Q. But it's your understanding that the scope of
7 the Second Amendment applies to possessing a handgun in
8 the home. That's the extent of the right; is that
9 accurate?

10 A. No.

11 MR. WISE: Objection. Misstates earlier
12 testimony.

13 BY MS. BELLANTONI:

14 Q. So what is your understanding of the Second
15 Amendment?

16 A. The Second Amendment allows a person to bear
17 arms. I don't think it differentiates between a handgun
18 and a long gun. I believe it just talks about the right
19 to bear arms.

20 And my interpretation of that and my
21 understanding of that is it's the right of gun ownership.
22 It's the right to maintain that gun in your home.

23 Q. Okay. So in your understanding of the Second
24 Amendment, it does not apply to maintaining or bearing a
25 handgun outside of the home; is that accurate?

1 A. Well, I think it's accurate. I think -- I think
2 what we're seeing right now is states across the country
3 with different applications or interpretations of the
4 Second Amendment. Because there are a lot of states that
5 have authorized open carry and right to carry in public.
6 California is one of the few that hasn't done that. And
7 I think that's the decision the Supreme Court's on track
8 to discuss.

9 Q. I'm just trying to understand what your
10 understanding is because you now both times have limited
11 it to the home. So I'm trying to understand what your
12 interpretation is.

13 Am I correct in understanding that your
14 understanding of the Second Amendment is that it's
15 limited to the home?

16 MR. WISE: Objection. Calls for a legal
17 conclusion.

18 MS. BELLANTONI: I'm asking what his
19 understanding is. He limited it to the home, so I want
20 know if that's his understanding.

21 MR. WISE: Same objection.

22 BY MS. BELLANTONI:

23 Q. You can answer.

24 A. My understanding, it's the right to bear arms.

25 Again I don't want mean to argue with you. I'm

1 not being disagreeable with you. But I think my
2 understanding as applies to again the State of
3 California, it's the right to bear arms and own firearms
4 and maintain those in your residence.

5 Q. Can we agree that crime rates are higher in the
6 urban areas of California than they are in rural areas?

7 MR. WISE: Objection. Calls for speculation.

8 BY MS. BELLANTONI:

9 Q. When you were the chief of police did you have
10 access to crime statistics throughout the state? Is that
11 part of your knowledge and your understanding in
12 reviewing law enforcement around the state of California?

13 A. I didn't review every jurisdiction and every
14 county's crime statistics in the state of California.

15 Q. Were you generally aware of the crime rates in
16 the urban areas of California and the suburban areas
17 versus the rural areas of California?

18 A. No.

19 Q. So we can agree that the urban areas of
20 California have a higher crime rate than the rural areas
21 of California?

22 MR. WISE: Objection. Calls for speculation.

23 BY MS. BELLANTONI:

24 Q. You can answer.

25 A. Based on my experience, I would think the more

1 people you have, the more densely populated you have, the
2 likelihood is that you would have higher crime rates than
3 you would in sparsely populated areas.

4 Q. And does one's right to self-defense diminish
5 depending on the population size of their county in your
6 opinion?

7 MR. WISE: Objection. Calls for a legal
8 conclusion.

9 BY MS. BELLANTONI:

10 Q. You can answer.

11 A. I don't know if I'd agree with the term
12 "diminish." I'm not sure what you mean by that term.

13 Q. So reduces, is a reduction of the ability to
14 defend one's self depending on their location within the
15 state of California? In other words, is someone's right
16 to self-defense the same in a rural area as it is in an
17 urban area?

18 MR. WISE: Same objection.

19 BY MS. BELLANTONI:

20 Q. You can answer.

21 A. So is your question is someone's right to
22 self-defense different in an urban area as compared to a
23 rural area?

24 Q. Yes.

25 A. No. I don't believe the right to self-defense

1 changes based upon that demographic.

2 Q. Can we agree that criminals generally choose the
3 time, place, and manner in which they're going to commit
4 a crime?

5 MR. WISE: Objection. Vague, calls for
6 speculation.

7 BY MS. BELLANTONI:

8 Q. You can answer.

9 A. I don't know if I wholeheartedly agree with
10 that. I think some criminals do preplan and I think some
11 criminals it's a crime of opportunity.

12 Q. And in being a crime of opportunity, would you
13 agree that most criminals use the circumstances that are
14 best advantageous to them?

15 MR. WISE: Objection. Vague, calls for
16 speculation.

17 BY MS. BELLANTONI:

18 Q. You can answer.

19 A. I would think most do. I'm not sure if all of
20 them have that tactical or reasoning process.

21 Q. Would you agree that most violent crime is
22 committed outside the presence of a police officer?

23 A. Yes.

24 Q. Would you agree that most violent criminals
25 choose a victim who is vulnerable?

1 MR. WISE: Objection. Calls for speculation,
2 vague.

3 BY MS. BELLANTONI:

4 Q. You can answer.

5 A. I'm not sure if I'd use the term or agree with
6 the term "vulnerable."

7 Q. What term would you agree with?

8 MR. WISE: Same objection.

9 THE WITNESS: Again I think -- I'd have to try
10 to get in the mind of a criminal. I think in a lot of
11 cases it's more of which victim's available.

12 BY MS. BELLANTONI:

13 Q. Would you agree that most victims have no
14 advance knowledge of being attacked?

15 MR. WISE: Objection. Calls for speculation.

16 BY MS. BELLANTONI:

17 Q. You can answer.

18 A. I'd agree.

19 Q. Would you agree that law enforcement is trained
20 to determine the behavior of individuals and assess a
21 specific threat level when responding to an incident or a
22 scene?

23 A. I don't understand your question as far as who's
24 the individual?

25 Q. Just generally in the course of law enforcement,

1 in performing law enforcement duties, would you agree
2 that police officers are trained to assess various levels
3 of threat depending on the nature of the events, whether
4 they're patrolling or whether they're responding to an
5 actual call?

6 MR. WISE: Objection. Vague.

7 THE WITNESS: If I understand your question, I
8 think what you're asking me is do law enforcements have
9 the training, the intuition, the experience to assess the
10 threat or dangers in a situation or environment that
11 they're entering or exposed to?

12 BY MS. BELLANTONI:

13 Q. Yes.

14 A. I'd agree with that.

15 Q. And what factors do law enforcement officers
16 take into consideration in making those assessments?

17 A. There's a myriad of factors that come in. It
18 could be the location, the time of day, the behavior of
19 the person you're coming in contact with, access or --
20 the access to something that might cause you injury or
21 danger, their ability to flee.

22 There's a variety of factors that would come
23 into any situation that you'd have to assess.

24 Q. When you were working either as a patrolman or
25 as a sergeant did you have any assignments involving gang

1 activity?

2 A. Yes.

3 Q. And can we agree that most gang activity is drug
4 related and/or related to crimes of violence?

5 MR. WISE: Objection. Calls for speculation.

6 MS. BELLANTONI: It's his experience.

7 BY MS. BELLANTONI:

8 Q. In your experience, is the gang activity that
9 you investigated or been involved in related to drugs
10 and/or violent criminal activity?

11 A. I'd say the majority of that is either drug
12 activity or some type of criminal enterprise, yes.

13 Q. That you would describe as violent?

14 A. Some are violent, yes.

15 Q. Can we agree that most gang activity is geared
16 towards violence or is of a violent culture?

17 MR. WISE: Objection. Calls for speculation.

18 BY MS. BELLANTONI:

19 Q. In your experience. You can answer.

20 A. Not that I agree with the term of "most," but
21 it's not unusual that there's violence associated with
22 gang members.

23 Q. And what was the scope of your experience with
24 gang-related activity?

25 A. I was a sergeant in charge of the detective

1 division, which included a gang unit. When I was a
2 lieutenant I was in charge of our entire criminal
3 investigations department, which included the gang unit.
4 Even back into the '80s I was working narcotics in the
5 cocaine trade in Southern California that dealt with both
6 the Columbian and the crack cocaine epidemic.

7 Q. And in your experience, have you ever come
8 across a gang member who was carrying a handgun openly in
9 a holster?

10 A. Yes.

11 Q. And approximately how many occasions did you
12 encounter that?

13 A. I think just a handful.

14 Q. Can we agree that most gang members or violent
15 criminals will carry their firearm concealed on their
16 person?

17 MR. WISE: Objection. Calls for speculation.

18 BY MS. BELLANTONI:

19 Q. In your experience.

20 In your experience in law enforcement, I think
21 it's over 40 years now maybe, has it been your experience
22 that criminals will carry their firearms concealed on
23 their person?

24 A. It's my experience is they would carry it either
25 concealed on their person, concealed in their car, or

1 have a female member of their gang or group carry it.

2 Q. And would the female member of their gang or
3 group carry it concealed as well?

4 A. Yes.

5 Q. And in your experience, is it -- is the purpose
6 of carrying such weapons concealed to provide an
7 advantage to the criminal over law enforcement and/or a
8 victim?

9 A. Can you repeat your question?

10 Q. Sure.

11 MS. BELLANTONI: Could you read that back,
12 please?

13 (Whereupon, the requested portion of the record was read
14 back by the Reporter.)

15 THE WITNESS: I don't know what their intent is.
16 I don't know if it's to provide them an advantage. It's
17 just to conceal it so it's not probable cause for
18 contact. I'd have to guess.

19 BY MS. BELLANTONI:

20 Q. Can we agree that it would provide a criminal an
21 advantage, either advantage against law enforcement or an
22 advantage against a victim, to carry a firearm concealed
23 on their person as to open?

24 A. Sure, it could. Yes.

25 Q. Can we also agree that the conduct and behavior

1 and emotional reaction of a criminal will differ markedly
2 from that of a law-abiding person?

3 MR. WISE: Objection. Calls for speculation,
4 vague.

5 THE WITNESS: Yeah, I'm not sure I understand
6 your question.

7 BY MS. BELLANTONI:

8 Q. Well, in the course of your law enforcement
9 experience, have you ever come across an individual who
10 was in lawful -- in public in lawful possession of a
11 handgun?

12 A. Yes.

13 Q. And can we agree that a person who is in lawful
14 possession of a handgun will have different behavior or
15 conduct or emotional reaction to police contact than a
16 criminal or a gang member?

17 MR. WISE: Objection. Calls for speculation.

18 BY MS. BELLANTONI:

19 Q. You can answer.

20 A. I would agree generally with that, yes.

21 MS. BELLANTONI: Does anyone need a break?
22 We've been going for a little while here. Lynne?

23 THE COURT REPORTER: Do you mind just five
24 minutes?

25 MS. BELLANTONI: Not at all.

1 THE COURT REPORTER: Thank you.

2 MS. BELLANTONI: Back in five.

3 (Whereupon, a recess was taken.)

4 BY MS. BELLANTONI:

5 Q. Mr. Raney, back on the record after a short
6 break. Is there anything about your prior testimony up
7 to this point that you'd like to clarify or change?

8 A. No.

9 Q. During what period of time did you serve as the
10 chief of police in Covina?

11 A. From 2001 through 2016.

12 Q. And I know I'm going back a little ways. Do you
13 have a sense of how many murders were committed or how
14 many arrests, charges of murder were there during the
15 time that you were a police chief?

16 A. I don't have a total number for the entire 15
17 years. Each year was different. Some years we would
18 have two or three, some years we would have 12. One year
19 we had a mass murder in 2008 where we had nine people
20 killed at a Christmas Eve event.

21 So each year was different.

22 Q. And so you mentioned a Christmas Eve event in
23 your declaration; is that right?

24 A. Yes.

25 Q. And were you one of the -- did you respond to

1 the scene of that event?

2 A. The incident started about 11:30 on Christmas
3 Eve. I got a phone call at home about 11:40 and came in,
4 so I was probably there within 20 minutes.

5 Q. And with regard to the scope of your expertise
6 in this case on the issue of open carry, was that
7 particular incident -- is that particular incident
8 relevant to the issue of open carry?

9 A. No.

10 Q. Were -- did the homeowners or the individuals
11 that were the victims, did they know the person that had
12 attacked them?

13 A. Yes. It was their former son-in-law.

14 Q. This was not gang-related activity; is that
15 correct?

16 A. No.

17 Q. And the individuals in the home, do you know if
18 they had access to either a handgun or a rifle or
19 shotgun?

20 A. I don't know.

21 Q. Do you recall whether there was any attempt to
22 defend with the use of a firearm?

23 A. No. There was no attempt to defend themselves.

24 Q. And so how ultimately was the attacker -- was he
25 caught or how did it resolve itself?

1 A. So he dressed up as Santa Claus. Because the
2 family had a tradition at Christmas Eve where a neighbor
3 would dress up as Santa Claus and come to the house and
4 distribute gifts to the children at the event. It was a
5 large family tradition.

6 So there had been a contentious divorce with one
7 of the daughters. And the son-in-law, he started his
8 planning months earlier, had a Santa Claus suit designed
9 and tailored where he could conceal four handguns. And
10 then he prepared a compressor with a hose and the ability
11 to mix oxygen and racing fuel and wrapped that as a
12 Christmas present and carried that to the front porch and
13 put it down and knocked on the door.

14 So a little girl opened the door. She was
15 immediately shot in the face by the suspect, who then
16 went inside the house and executed nine family members
17 sitting around a table. Went back to the porch and now
18 retrieved his flamethrowing device and went in the house
19 and started distributing the oxygenated-racing fuel.

20 The flaw in his plan was he didn't anticipate
21 either the fireplace or candles to be lit, and the house
22 exploded and blew him up and he suffered third degree
23 thermal burns, but he survived.

24 So he fled to a car and then fled the scene and
25 drove to an area, his brother's house in the northern

1 part of Los Angeles County about an hour away, and
2 sometime before seven or eight o'clock the next morning
3 he committed suicide.

4 Q. Do you know in what manner did he commit
5 suicide?

6 A. Put a gun in his mouth, pulled the trigger.

7 Q. At the time in 2008 it was against the
8 California Penal Code to carry a loaded firearm, correct?

9 A. Yes.

10 Q. Can we agree that criminals who seek to do harm
11 to others, if they're intent on doing harm, are going to
12 just disregard the law?

13 MR. WISE: Objection. Calls for speculation.

14 BY MS. BELLANTONI:

15 Q. You can answer.

16 A. I'd agree with that.

17 Q. I mean, the very definition, can we agree, of
18 criminal is someone who is violating established laws,
19 right?

20 A. They commit a crime.

21 Q. Right. Of the homicides that were committed
22 during the time you were chief of police, do you recall
23 any that were committed by individuals who were in lawful
24 possession of a handgun?

25 A. Is your question was the victim or any of the

1 victims in lawful possession of a handgun?

2 Q. Apologies, no.

3 Was the criminal, was the perpetrator of the
4 homicide, in lawful possession of the handgun that was
5 used to commit the crime?

6 A. Not that I recall, no.

7 Q. And going to the victim side of the equation, in
8 your experience in law enforcement, not just as chief but
9 the entire law enforcement experience in Covina, have you
10 had occasion to learn of or be involved in a circumstance
11 where the victim was able to defend themselves from a
12 violent attack by using a handgun?

13 A. I don't specifically remember one where the
14 victim defended themselves with a firearm.

15 Q. Are you aware just through reading publications
16 and announcements from other law enforcement agencies,
17 either in California or from other jurisdictions, of
18 circumstances where a victim has survived a violent
19 attack through the use of their own handgun?

20 A. Yes. I have read of instances where that has
21 happened.

22 Q. Of the homicides that were committed during the
23 time where you were chief of police, were the majority of
24 those homicides committed in the context of gang-related
25 activity?

1 A. I would guess maybe 20 percent were gang
2 activity, some were domestic, and some were random acts
3 of violence.

4 Q. And I know you're just approximating here, so
5 I'm just trying to get an approximation as well.

6 If 20 percent was roughly related to gang
7 activity, do you know or can you recall how the remaining
8 80 percent was calculated? Did it fall into domestic
9 circumstances or just random --

10 A. Some -- some were in commission of other crimes,
11 commission of robberies. And some were just the results
12 of an argument or disagreement, some other event that led
13 up to a homicide.

14 Q. And when we speak of domestics or the robberies
15 or arguments, are these generally shootings -- withdrawn.

16 How many, if you can recall, what's the
17 percentage in your experience that were related to
18 firearms as opposed to another means of homicide?

19 A. I would say over 90 to 95 percent were firearms.
20 The other 5 percent were either blunt force or
21 sharp-edged weapons.

22 Q. And of the 90 percent that utilized a firearm,
23 can you think back as to what percentage generally
24 occurred inside of a home as opposed to outside of a home
25 in public?

1 A. I'd be guessing. Maybe 50, 60 percent inside a
2 home, 40, 50 percent outside the home.

3 Q. And when we talk about the incidents of firearm
4 use in a criminal matter inside of a home, in your
5 experience as chief of police, were these domestic-type
6 situations or were they more a random like a break-in
7 burglary or robbery in a home or rape?

8 A. Almost I wouldn't say exclusively but the vast
9 majority were either domestic or a former family member.
10 But there were occasional homicides during the course of
11 a break-in for sexual assault. We did have a rash, a
12 handful of those that occurred in a series.

13 Q. And can we agree in your experience, has it been
14 that violent crime can take place either in the home or
15 out in public?

16 A. I'm sorry? I missed that.

17 Q. Is it the case that violent crime can take place
18 in the home or outside of the home in public?

19 A. Yes.

20 Q. In California under the California Penal Code,
21 from your experience in law enforcement, is it lawful to
22 use deadly force in defense of certain types of crimes?
23 In other words, in defense of a rape or a kidnapping or
24 attempted murder.

25 A. I don't believe there's a catalog of crimes that

1 automatically allow you to resort to deadly force. I
2 think it's described as the use of deadly force to
3 prevent immediate death or serious injury.

4 Q. So just as an example, based on your experience,
5 if a woman was being raped and shot her rapist, is that
6 one of the types of crimes that would provide the defense
7 of her use of deadly force?

8 A. Yes. I think that would provide a defense.

9 Q. Are you aware of California's history prior to
10 1976 open carry being legal in the state?

11 A. You know, I've read I wouldn't say a lot of that
12 but some of that, but I don't remember the particulars.
13 But I couldn't disagree with that.

14 Q. Do you have any knowledge of what specifically
15 happened in and around 1967 to cause a change in the law
16 in California?

17 A. No. I don't know the specific reason.

18 Q. Have you heard of the Mulford Act? Is that
19 familiar to you?

20 A. No.

21 Q. And in the course of your law enforcement
22 experience, possibly even specifically as the chief of
23 police, did you become aware of trends or particular
24 issues relating to law enforcement in other jurisdictions
25 in other states?

1 A. In regards to what?

2 Q. Anything. I mean, is that within the scope of
3 your employment as the chief of police that you would
4 either in getting a bulletin or subscribing to an email
5 service that you would just see what, for instance, use
6 of force trends are happening or specific, you know,
7 drug-related courier activities are taking place
8 throughout the country?

9 Did you have an opportunity to learn of other
10 law enforcement issues that were happening around the
11 country?

12 MR. WISE: Objection. Vague, compound.

13 MS. BELLANTONI: Very compound.

14 BY MS. BELLANTONI:

15 Q. Did you understand the question?

16 A. I think I understand it. Now was there a formal
17 service that we got information from that was shared
18 either nationally? No, except for information that would
19 come from the FBI.

20 There is an association called the International
21 Association of Chiefs of Police. They do have a
22 conference every year. We would attend that conference.
23 So within that, again it's a conference environment where
24 there are programs or seminars or presentations that are
25 put on from different agencies across the country and

1 across the world on things that are either relative, that
2 are significant, that are trending, or that are things
3 that the planners of the event feel that the profession
4 could benefit from.

5 Q. Did you attend any of those events?

6 A. Yes. I was a presenter at two of them.

7 Q. What topic did you present on?

8 A. Medical marijuana.

9 Q. Yeah, so I was reading that you had engaged in
10 some publications in your declaration. Were you --
11 didn't know what side of the fence you ended up being on.

12 Were you a proponent of -- you're not medical
13 marijuana. I'm talking about the legalization of
14 marijuana. Two different things.

15 A. Well, medical marijuana was a Trojan horse for
16 legalization. So it started as medical marijuana and
17 then it evolved into the legalization of marijuana. So
18 that was one of the topics I was involved with for six
19 years.

20 Q. So I guess my curiosity was which side of the
21 fence did you find yourself on? Were you a proponent of
22 legalizing marijuana or an opponent?

23 A. So I was personally an opponent, and the Police
24 Chiefs Association was an opponent and we were very
25 active in 2010 when Proposition 19 was on the ballot and

1 we defeated that. That was for the legalization of I
2 think it was termed "medical marijuana" or "marijuana,"
3 but we defeated that.

4 But we could see -- and this is the hypocrisy of
5 it. We could see through the state legislature, every
6 year California state legislature was trying to legalize
7 marijuana and every year we would defeat it. Even got to
8 the point where they would pass something, meet with the
9 governor, and he would veto. Then we had to get
10 strategic.

11 So the analogy was it's going to be like playing
12 hockey and eventually they're going to get one in the
13 net. They're going to sneak one by the goal. So we
14 thought strategically eventually the California State
15 legislature is going to pass some marijuana legislation
16 that is really problematic to the community and the
17 public safety.

18 So we worked with other law enforcement
19 associations and with State Senator Lou Correa, who's now
20 a Congressman Lou Correa, and he carried the bill, the
21 outline on the legalization or decriminalization of
22 marijuana in California. It was a two year process.
23 Eventually that bill was signed I think in 2015. 2015 or
24 2016. And we were the sponsor of that.

25 Q. So --

1 A. -- responsible for legislation because we knew
2 it was coming.

3 Q. So what were the I guess benefits versus the
4 downside when you were the opponent and then ultimately
5 what led you to the conclusion that it would be
6 beneficial or that the benefits would outweigh the
7 detriments?

8 A. Because we knew it was going to pass. We knew
9 just based upon the state legislature that they were
10 eventually going to pass some legislation. So we wanted
11 to ensure that not only law enforcement but community
12 stakeholders, the California League of Cities, other
13 people are stakeholders in communities had a voice in the
14 drafting and creation of this legislation to provide
15 safeguards to the community.

16 So that was our focus on that to ensure that the
17 safeguards were in place before -- and I think the term
18 was decriminalize. They couldn't legalize it because of
19 the federal issue, but decriminalize certain amounts of
20 marijuana in the state of California.

21 Q. And specifically, what safeguards were put in
22 place?

23 A. It's been a long time.

24 Q. If you can recall. Generally.

25 A. You know, it was more about the regulation of

1 it, cities being involved in the approval and permitting
2 process of dispensaries or not approving. So cities
3 would have the ability to say yes or no to a marijuana
4 dispensary in their jurisdiction, not leave that up to
5 the state, override cities. Because the vast majority of
6 cities were against that.

7 So we ensured that the cities had the ability to
8 either to approve, deny, license or regulate marijuana
9 distribution within their cities. And most cities have
10 opted not to do that.

11 Q. In the I believe it was the International
12 Association...

13 A. International Association of Chiefs of Police.

14 Q. Chiefs of Police, yeah. In the times that you
15 attended those conferences, was the topic of open carry
16 ever raised or was that -- to your recollection. I'm
17 sure there are many courses given. To your recollection,
18 is that an issue that was brought up?

19 A. I don't recall open carry being an issue. I
20 think more it got into the issue of ammunition stamping,
21 waiting periods, gun shows, things like that.

22 Q. Do you recall seeing any law enforcement
23 announcements that related to addressing public safety
24 issues regarding open carry of handguns?

25 A. I don't know.

1 Q. Are you aware that only five states of the 50
2 states including the District of Columbia, so six
3 jurisdictions, only six of them banned open carry?

4 MR. WISE: Objection. Lacks foundation.

5 BY MS. BELLANTONI:

6 Q. Are you aware of that?

7 A. Yes, I am.

8 Q. Are you familiar with the term "Constitutional
9 carry"?

10 A. I've heard of the term, yes.

11 Q. What is your understanding of Constitutional
12 carry?

13 A. I'm not sure I understand it. So I don't want
14 to be wrong, I don't want to guess.

15 Q. Are you aware that over 20 states have approved
16 Constitutional carry? And that means to be able to carry
17 concealed or open without needing a license?

18 MR. WISE: Objection. Lacks foundation.

19 THE WITNESS: No. I'm not aware of that.

20 BY MS. BELLANTONI:

21 Q. And -- withdrawn.

22 Is it your opinion that police officers in an
23 open carry jurisdiction are better trained to deal with
24 public safety issues regarding open carry?

25 A. So is your question are police officers --

1 that's what I understand, are they better trained in open
2 carry issues compared to police officers that don't allow
3 open carry?

4 Q. Right. And I guess I'm asking that in the
5 context of your declaration speaking to the myriad of
6 problems that would be posed to law enforcement officers
7 in California if open carry were legalized.

8 So I'm just wondering if it's your opinion that
9 the law enforcement officers in open carry jurisdictions
10 are better trained to deal with those issues that would
11 rise as a result of open carry being legal?

12 MR. WISE: Objection. Vague.

13 BY MS. BELLANTONI:

14 Q. You can answer.

15 A. I don't know if I'd agree with the term
16 "better." I would agree that they have received some
17 training since those jurisdictions have implemented open
18 carry. I think then they have experience with open
19 carry. So on those things I'd agree with that component
20 of it.

21 Q. Can we agree that if law enforcement officers in
22 California were properly trained to deal with the change
23 in the law to allow open carry that they would rise to
24 the challenge and respond appropriately in an open carry
25 jurisdiction?

1 MR. WISE: Objection. Vague.

2 THE WITNESS: Yeah --

3 BY MS. BELLANTONI:

4 Q. Sorry, I didn't get your answer.

5 A. Sure. Law enforcement would rise to the
6 occasion, law enforcement would be trained. But law
7 enforcement training is only one component of the global
8 issue of open carry, so that's my concern.

9 Q. Okay.

10 A. And that was my complaint with your expert
11 witness's report is that he's a training expert, he's a
12 firearms expert, but he was singley focused for the most
13 part on the training component, and that is just one
14 piece of this global issue on open carry.

15 Q. And by global, what do you mean by "global"?

16 A. Law enforcement training is one component. You
17 have the complete change of environment in communities
18 where now people who are going to restaurants, going to
19 theaters, going to parks with their kids are now having
20 to deal with somebody who they don't know who's openly
21 carrying and possessing a firearm.

22 Q. So let's stop right there for a moment.

23 So how do you think that's going to change
24 anything in the community if open carry is allowed, is
25 legalized? What do you anticipate is going to happen?

1 A. I think there's potential for increased volume
2 of service. Because people are going to see that and
3 either (1) not be aware that it's been legalized, or (2)
4 in spite of it being legalized, they are just
5 uncomfortable with having somebody with a handgun sitting
6 next to them in a theater or a restaurant or on the
7 playground with their kids and they're going to call 911
8 for law enforcement response.

9 That's my concern. That's my estimate that will
10 happen.

11 Q. And do you base that on any actual events or is
12 that just a concern that you have?

13 A. I think just -- I'm not using this term
14 flippant -- I think just wisdom. Just I've lived here
15 all my life. I'm familiar with the communities. I'm
16 familiar with especially in the suburban/urban
17 environment there will be a public reaction to that.

18 Q. So it's only been about I would say less than
19 ten years since open unloaded carry has been
20 criminalized. How was it dealt with before 2013?

21 A. How was open unloaded carry?

22 Q. Yes. In other words, you mentioned a concern
23 that there would be chaos and people would be
24 uncomfortable and there would be a lot of law enforcement
25 response and certain other unknown events and reactions.

1 But to your knowledge and your experience as a law
2 enforcement officer prior to 2012, 2013, open carry,
3 albeit unloaded, was lawful. So how was it dealt with
4 then?

5 MR. WISE: Objection. Misstates earlier
6 testimony.

7 BY MS. BELLANTONI:

8 Q. Go ahead. You can respond.

9 A. I don't think I've used the term "chaos."

10 Q. Okay, so the reaction that you anticipate --

11 A. -- I'm concerned that -- as a resident even
12 though I'm a retired cop, I would have that same concern.

13 Why is it different now than it was in 2010,
14 2008, or whatever? Because I don't think the publicity,
15 the awareness, just the volume of this issue was
16 prevalent in our society as much as it is today, as much
17 as the last few years. So 2007, 2008, 2010, those were
18 very rare occurrences. Not saying they didn't happen,
19 but they were rare.

20 But I think as society is changing I think there
21 will be a lot more people who would take the opportunity
22 to openly carry a firearm if it was legalized in
23 California. And because of that volume, I'm concerned
24 that, I'll use the word, the anxiety level of people
25 would rise, which would then generate a law enforcement

1 response. Not that law enforcement response is going to
2 create a crisis, but it's going to create a law
3 enforcement response to a gun call. It's going to
4 create --

5 Q. Why is --

6 A. -- it's going to --

7 Q. -- a problem?

8 A. Is that a problem? No, it's not a problem.

9 It's a resource issue, number one. It's a quality of
10 life issue, number two. And again I'm speaking just as a
11 retired cop who has the ability to carry a concealed
12 weapon, but I'm not clairvoyant. I can't -- if someone's
13 openly carrying a gun sitting next to me, I don't know
14 what's going through their mind. I don't know what
15 they're processing. I don't know where they're at.

16 And I use the term that the majority of people
17 are law-abiding citizens, law-abiding citizens until
18 they're not. And it's when that crosses the line when
19 they're not that creates the problem.

20 Q. How do you know you're not sitting next to a
21 person who has a concealed weapon and could be thinking
22 something criminal or could be plotting to do something
23 violent sitting next to you at the movie theater? At
24 least if there's an open -- openly-carried handgun you
25 would know that the person's armed, right?

1 A. I'd agree with that last part. I'd know that
2 they were armed, yeah.

3 Q. As you sit next to anyone anywhere --
4 restaurant, movie theater, park -- you have no idea who's
5 carrying. Is that a fair statement, correct?

6 A. I don't know if it's a fair statement. I think
7 it's a possibility.

8 Q. We don't know who's carrying concealed unless
9 you can actually see a handgun, right, or some printing
10 or have an idea or from a statement that they made that
11 they have a firearm on them, right?

12 A. Right.

13 Q. Have you taken any steps to conduct research or
14 a poll in the community to see whether people would
15 actually feel uncomfortable with other people carrying a
16 handgun in a holster on their person?

17 A. No.

18 Q. Do you know if there had been any polls
19 conducted in the state of California as to whether
20 individuals, residents would be opposed to allowing for
21 open carry?

22 A. I'm not aware of any.

23 Q. I mean, the legislature provided a statute,
24 right, for open carry permits to be issued, correct?

25 A. Correct.

1 Q. When you were chief of police, were you in
2 charge of issuing or reviewing applications for carry
3 permits?

4 A. For CCW permits?

5 Q. Let's start with, yeah, concealed carry.

6 Were you able to issue concealed carry permits?

7 A. Yes.

8 Q. Did there come a point in time when your
9 department no longer -- I guess no longer reviewed those
10 applications and they were left to the sheriff's
11 department?

12 A. My successor did that. I did not.

13 Q. And did you issue any concealed carry permits?

14 A. I did not.

15 Q. Did you have any applications for a concealed
16 carry permit to consider --

17 A. I did not.

18 Q. -- during your time as chief?

19 A. I did not.

20 Q. Nobody applied?

21 A. No application reached my desk.

22 Q. Does that mean people applied, but it just
23 didn't get to you --

24 A. People might have inquired, but nobody ever
25 followed through with a completed application process

1 that I had to do.

2 Q. Did you have a policy or make any public
3 statements during your tenure or otherwise that you were
4 an opponent of issuing concealed carry permits?

5 A. No.

6 Q. Do you believe that self-defense -- when you
7 were chief of police, was it your opinion that
8 self-defense was a valid reason for good cause to issue a
9 concealed carry permit?

10 A. Solely self-defense?

11 Q. Yes.

12 A. No.

13 Q. And why is that?

14 A. Because I think anybody can make that claim. So
15 my parameters, and again I never had to review one or
16 deal with one, was there had to be extenuating
17 circumstances.

18 For me, say hypothetically a district attorney
19 was prosecuting a high profile gang crime that received
20 threats and wasn't either going to get the level of
21 protection from the district attorney's investigator's
22 office, then I would consider a CCW for a district
23 attorney, for a judge, and not solely just self-defense.

24 Q. Doesn't everyone have the right to self-defense?

25 MR. WISE: Objection. Argumentative.

1 BY MS. BELLANTONI:

2 Q. In your opinion does every individual have the
3 right to defend themselves against a violent attack?

4 A. Yes.

5 Q. Then how is it that self-defense was not enough
6 to issue a concealed carry permit while you were chief of
7 police?

8 A. Because for me, there had to be a more
9 significant threat. Because anybody could come in and
10 say I want it for self-defense. And there had to be a
11 higher threshold for that for me.

12 Q. In your position as the chief of police, was
13 that an appointed position or an elected position?

14 A. Appointed

15 Q. Appointed? I'm sorry?

16 A. Appointed.

17 Q. And who were -- not the person's name, but who
18 were you appointed by?

19 A. The city manager.

20 Q. Is that akin to like the mayor of the city or
21 the executive of the city?

22 A. That's the paid executive. Not the elected, the
23 paid executive.

24 Q. Is the city manager who appoints you also
25 appointed?

1 A. Yes.

2 Q. And who appoints that person?

3 A. City council.

4 Q. And your concealed carry permit philosophy or
5 policy when you were the chief of police, was that yours
6 alone or was that a view that was reached in connection
7 or in conjunction with the city manager or the city
8 council?

9 A. That was mine. I did have discussions with the
10 city manager. I did not discuss it with the city
11 council.

12 Q. And were you and the city manager of the same
13 mind-set with regard to the issuance of the concealed
14 carry weapons permits?

15 A. I worked for four different city managers. So
16 the only one who brought the topic up was the first city
17 manager. The last three never brought the topic up.

18 Q. And did the first city manager indicate to you
19 their preference for not issuing concealed carry
20 licenses?

21 A. No. Just I had to go through a testing process,
22 competitive testing process, and then there were two of
23 us that were left and then we each had an interview with
24 the city manager. During the course of that interview
25 that was one of the questions he asked as far as our

1 philosophy about that. That was the extent of it.

2 Q. Do you know if your philosophy was different
3 than the other person who interviewed for the job?

4 A. Don't know.

5 Q. Did the city manager share that same philosophy?

6 A. Well, he never disagreed with me. We didn't get
7 into it, but he never disagreed with me on that topic.

8 Q. Did anyone apply for an open carry permit during
9 your tenure as chief of police?

10 A. There was no open carry as far as permit
11 process. I retired in 2016 and I believe it was limited
12 to counties under 200,000 in population.

13 Q. And just for the record, what county was your
14 jurisdiction located in?

15 A. Los Angeles County.

16 Q. And roughly, what's the population of LA County?
17 Is it over 200,000?

18 A. About five to six million.

19 Q. And during your tenure as the chief of police
20 did you have meetings with executive law enforcement from
21 counties throughout the state?

22 A. Yes.

23 Q. And did that include sheriffs' offices as well
24 as police departments?

25 A. My situation was unique. California Police

1 Chiefs Association is made up of 330 municipal police
2 chiefs. So we had our own association and the board of
3 directors had quarterly meetings and we had an annual
4 symposium, seminar, whatever the word of the month is.

5 Sheriff's department, the California State
6 Sherriffs Association had their own association. It's
7 made up of the 57 or 58 county sheriffs in the state of
8 California. So the two don't meet together.

9 But as the president of the Police Chiefs
10 Association I was invited to all of their regional
11 meetings. So I'd attended five of their quarterly
12 meetings, if that makes sense, where I would be at the
13 table as they discussed policies, legislative issues,
14 political issues, and we'd have an exchange of
15 information.

16 Q. Is it fair to say that the sheriffs are the
17 agencies that are the executive law enforcement for the
18 counties that have populations of 200,000 people or less?
19 Does it break down that way?

20 A. So is your question are they the executive law
21 enforcement?

22 Q. I'm going to rephrase that. That was messy.

23 For counties -- generally, for counties in
24 California that have a population of 200,000 people or
25 less, is the licensing authority in those jurisdictions

1 typically a sheriff's agency?

2 A. I believe it is the sheriff or the chief of
3 police.

4 Q. So it would be either one, is that --

5 A. I believe that, yes.

6 Q. And in attending the sheriffs' meetings, do you
7 recall any discussions during any of those meetings with
8 regard to the open carry process or issuing open carry
9 licenses?

10 A. Not so much open carry. There were
11 conversations about concealed carry because the sheriffs
12 are involved in issuance of CWWs as well, so there were
13 conversations about that. But open carry, I was at table
14 with them in 2013, so that legislation hadn't quite
15 ripened yet.

16 Q. And with regard to the chiefs of police for the
17 counties that are under the 200,000 population, do you
18 recall any view or approach to issuing or not issuing
19 open carry licenses subsequent to 2013?

20 A. No. I don't remember having any conversations
21 or big focused issues or conversations about that.

22 MS. BELLANTONI: Can we take a five minute
23 break? I want to go over my notes. I think I'm pretty
24 much ready to wrap it up. Is that okay?

25 THE WITNESS: Yes.

1 (Whereupon, a recess was taken.)

2 BY MS. BELLANTONI:

3 Q. We are back on the record, and Mr. Raney, I just
4 want to take a look at your declaration. I'm going to go
5 to Page 7 and can you see the document all right?

6 A. Yes. There's a lot of lines and then 25 percent
7 is covered by the images.

8 Q. Let me see if I can... hold on. Let me see if I
9 can resolve that.

10 A. I can read it if you want to make it a little
11 bit smaller. I'm not that blind yet.

12 Q. There it is. Sorry. You okay?

13 A. Yeah.

14 Q. So if you're looking at Paragraph 25, I just
15 want to talk a little bit about the Dallas shooting that
16 you referenced in the declaration just to clarify it a
17 little bit.

18 Paragraph 25 addresses a mass shooting that
19 occurred in Dallas, Texas; is that correct?

20 A. Yes.

21 Q. And this is information that you learned as a
22 result of an article, or did you have conversations with
23 anyone who was present and/or law enforcement in Dallas
24 at the time?

25 A. No. It was from an article.

1 Q. All right. And with regard to this mass
2 shooting, is it fair to say that the people in the crowd
3 who were attending whatever gathering was taking place
4 outside were armed with long guns? They had rifles,
5 AR-15s specifically?

6 A. In my understanding, they were long guns.

7 Q. So this is not a case where the crowd was
8 engaged in open carry of a handgun in a holster, correct?

9 A. That's not my understanding, that they were in
10 possession of long guns or AR-15s or M4s or whatever you
11 have.

12 Q. And are you aware of whether law enforcement
13 actually shot anybody who was at the gathering?

14 A. I'm not aware that they shot anybody at the
15 gathering.

16 Q. So then is it fair to say that when police
17 responded to the mass shooting at this location where
18 numerous people in the crowd were carrying AR-15s, that
19 the police did not arrive and then began shooting the
20 demonstrators, the people who were demonstrating, simply
21 because they were armed; is that fair?

22 MR. WISE: Object as to form.

23 THE COURT REPORTER: Was there an answer?

24 THE WITNESS: That's fair.

25

1 BY MS. BELLANTONI:

2 Q. Are you aware of whether Texas has legalized
3 open carry of a handgun?

4 A. I believe they have, yes.

5 Q. And the quote that's indicated at the bottom of
6 Paragraph 25, quote, "We don't know" -- and this was a
7 quote from the Dallas chief of police; is that correct?

8 A. That's my understanding, yes.

9 Q. And his quote is, "We don't know who the good
10 guy is versus the bad guy when everyone starts shooting."

11 Is that what the quote is in your declaration?

12 A. Yes.

13 Q. But in fact, it was not the case that everyone,
14 quote, "started shooting." In other words, the people in
15 the crowd, the people demonstrating, didn't start
16 shooting anyone; is that accurate?

17 A. Yes, that's accurate. I believe the shooter was
18 the gunman.

19 Q. Right. So there was one gunman who was
20 shooting. But when the shooting began and thereafter,
21 the people in the crowd who had guns were not shooting
22 anyone; is that accurate to say?

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

24 Q. So that's a double negative. So yes, it is
25 accurate?

1 A. Can you repeat your question?

2 Q. Sure.

3 MS. BELLANTONI: Can you read that back, please?
4 (Whereupon, the requested portion of the record was read
5 back by the Reporter.)

6 THE WITNESS: That's my understanding, yes.

7 BY MS. BELLANTONI:

8 Q. In your opinion and based on your experience as
9 a law enforcement officer, if there's an uptick or an
10 increase in crime, should that result in more restrictive
11 measures on individual Constitutional rights?

12 A. No.

13 Q. I'm referencing Paragraph 26 here in your
14 declaration, which in the second sentence indicates that
15 after years of declining crime rates, violent crime in
16 California has ticked upward in recent years.

17 It has ticked upward, correct?

18 A. Yes, as has property crimes.

19 Q. And I just want to reconcile -- and I'm going to
20 shop sharing the screen here.

21 I just want to reconcile some earlier testimony,
22 and that is with regard to the issuance of the concealed
23 carry permits and it was a hypothetical.

24 You gave a hypothetical about if there was an
25 assistant district attorney whose investigators couldn't

1 protect him or her in relation to whatever case was going
2 on at the time. That's someone that you would consider
3 giving a concealed carry permit to.

4 Is that accurate depiction of your prior
5 testimony?

6 A. I believe so. I might have also indicated if
7 they were doing a high profile or a violent gang crime
8 and there had been threats on their life or again as the
9 district attorney's office, the investigators, couldn't
10 provide protection, then that would be one I would
11 consider.

12 Q. And can we agree that not every individual is
13 going to have the ability to have personal protection 24
14 hours a day or a personal bodyguard? Is that a fair
15 statement?

16 A. Yes.

17 Q. And you did earlier testify, but correct me if
18 I'm wrong, that everyone has the right to self-defense.
19 You did agree with that statement; is that accurate to
20 say?

21 A. Yes.

22 Q. And so then I'm trying to reconcile this with is
23 it your opinion that the right to self-defense only --
24 for everyone, regular people, only exists inside the
25 house or in their home or is their right to defend

1 themselves from violent attack, does that right travel
2 with them wherever they are?

3 A. I think the right travels with them.

4 Q. I have no further questions.

5 Is there anything about your testimony that you
6 would need to clarify or change?

7 A. Not change. Maybe clarify.

8 I'm not sure if I was clear or was misunderstood
9 on I think I talked about the Donohue study, and I
10 believe that was his terminology was right to carry. So
11 it wasn't restricted to open carry with his research, it
12 was right to carry states.

13 Q. Okay. Thank you.

14 Oh, and I was mistaken. The last thing: You
15 referenced a San Mateo County Sheriff's Office
16 publication, quote, "Unloaded Open Carry." And that
17 was -- I can refer to the declaration if you don't recall
18 that, but if you recall that then I won't.

19 A. I recall.

20 Q. Okay. And so what was the substance of that
21 writing?

22 A. I believe that was at the time when again law
23 enforcement were getting calls for service when
24 individuals would show up at a business in their
25 communicates openly caring a rifle.

1 Q. So that's the events that we were talking about
2 the Starbucks and other places --

3 A. -- training bulletin in regards to that.

4 Q. And do you have copies of the -- do you still
5 have access to that publication or the training
6 bulletins?

7 A. I believe so.

8 Q. If you could locate your documents and provide
9 them to Mr. Wise?

10 A. Okay.

11 Q. Would you kindly do that, sir?

12 A. Yes.

13 MS. BELLANTONI: All right. I have no further
14 questions.

15 And like we had indicated before, you will
16 receive a copy of the transcript to review and make any
17 corrections or changes. I will have an opportunity to
18 comment on the changes, but that's it. Okay?

19 Thank you for your time today. I appreciate
20 that.

21 THE COURT REPORTER: Mr. Wise, do you wish to
22 purchase a copy of the transcript?

23 MR. WISE: Yes. We would like a copy of the
24 transcript and we'd like to review it. I think you had
25 mentioned to Mr. Raney earlier, we would like to review

1 it and sign it. Thanks.

2 MS. BELLANTONI: Thank you, Lynne.

3 THE COURT REPORTER: You're welcome.

4 (Whereupon, the deposition concluded at 2:09 p.m.)

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DECLARATION UNDER PENALTY OF PERJURY

I, KIM RANEY, the witness herein, declare under penalty of perjury that I have read the foregoing deposition in its entirety and that the testimony contained therein, as corrected by me, is a true and accurate transcription of my testimony elicited at said time and place.

Dated this day of ,
20 , at , California.

KIM RANEY

1 State of California,
2 County of Fresno.

3 I, LYNNE A. HOWE, License No. 13003, a Certified
4 Shorthand Reporter of the State of California, do hereby
5 certify:

6 That the witness in the foregoing deposition named
7 was present at the time and place herein specified;

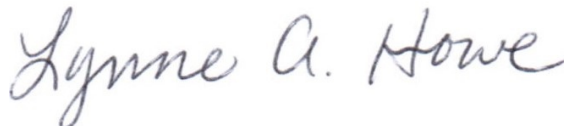
8 That the said proceeding was taken before me as a
9 Certified Shorthand Reporter at the said time and place
10 and was taken down in shorthand writing by me;

11 That the said proceeding was thereafter, under my
12 direction, transcribed with the use of computer-assisted
13 transcription, and that the foregoing transcript
14 constitutes a full, true, and correct report of the
15 proceedings which then and there took place;

16 That I am a disinterested person to the said action.

17 IN WITNESS WHEREOF, I have hereunto subscribed my
18 hand this 10th day of December 2021.

19
20



21
22

Lynne A. Howe, CSR

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License No. 13003

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ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Baird, Mark And Richard Gallardo v. Bonta, Rob, et al
DATE OF DEPOSITION: 11/29/2021
WITNESSES' NAME: Kim Raney

PAGE	LINE (S)	CHANGE	REASON
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Kim Raney

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[00617 - ahead]

Page 1

0	2012 22:6 25:19 64:2	6	action 83:16
00617 1:8	2013 25:19 63:20 64:2 73:14,19	60 53:1	active 56:25
1	2014 29:12,14	64 30:8	actively 21:9
1 2:11 16:19,20 63:3	2015 57:23,23	7	activities 55:7
1-10 1:10	2016 47:11 57:24 71:11	7 74:5	activity 43:1,3,8 43:10,12,15,24
10583 3:5	2020 13:14	8	48:14 51:25 52:2 52:7
10th 83:18	2021 1:10 4:9 13:15 83:18	80 52:8	acts 52:2
11/29/2021 84:3	210-6046 3:12	80s 44:4	actual 26:18 42:5 63:11
11:30 48:2	22 9:17	9	additional 12:15
11:40 48:3	24 78:13	9 17:21 18:8	addresses 74:18
12 47:18	25 74:6,14,18 76:6	90 52:19,22	addressing 13:9 59:23
12:03 4:9	250 15:14	911 27:20 28:5,7,8 63:7	advance 41:14
13003 1:25 83:3,23	25307 83:20	914 3:6	advantage 45:7,16 45:21,21,22
15 19:14,15 29:5 47:16	26 77:13	916 3:12	advantageous 40:14
15s 75:5,10,18	29 1:10	94244-2550 3:11	affect 8:12
16 2:12	29th 4:8	944255 3:11	affiliation 11:19
17 2:14	2:09 81:4	95 52:19	afternoon 5:7,8
19 56:25	2:19 1:8	a	agencies 51:16 55:25 72:17
1967 54:15	3	abell 3:6	agency 73:1
1976 54:10	330 72:1	abiding 46:2 65:17 65:17	ago 12:10
2	350 15:15	ability 8:12 21:22 39:13 42:21 49:10 59:3,7 65:11 78:13	agree 10:12 24:9 24:10 32:10,22,25 33:14 35:11 38:5 38:19 39:11 40:2 40:9,13,21,24 41:5 41:7,13,18,19 42:1 42:14 43:3,15,20 44:14 45:20,25 46:13,20 50:10,16 50:17 53:13 61:15 61:16,19,21 66:1 78:12,19
2 2:13 3:5 17:8,11 18:14 63:3	367-0090 3:6	able 14:3 16:5,23 51:11 60:16 67:6	ahead 64:8
20 48:4 52:1,6 60:15 82:12 84:22	39 19:13 29:4	absolves 34:14,21	
200,000 16:3 71:12 71:17 72:18,24 73:17	4	ac 1:8	
2001 47:11	40 44:21 53:2	access 38:10 42:19 42:20 48:18 80:5	
2007 64:17	400 3:5	accurate 7:2 35:18 35:22 36:9,25 37:1 76:16,17,22 76:25 78:4,19 82:8	
2008 29:10 47:19 50:7 64:14,17	45 22:19 29:10	act 22:8 25:13,15 25:16 54:18	
2010 19:25 20:17 22:1 56:25 64:13 64:17	5		
2011 19:25 20:17 22:1,6 29:12	5 2:5 52:20		
	50 53:1,2 60:1		
	50,000 29:7		
	57 72:7		
	58 72:7		

<p>akin 69:20 al 9:3 84:2 albeit 64:3 alerted 28:21 allegations 9:18 11:2 alleged 11:17 allow 54:1 61:2,23 allowed 7:12 30:3 35:8 62:24 allowing 66:20 allows 36:16 amended 2:11 15:18,19,22 17:1 amendment 11:15 12:21 13:3,4,4,16 13:17,22 19:7,8 21:9,24 33:14,24 33:25 35:16,24 36:4,7,15,16,24 37:4,14 ammunition 59:20 amounts 58:19 amy 3:4 5:9 analogy 57:11 angeles 20:9,12,20 22:15,18 23:1 29:8,12 50:1 71:15 angels 11:19 announcements 51:16 59:23 annual 72:3 answer 6:18,24 7:1,19,21,21 8:8 34:18 37:23 38:24 39:10,20 40:8,18 41:4,17 43:19 46:19 50:15 61:14 62:4 75:23</p>	<p>answer's 6:4 answering 6:2,20 anticipate 6:1,3 49:20 62:25 64:10 anxiety 30:12 64:24 anybody 68:14 69:9 75:13,14 anyway 36:1 apologies 51:2 appearances 3:1 appearing 4:10 application 16:5 36:4 67:21,25 applications 37:3 67:2,10,15 applied 21:15 67:20,22 applies 36:7 38:2 apply 36:24 71:8 appointed 69:13 69:14,15,16,18,25 appoints 69:24 70:2 appreciate 15:2 80:19 approach 73:18 appropriate 32:1 32:20 appropriately 24:12 61:24 approval 59:1 approve 59:8 approved 60:15 approving 59:2 approximately 44:11 approximating 52:4 approximation 52:5</p>	<p>ar 75:5,10,18 area 9:11 20:20 39:16,17,22,23 49:25 areas 29:22 31:8 38:6,6,16,16,17,19 38:20 39:3 argue 37:25 argument 52:12 argumentative 68:25 arguments 52:15 arizona 11:9,14,18 armed 27:24 65:25 66:2 75:4 75:21 arms 34:1 35:24 36:17,19 37:24 38:3 arose 22:24 arrest 25:11 arrested 25:4 arrests 24:22 47:14 arrive 75:19 article 13:19,24 74:22,25 articles 12:18 15:5 aside 14:13 asked 18:18,19 70:25 asking 5:12 7:25 8:4,9 21:16 35:21 37:18 42:8 61:4 assault 30:23 53:11 assess 41:20 42:2,9 42:23 assessments 42:16 assigned 18:17</p>	<p>assignments 42:25 assistant 77:25 assisted 83:12 associated 20:1 43:21 association 20:10 22:19 29:9,14 55:20,21 56:24 59:12,13 72:1,2,6 72:6,10 associations 57:19 assume 8:9 assumption 24:17 attached 16:21 17:12 attack 51:12,19 69:3 79:1 attacked 41:14 48:12 attacker 48:24 attempt 48:21,23 attempted 53:24 attend 55:22 56:5 attended 59:15 72:11 attending 73:6 75:3 attorney 1:9 3:10 3:10 5:9 7:15,17 7:20 14:23 16:11 68:18,23 77:25 attorney's 68:21 78:9 august 16:12 authored 14:1 authority 72:25 authorized 37:5 automatically 54:1 available 13:3 29:19 41:11</p>
---	---	--	---

<p>aware 34:7,13,20 38:15 51:15 54:9 54:23 60:1,6,15,19 63:3 66:22 75:12 75:14 76:2,23 awareness 64:15</p>	<p>79:22 80:7 bellantoni 2:5 3:4 3:4,6 5:6,9 10:2,4 10:7 15:1,4 16:22 17:13 25:22 30:1 33:4,19,22 34:12 34:17 35:14,21 36:5,13 37:18,22 38:8,23 39:9,19 40:7,17 41:3,12,16 42:12 43:6,7,18 44:18 45:11,19 46:7,18,21,25 47:2 47:4 50:14 55:13 55:14 60:5,20 61:13 62:3 64:7 69:1 73:22 74:2 76:1 77:3,7 80:13 81:2 beneficial 58:6 benefit 31:22 56:4 benefits 30:16 31:20,21 58:3,6 best 6:6,7 32:13 40:14 better 60:23 61:1 61:10,16 beverly 9:4,8 10:21 big 73:21 bill 57:20,23 bit 74:11,15,17 blew 49:22 blind 74:11 blunt 52:20 board 29:13 72:2 bodyguard 78:14 bonta 1:9 5:11 84:2 bottom 76:5</p>	<p>box 3:11 break 6:16,19,19 46:21 47:6 53:6 53:11 72:19 73:23 breaking 10:3 24:5 briefed 24:1,15,20 briefly 9:12 bring 17:4 broke 33:7 brother's 49:25 brought 59:18 70:16,17 buena 11:2 bulletin 55:4 80:3 bulletins 80:6 burglaries 31:13 burglary 53:7 burns 49:23 business 11:11 27:22 31:1 79:24</p>	<p>california's 54:9 call 13:1 20:22 23:6,7 24:2,11 25:3 26:15 27:18 27:19 28:1,3,8 42:5 48:3 63:7 65:3 called 20:19 55:20 calling 27:20,25 calls 23:11,17 25:14,21 26:8 33:2,17 34:10 35:12 37:16 38:7 38:22 39:7 40:5 40:15 41:1,15 43:5,17 44:17 46:3,17 50:13 79:23 canceled 12:11 candles 49:21 capacity 1:9 8:18 car 44:25 49:24 caring 79:25 carriage 10:10 19:10,23 carried 10:11 29:20 49:12 57:20 65:24 carry 9:19,20,24 9:24 10:9 12:12 12:16,25 13:9,10 13:12,20,21 14:8 14:10,11,11,17,18 14:19 15:8 16:3,6 16:17 18:15,21 19:2 20:2,2,25 21:1,7,11,17,20,22 21:22 22:2,8,9 25:20 26:24 27:2 27:3,6,7,14 28:24 29:17 30:4,19,22</p>
		<p>c</p>	
		<p>calculated 52:8 california 1:2,10 1:18 3:11 4:11,12 16:1,8,16 18:21 19:14,21 20:4 21:10 22:2,8 23:23 29:13,22 30:8,10 31:13 33:12 34:13,20,23 37:6 38:3,6,12,14 38:16,17,20,21 39:15 44:5 50:8 51:17 53:20,20 54:16 57:6,14,22 58:12,20 61:7,22 64:23 66:19 71:25 72:5,8,24 77:16 82:12 83:1,4</p>	

<p>31:8,8 33:16 35:9 37:5,5 44:15,22,24 45:1,3,22 48:6,8 50:8 54:10 59:15 59:19,24 60:3,9,12 60:16,16,23,24 61:2,3,7,9,11,18 61:19,23,24 62:8 62:14,24 63:19,21 64:2,22 65:11 66:21,24 67:2,5,6 67:13,16 68:4,9 69:6 70:4,14,19 71:8,10 73:8,8,10 73:11,13,19 75:8 76:3 77:23 78:3 79:10,11,12,16 carrying 20:23 23:2 24:24 31:2 31:23 44:8 45:6 62:21 65:13 66:5 66:8,15 75:18 cars 31:10,11 case 1:8 5:14 9:2,6 9:13,13,19 10:15 10:18,20,22,24 11:1,6,14 12:3,24 17:18 18:18 21:10 21:12 27:10 34:25 48:6 53:17 75:7 76:13 78:1 84:2 cases 10:20 41:11 catalog 53:25 caught 48:25 cause 8:3 23:14 42:20 45:17 54:15 68:8 ccw 67:4 68:22 certain 22:14 28:16 53:22 58:19 63:25</p>	<p>certified 4:11 83:3 83:9 certify 83:5 cetera 15:15 challenge 61:24 chandler 11:9,14 11:18 change 27:14 47:7 54:15 61:22 62:17 62:23 79:6,7 84:5 changed 12:12 changes 7:9,12 40:1 80:17,18 changing 64:20 chaos 63:23 64:9 characterize 24:13 charge 43:25 44:2 67:2 charged 24:25 charges 47:14 checked 24:6 chief 2:14 9:15 11:3,7 17:10 18:19 19:15 24:18 29:6 38:9 47:10 47:15 50:22 51:8 51:23 53:5 54:22 55:3 67:1,18 68:7 69:6,12 70:5 71:9 71:19 73:2 76:7 chiefs 20:10 22:19 22:20,23,25 23:16 25:5 29:9,10,13 55:21 56:24 59:13 59:14 72:1,2,9 73:16 children 49:4 choose 40:2,25 christmas 47:20 47:22 48:2 49:2 49:12</p>	<p>chuck 27:9 circumstance 51:10 circumstances 32:2 40:13 51:18 52:9 68:17 cities 58:12 59:1,2 59:5,6,7,9,9 citizens 65:17,17 city 9:3,9 11:5,9 11:10,17 29:7 69:19,20,21,24 70:3,7,7,10,10,12 70:15,16,18,24 71:5 claim 11:15 68:14 claims 15:24 21:13 clairvoyant 65:12 clarification 14:15 clarify 6:20 7:1 27:17 47:7 74:16 79:6,7 claus 49:1,3,8 clear 6:8 7:2 79:8 clearer 8:6 clearly 17:14 closed 11:18 22:6 closing 11:11 club 11:10 cocaine 44:5,6 code 16:16 50:8 53:20 codified 16:17 25:12 coffee 20:3 23:11 24:3 columbia 60:2 columbian 44:6 come 42:17,22 44:7 46:9 49:3 55:19 67:8 69:9</p>	<p>coming 18:24 23:11 42:19 58:2 command 9:8 11:1 commenced 11:1 commencing 4:9 comment 7:12 18:19 80:18 comments 9:17 commission 52:10 52:11 84:25 commit 40:3 50:4 50:20 51:5 committed 40:22 47:13 50:3,21,23 51:22,24 communicates 79:25 communities 21:23 27:7 30:12 58:13 62:17 63:15 community 29:19 57:16 58:11,15 62:24 66:14 compared 39:22 61:2 compensated 15:10 competitive 70:22 complaint 15:17 15:18,19,22 62:10 complaints 25:5 28:25 complete 62:17 completed 67:25 completely 22:1 component 61:19 62:7,13,16 compound 55:12 55:13 compressor 49:10</p>
---	--	---	--

<p>comprised 18:11 computer 83:12 conceal 45:17 49:9 concealed 14:18 44:15,22,25,25 45:3,6,22 60:17 65:11,21 66:8 67:5,6,13,15 68:4 68:9 69:6 70:4,13 70:19 73:11 77:22 78:3 concept 18:20 concern 30:12 62:8 63:9,12,22 64:12 concerned 20:14 64:11,23 concluded 81:4 conclusion 33:3,18 34:11 37:17 39:8 58:5 conduct 26:14 28:12 45:25 46:15 66:13 conducted 12:15 12:23 19:9 66:19 conference 55:22 55:22,23 conferences 59:15 conflict 13:4 conformance 21:12 confrontation 24:16 26:16 32:11 confrontational 23:21 confuse 8:3 confusing 8:1 congressman 57:20</p>	<p>conjunction 70:7 connection 5:13 17:18 18:18 19:10 28:14 70:6 consequences 30:15 consider 67:16 68:22 78:2,11 consideration 42:16 considered 28:2 constitutes 83:14 constitution 33:6 33:9,12,15,20,21 constitutional 36:2 60:8,11,16 77:11 constitutionally 33:1 contact 20:6 32:3 42:19 45:18 46:15 contacted 24:4 contained 82:7 contemporary 12:22 contentious 49:6 contesting 16:4 context 29:2 51:24 61:5 conversation 22:21 conversations 19:18 29:11 73:11 73:13,20,21 74:22 cop 64:12 65:11 copies 80:4 copy 7:6 14:3,20 18:2,2,9 80:16,22 80:23 correa 57:19,20</p>	<p>correct 11:25 12:1 22:3,11,12 27:11 27:12 37:13 48:15 50:8 66:5,24,25 74:19 75:8 76:7 77:17 78:17 83:14 corrected 82:7 corrections 7:9 80:17 council 70:3,8,11 counsel 14:4 counties 16:2,7 21:15 71:12,21 72:18,23,23 73:17 country 13:6,18 37:2 55:8,11,25 county 19:16 20:10,12,20 22:15 23:1 29:9 39:5 50:1 71:13,15,16 72:7 79:15 83:2 county's 38:14 courier 55:7 course 5:25 9:22 10:8 20:13 41:25 46:8 53:10 54:21 70:24 courses 59:17 court 1:1 5:22 7:7 8:16,22,25 10:2,6 36:3 46:23 47:1 75:23 80:21 81:3 court's 37:7 courtroom 6:14 covered 74:7 covina 2:14 17:10 20:14,24 21:18 22:13 47:10 51:9 crack 44:6 create 20:5 29:21 30:10,11 65:2,2,4</p>	<p>creates 65:19 creating 24:25 25:2 26:5 creation 58:14 crime 31:24,24,25 35:8 38:5,10,14,15 38:20 39:2 40:4 40:11,12,21 50:20 51:5 53:14,17 68:19 77:10,15,15 78:7 crimes 43:4 52:10 53:22,25 54:6 77:18 criminal 22:8 25:12,15,16 41:10 43:10,12 44:2 45:7,20 46:1,16 50:18 51:3 53:4 65:22 criminalize 25:19 criminalized 63:20 criminals 40:2,10 40:11,13,24 44:15 44:22 50:10 crisis 65:2 crosses 65:18 crowd 75:2,7,18 76:15,21 csr 1:24 83:22 culture 43:16 curiosity 56:20 curriculum 18:9 cv 1:8 18:11 cwws 73:12</p> <hr/> <p style="text-align: center;">d</p> <hr/> <p>dallas 74:15,19,23 76:7 danger 42:21</p>
---	--	--	--

<p>dangers 42:10 date 84:3 dated 82:11 daughters 49:7 day 4:8 42:18 78:14 82:11 83:18 84:22 de 31:15 32:9 deadly 31:19,25 53:22 54:1,2,7 deal 60:23 61:10 61:22 62:20 68:16 dealing 14:16 dealt 13:14 15:7 30:21 44:5 63:20 64:3 death 54:3 december 83:18 decision 34:25 37:7 decisions 19:18 31:17,18 declaration 2:13 16:11,13 17:9,17 17:19,23 18:13,23 27:9 47:23 56:10 61:5 74:4,16 76:11 77:14 79:17 82:2 declare 82:4 declining 77:15 decriminalization 57:21 decriminalize 58:18,19 defeat 57:7 defeated 57:1,3 defend 39:14 48:22,23 51:11 69:3 78:25</p>	<p>defendant 10:14 defendants 1:12 3:9 5:14 10:25 11:21 15:11 defended 51:14 defense 32:23 33:16 35:9 39:4 39:16,22,25 53:22 53:23 54:6,8 68:6 68:8,10,23,24 69:5 69:10 78:18,23 definition 10:12 50:17 degree 49:22 demographic 40:1 demonstrating 75:20 76:15 demonstrations 13:5,16,23 demonstrators 75:20 densely 39:1 deny 59:8 department 9:8,10 11:2,7,18 26:7 27:21 44:3 67:9 67:11 72:5 departments 71:24 depending 39:5,14 42:3 depiction 78:4 deposed 5:18 12:2 deposition 1:17 2:11 4:8 5:21,25 6:13,23 7:5 9:23 10:8 12:5,6,9,11 12:13,16,20,24 15:7,15 16:10,14 16:15 17:1,4 81:4 82:6 83:6 84:3</p>	<p>depositions 6:5 deputy 3:10 describe 16:9 21:6 27:17 43:13 described 22:1 54:2 describes 35:1 describing 21:17 32:18 designed 49:8 desk 67:21 detective 43:25 determine 41:20 detriments 58:7 device 49:18 dialog 23:19 dialogue 23:18 dichotomy 13:15 differ 46:1 different 9:17 20:3 37:3 39:22 46:14 47:17,21 55:25 56:14 64:13 70:15 71:2 differentiates 36:17 difficulties 10:1 diminish 39:4,12 direction 83:12 directors 72:3 disagree 26:10 54:13 disagreeable 38:1 disagreed 71:6,7 disagreement 52:12 disarmed 31:4 discretion 32:4 discrimination 9:16 11:3,7,17</p>	<p>discuss 27:13 37:8 70:10 discussed 19:5 72:13 discussion 20:9 discussions 26:2,4 70:9 73:7 disinterested 83:16 dispatch 28:6 dispatched 24:11 dispensaries 59:2 dispensary 59:4 disregard 50:12 distribute 49:4 distributing 49:19 distribution 59:9 district 1:1,2 60:2 68:18,21,22 77:25 78:9 disturbance 24:25 25:1 division 44:1 divorce 49:6 document 13:13 15:14 16:23,25 17:3,8,14 18:4,14 20:6 74:5 documents 18:22 18:23 80:8 doing 7:11 24:5 50:11 78:7 doj.ca.gov 3:12 domestic 52:2,8 53:5,9 domestics 52:14 donohue 13:12 14:7,16 19:5 79:9 door 49:13,14 double 76:24</p>
--	--	--	---

<p>downside 58:4 dozen 20:11 draft 18:2,6 drafting 58:14 drawn 28:19 draws 28:15 dress 49:3 dressed 49:1 drew 28:11 drove 49:25 drug 43:3,11 55:7 drugs 43:9 duly 5:2 duties 42:1 duty 34:7 35:5</p>	<p>enforcement 8:19 8:20 19:1,14 20:6 20:22 23:6,13,14 23:22 24:8 25:10 25:11,13 26:23 27:1,5,18,25 28:14 28:24 29:4 30:11 33:5,8 34:8,14,21 38:12 41:19,25 42:1,15 44:20 45:7,21 46:8 51:8 51:9,16 53:21 54:21,24 55:10 57:18 58:11 59:22 61:6,9,21 62:5,6,7 62:16 63:8,24 64:2,25 65:1,3 71:20 72:17,21 74:23 75:12 77:9 79:23 enforcements 42:8 engage 32:2 engaged 56:9 75:8 ensure 7:2 24:6 58:11,16 ensured 59:7 entering 42:11 enterprise 43:12 entire 44:2 47:16 51:9 entirety 82:6 entitled 5:10 16:25 17:9 environment 9:16 30:19,20 31:12 32:18 42:10 55:23 62:17 63:17 epidemic 44:6 equation 51:7 errata 84:1</p>	<p>escalate 32:9 escalation 31:15 especially 29:21 63:16 esquire 3:4 established 50:18 estimate 63:9 et 9:3 15:15 84:2 eve 47:20,22 48:3 49:2 event 28:20 47:20 47:22 48:1 49:4 52:12 56:3 events 22:16 25:6 25:17,18 30:5 42:3 56:5 63:11 63:25 80:1 eventually 57:12 57:14,23 58:10 evolved 56:17 exact 20:18 exactly 29:3 examination 2:5 5:5 examined 5:2 example 54:4 exchange 24:7 72:14 exclusively 53:8 executed 49:16 executive 29:13 69:21,22,23 71:20 72:17,20 exhibit 2:11,13 16:19,20 17:8,11 18:8,14 exhibits 2:10 exists 78:24 expect 31:9 experience 19:19 19:22,24 22:23</p>	<p>29:5,20 30:7,8 38:25 42:9 43:6,8 43:19,23 44:7,19 44:20,21,24 45:5 46:9 51:8,9 52:17 53:5,13,21 54:4,22 61:18 64:1 77:8 expert 2:12,13 5:13 8:21,24 9:9 10:14,17,22 11:21 11:24 15:11 16:13 17:1,9 18:13 62:10,11,12 expertise 9:5 29:3 29:17,18 48:5 expires 84:25 explained 24:4 exploded 49:22 exposed 20:5 22:10 42:11 extensive 19:19 extent 36:8 71:1 extenuating 68:16 eyesight 27:24</p>
e			
<p>e 5:17 earlier 7:1 19:5 35:19 36:11 49:8 64:5 77:21 78:17 80:25 eastern 1:2 edged 52:21 effort 25:9 efforts 6:6,7 eight 50:2 either 31:4 42:24 43:11 44:24 45:21 48:18 49:21 51:17 52:20 53:9,14 55:4,18 56:1 59:8 63:3 68:20 73:4 elected 69:13,22 elicited 82:8 email 55:4 emotional 31:16 46:1,15 employment 55:3 encounter 44:12 ended 56:11</p>			
			f
			<p>face 49:15 fact 76:13 factors 42:15,17 42:22 failing 34:14,22 failure 11:3 fair 11:20 66:5,6 72:16 75:2,16,21 75:24 78:14 fall 52:8 familiar 5:20 26:1 54:19 60:8 63:15 63:16 family 34:6 49:2,5 49:16 53:9</p>

<p>far 19:12 20:13 25:3 31:20 36:3 41:23 70:25 71:10 fbi 55:19 federal 58:19 feel 6:21 56:3 66:15 female 45:1,2 fence 56:11,21 filed 9:7 11:10 15:17 find 18:9 56:21 finished 6:3 firearm 28:19 32:2 34:4,5 44:15 45:22 48:22 50:8 51:14 52:22 53:3 62:21 64:22 66:11 firearms 13:22 29:19 33:16 34:3 38:3 44:22 52:18 52:19 62:12 fireplace 49:21 firm 3:4 first 5:2 6:18 11:15 13:4,15,22 18:6 19:7 31:3,4 70:16,18 five 46:23 47:2 60:1 71:18 72:11 73:22 flamethrowing 49:18 flanagan 10:18 12:2,24 15:7 16:15 flaw 49:20 fled 49:24,24 flee 42:21 flippant 63:14</p>	<p>focus 58:16 focused 62:12 73:21 followed 67:25 following 4:13 follows 5:3 force 31:19 52:20 53:22 54:1,2,7 55:6 foregoing 82:5 83:6,13 form 7:16,25 18:5 75:22 formal 55:16 formation 26:2 former 2:13 17:10 48:13 53:9 forward 5:21 15:2 foundation 60:4 60:18 four 12:19 49:9 70:15 free 6:21 fresno 83:2 front 49:12 fuel 49:11,19 full 5:15 83:14 further 79:4 80:13</p> <p style="text-align: center;">g</p> <p>gallardo 1:5 5:12 84:2 gang 42:25 43:3,8 43:15,22,24 44:1,3 44:8,14 45:1,2 46:16 48:14 51:24 52:1,6 68:19 78:7 gap 22:5 gathering 75:3,13 75:15 gatherings 22:14</p>	<p>gauge 25:10,13,13 geared 14:17 43:15 general 1:9 3:10 3:10 general's 16:12 generally 9:12 38:15 40:2 41:25 46:20 52:15,23 58:24 72:23 generate 25:3 26:15 64:25 generated 27:19 getting 55:4 79:23 gifts 49:4 girl 49:14 give 6:25 32:4 given 59:17 giving 30:2 78:3 global 62:7,14,15 62:15 go 30:19 64:8 70:21 73:23 74:4 goal 57:13 going 6:4 8:8 14:14 16:18 17:16 18:8 20:20 21:4 22:22 23:4,22 25:8,11 28:1 30:5 31:19,23 36:3 40:3 46:22 47:12 50:11 51:7 57:11 57:12,13,15 58:8 58:10 62:18,18,19 62:23,25 63:2,7 65:1,2,3,6,14 68:20 72:22 74:4 77:19 78:1,13 good 5:7,8 6:9 68:8 76:9</p>	<p>governor 57:9 ground 5:20 group 20:19 23:20 45:1,3 guess 11:7 28:2 45:18 52:1 56:20 58:3 60:14 61:4 67:9 guessing 53:1 gun 27:18,19,21 28:3,8,25 30:23 31:6,6,8,9 36:18 36:21,22 50:6 59:21 65:3,13 gunman 76:18,19 guns 14:12,14 20:5 21:18 22:16 31:10 75:4,6,10 76:21 guy 76:10,10</p> <p style="text-align: center;">h</p> <p>haggard 27:9,13 half 10:3 halfway 6:1 hand 83:18 handful 26:8 44:13 53:12 handgun 10:10 15:8 16:3 21:11 22:2,9 25:20 35:17 36:7,17,25 44:8 46:11,14 48:18 50:24 51:1 51:4,12,19 63:5 65:24 66:9,16 75:8 76:3 handguns 14:11 14:12,14 16:6 19:10,23 20:25 21:2,23 22:17 49:9 59:24</p>
---	---	---	--

<p>handle 28:25 handled 26:17 happen 5:25 8:1,4 30:3,5 62:25 63:10 64:18 happened 13:6 23:16 24:11 51:21 54:15 happening 31:25 55:6,10 harm 50:10,11 heads 25:7 hear 10:4 heard 54:18 60:10 held 4:13 hell's 11:19 hereto 16:21 17:12 hereunto 83:17 high 68:19 78:7 higher 38:5,20 39:2 69:11 hills 9:4,8 10:21 history 54:9 hockey 57:12 hold 74:8 holster 44:9 66:16 75:8 holstered 10:10 holsters 30:25 home 34:4,5 35:17 36:8,22,25 37:11 37:15,19 48:3,17 52:24,24 53:2,2,4 53:7,14,18,18 78:25 homeowners 48:10 homicide 51:4 52:13,18 homicides 50:21 51:22,24 53:10</p>	<p>horse 56:15 hose 49:10 hostile 9:16 hour 4:9 15:14,15 50:1 hours 78:14 house 49:3,16,18 49:21,25 78:25 howe 1:24 4:11 83:3,22 hypocrisy 57:4 hypothetical 77:23,24 hypothetically 68:18</p> <hr/> <p style="text-align: center;">i</p> <hr/> <p>idea 66:4,10 identification 16:21 17:12 illegal 22:4,9 images 74:7 immediate 31:23 54:3 immediately 49:15 implemented 61:17 important 5:23 inability 16:1 inappropriate 9:16 incident 24:20 32:6,7 41:21 48:2 48:7,7 incidents 28:2 53:3 include 71:23 included 44:1,3 including 21:10 29:14 60:2 inconvenience 26:7</p>	<p>inconvenient 26:9 increase 77:10 increased 63:1 increasing 29:5 index 2:1,10 indicate 70:18 indicated 76:5 78:6 80:15 indicates 77:14 individual 32:22 34:9,15,23 35:7 41:24 46:9 69:2 77:11 78:12 individuals 20:24 23:2,12 26:4 41:20 48:10,17 50:23 66:20 79:24 information 12:21 13:2 14:6 18:24 19:5 22:24 24:7 25:8,12 55:17,18 72:15 74:21 injury 42:20 54:3 inquired 67:24 inside 49:16 52:24 53:1,4 78:24 instance 55:5 instances 51:20 instructs 7:21 intended 23:13 intent 23:15 45:15 50:11 intention 23:8 international 55:20 59:11,13 interpretation 21:24 36:4,20 37:12 interpretations 37:3</p>	<p>interview 70:23,24 interviewed 71:3 intoxication 31:17 32:6 intuition 42:9 investigated 43:9 investigations 44:3 investigator's 68:21 investigators 77:25 78:9 invited 72:10 involve 22:16 involved 20:8 21:18 25:24 26:2 26:5,21,21 29:15 43:9 51:10 56:18 59:1 73:12 involving 10:21 42:25 issuance 70:13 73:12 77:22 issue 9:12 12:16 32:8 36:2 48:6,8 58:19 59:18,19,20 62:8,14 64:15 65:9,10 67:6,13 68:8 69:6 issued 66:24 issues 12:21 13:3,5 13:17 19:7,8,10 22:22 29:15 30:21 54:24 55:10 59:24 60:24 61:2,10 72:13,14 73:21 issuing 67:2 68:4 70:19 73:8,18,18</p>
--	--	--	---

j	31:14,15,16 32:1,5 32:17,19 33:20 34:24,24,25 35:24 37:20 39:11 40:9 45:15,16 47:12 48:11,17,20 50:4 52:4,7 54:11,17 55:6 56:11 58:25 59:25 61:15 62:20 65:13,14,15,20,25 66:1,6,8,18 71:2,4 76:6,9	64:1,25 65:1,2,17 65:17 71:20 72:17 72:20 74:23 75:12 77:9 79:22	level 19:16,16,17 32:6 41:21 64:24 68:20 levels 31:17 42:2 license 1:25 59:8 60:17 83:3,23 licenses 70:20 73:9 73:19 licensing 11:16 72:25 lieutenant 44:2 life 63:15 65:10 78:8 likelihood 31:3 39:2 likewise 6:3 limited 37:10,15 37:19 71:11 line 65:18 84:5 lines 74:6 link 14:21 lit 49:21 litigation 11:22,25 29:2 little 8:1,6 46:22 47:12 49:14 74:10 74:15,17 lived 63:14 living 29:19 llc 84:1 loaded 24:6 25:20 50:8 local 27:20 locate 80:8 located 71:14 location 24:3 39:14 42:18 75:17 lock 31:6 long 14:12,14 20:5 21:18 22:16 36:18 58:23 75:4,6,10
james 5:17 january 13:14 job 33:20 71:3 john 13:12 judge 68:23 june 13:15 jurisdiction 19:2 20:8 22:22 23:19 23:25 27:2,6 28:24 30:3 38:13 59:4 60:23 61:25 71:14 jurisdictions 13:10 19:19 20:11 22:24 26:24 51:17 54:24 60:3 61:9 61:17 72:25	knowledge 14:9 23:23 38:11 41:14 54:14 64:1	law.com 3:6 lawful 26:24 30:4 46:10,10,13 50:23 51:1,4 53:21 64:3 laws 18:20 21:13 24:5 25:4 27:14 50:18 lawsuit 9:7 11:10 lead 31:10 leadership 9:10 league 58:12 learn 51:10 55:9 learned 74:21 leave 59:4 led 52:12 58:5 left 24:8,8 67:10 70:23 legal 22:1 30:13 33:2,17 34:10 37:16 39:7 54:10 61:11 legalization 56:13 56:16,17 57:1,21 legalize 57:6 58:18 legalized 61:7 62:25 63:3,4 64:22 76:2 legalizing 56:22 legislation 22:6 25:24 26:1,3,5 29:16 57:15 58:1 58:10,14 73:14 legislative 72:13 legislature 57:5,6 57:15 58:9 66:23 lengthy 8:2	
k	l		
kansas 27:15 keep 33:15 34:4 kidnapping 53:23 kids 62:19 63:7 killed 47:20 kim 1:17 2:4,12,14 5:1 17:2,10 82:4 82:17 84:3,21 kimber 5:17 kind 5:20 13:15 kindly 80:11 kjm 1:8 knew 58:1,8,8 knocked 49:13 know 6:17 7:1,11 8:5 10:25 14:10 22:18 23:8,10,12 23:15,16,19 24:11 25:2,23,24 26:9,18 26:21,22 28:5,10 28:12 29:23 30:4	l 3:4 la 71:16 lack 16:4 lacks 60:4,18 language 35:25 laquinta 1:18 4:10 large 49:5 law 3:4 8:18,20 19:1,13 20:6,21 22:5 23:6,13,14,22 23:23 24:8 25:10 25:10,13,18,25 26:23 27:1,5,18,25 28:14,24 29:4 30:11 33:5,8 34:7 34:8,14,21,25 38:12 41:19,25 42:1,8,15 44:20 45:7,21 46:2,8 48:13 49:7 50:12 51:8,9,16 53:21 54:15,21,24 55:10 57:18 58:11 59:22 61:6,9,21,23 62:5 62:6,6,16 63:8,24		

<p>longer 67:9,9 look 74:4 looking 18:5 74:14 looks 21:12 loophole 22:5 los 20:9,12,20 22:15,18 23:1 29:8,12 50:1 71:15 lot 12:18,20 30:14 32:4,9 37:4 41:10 54:11 63:24 64:21 74:6 lou 57:19,20 lynne 1:24 4:11 46:22 81:2 83:3 83:22</p>	<p>58:20 59:3,8 mark 1:5 3:15 5:11 84:2 marked 16:20 17:8,11 markedly 46:1 mass 47:19 74:18 75:1,17 mateo 79:15 matter 5:10 12:6 12:17 15:18 16:15 18:15 53:4 matthew 3:10 matthew.wise 3:12 maturity 31:16 32:6</p>	<p>mentioned 16:7 19:13 22:14 47:22 63:22 80:25 messy 72:22 militia 35:25 million 71:18 mind 41:10 46:23 65:14 70:13 mine 70:9 minute 73:22 minutes 46:24 48:4 missed 10:3 53:16 misstates 35:19 36:11 64:5 mistaken 79:14 misunderstood 79:8 mix 49:11 moment 62:22 monday 4:8 month 20:15 72:4 monthly 22:20 months 49:8 moreno 9:3 morning 50:2 motivate 25:18 motivation 26:22 motive 23:9 motorcycle 11:10 mouth 50:6 movement 20:2,19 21:7,17,20 23:3 movie 65:23 66:4 moving 5:21 mulford 54:18 multiple 30:18 multitude 30:21 municipal 18:19 19:16 22:19 29:4 72:1</p>	<p>murder 47:14,19 53:24 murders 47:13 myriad 42:17 61:5</p>
<p style="text-align: center;">m</p>			<p style="text-align: center;">n</p>
<p>m4s 75:10 maintain 36:22 38:4 maintaining 36:24 major 25:5 majority 19:17 29:10,15 43:11 51:23 53:9 59:5 65:16 making 11:2 31:17 42:16 man 27:18,19,21 28:2,8,25 management 9:10 manager 69:19,24 70:7,10,12,17,18 70:24 71:5 managers 70:15 manner 8:14 40:3 50:4 marijuana 56:8,13 56:14,15,16,17,22 57:2,2,7,15,22</p>	<p>mayor 69:20 mean 10:10 21:6 28:17 32:17 34:2 37:25 39:12 50:17 55:2 62:15 66:23 67:22 means 32:16 34:3 52:18 60:16 meant 8:2 measures 77:11 mechanism 35:1,4 medical 56:8,12 56:15,16 57:2 meet 57:8 72:8 meeting 22:20,21 25:6,9 meetings 71:20 72:3,11,12 73:6,7 member 27:19 44:8 45:1,2 46:16 53:9 members 9:7 11:1 43:22 44:14 49:16</p>	<p>mentioned 16:7 19:13 22:14 47:22 63:22 80:25 messy 72:22 militia 35:25 million 71:18 mind 41:10 46:23 65:14 70:13 mine 70:9 minute 73:22 minutes 46:24 48:4 missed 10:3 53:16 misstates 35:19 36:11 64:5 mistaken 79:14 misunderstood 79:8 mix 49:11 moment 62:22 monday 4:8 month 20:15 72:4 monthly 22:20 months 49:8 moreno 9:3 morning 50:2 motivate 25:18 motivation 26:22 motive 23:9 motorcycle 11:10 mouth 50:6 movement 20:2,19 21:7,17,20 23:3 movie 65:23 66:4 moving 5:21 mulford 54:18 multiple 30:18 multitude 30:21 municipal 18:19 19:16 22:19 29:4 72:1</p>	<p>n n 5:17 name 5:9,15,16 10:25 69:17 84:2 84:3 named 83:6 narcotics 44:4 nationally 55:18 nature 11:14 42:3 necessarily 13:1 28:15 necessary 34:5 need 6:16,19 46:21 79:6 needing 60:17 negative 76:24 neighbor 49:2 net 57:13 never 68:15 70:17 71:6,7 new 84:1 newspaper 12:18 nine 47:19 49:16 nonconfrontatio... 24:14 northern 49:25 notary 84:25 notes 73:23 notice 2:11 4:7 17:1,4 november 1:10 4:8 number 47:16 65:9,10 numerous 75:18 ny 3:5</p>

<p>o</p> <p>o'clock 50:2</p> <p>o0o 1:3,15,20 2:20 4:5</p> <p>object 75:22</p> <p>objection 7:16,17 7:18 25:21 29:25 33:2,17 34:10,16 35:10,12,19 36:11 37:16,21 38:7,22 39:7,18 40:5,15 41:1,8,15 42:6 43:5,17 44:17 46:3,17 50:13 55:12 60:4,18 61:12 62:1 64:5 68:25</p> <p>observation 27:23</p> <p>obviously 27:23</p> <p>occasion 51:10 62:6</p> <p>occasional 53:10</p> <p>occasions 44:11</p> <p>occurred 29:11 52:24 53:12 74:19</p> <p>occurrences 20:7 64:18</p> <p>office 3:10 16:12 68:22 78:9 79:15</p> <p>officer 8:19,20 19:2 28:11,15,19 30:9 33:5,8 40:22 64:2 77:9</p> <p>officers 23:23 28:12,13 34:22 42:2,15 60:22,25 61:2,6,9,21</p> <p>offices 71:23</p> <p>official 1:9</p> <p>oh 79:14</p>	<p>okay 6:22 7:4 8:6 8:7,11 18:1 36:23 62:9 64:10 73:24 74:12 79:13,20 80:10,18</p> <p>once 6:1 9:1 15:19</p> <p>one's 39:4,14</p> <p>ones 11:12</p> <p>ontario 11:5</p> <p>open 6:17 9:19,20 9:24,24,25 10:9,10 12:12,16,25 13:9,9 13:12,20,21 14:7 14:11,11,17,19 15:7 16:17 18:15 18:20 19:2,10,23 20:1,2,25 21:1,7 21:17,20 22:2,10 25:19 26:24 27:2 27:3,6,6,14 28:24 29:17 30:4,19,22 37:5 45:23 48:6,8 54:10 59:15,19,24 60:3,17,23,24 61:1 61:3,7,9,11,17,18 61:23,24 62:8,14 62:24 63:19,21 64:2 65:24 66:21 66:24 71:8,10 73:8,8,10,13,19 75:8 76:3 79:11 79:16</p> <p>opened 49:14</p> <p>openly 16:3,6 20:5 20:23 21:11,22 22:8 23:2 29:20 31:2,23 44:8 62:20 64:22 65:13 65:24 79:25</p> <p>opinion 12:12 18:20,24 26:14,20</p>	<p>29:21 30:2,10 32:14 39:6 60:22 61:8 68:7 69:2 77:8 78:23</p> <p>opinions 18:15</p> <p>opponent 56:22,23 56:24 58:4 68:4</p> <p>opportunity 7:8 12:8 28:23 40:11 40:12 55:9 64:21 80:17</p> <p>opposed 52:18,24 66:20</p> <p>opted 59:10</p> <p>option 32:1,11,12 32:13,13,15,19,20 32:21</p> <p>organization 13:13</p> <p>organized 22:25 25:9</p> <p>outline 57:21</p> <p>outside 36:25 40:22 52:24 53:2 53:18 75:4</p> <p>outweigh 30:16 31:20 58:6</p> <p>overhill 3:5</p> <p>override 59:5</p> <p>ownership 36:21</p> <p>oxygen 49:11</p> <p>oxygenated 49:19</p>	<p>paragraph 74:14 74:18 76:6 77:13</p> <p>parameters 68:15</p> <p>paraphrase 25:8</p> <p>park 11:2 27:23 66:4</p> <p>parks 62:19</p> <p>part 22:6 38:11 50:1 62:13 66:1</p> <p>particular 34:9 48:7,7 54:23</p> <p>particulars 54:12</p> <p>parties 24:8</p> <p>pass 57:8,15 58:8 58:10</p> <p>passing 25:18</p> <p>patrolling 42:4</p> <p>patrolman 42:24</p> <p>peace 24:25</p> <p>penal 16:16 50:8 53:20</p> <p>penalty 6:12 82:2 82:5</p> <p>people 19:25 23:5 24:24 31:9,14 34:1 39:1 47:19 58:13 62:18 63:2 63:23 64:21,24 65:16 66:14,15 67:22,24 72:18,24 75:2,18,20 76:14 76:15,21 78:24</p> <p>perceive 32:7</p> <p>percent 52:1,6,8 52:19,20,22 53:1,2 74:6</p> <p>percentage 52:17 52:23</p> <p>perception 32:8</p> <p>performing 42:1</p>
		p	
		<p>p.m. 4:9 81:4</p> <p>p.o. 3:11</p> <p>page 2:4 8:10 17:21 18:8 74:5 84:5</p> <p>pages 18:11</p> <p>paid 69:22,23</p>	

<p>period 19:25 20:13,15,16,18 21:25 22:14 47:9 periodical 14:16 14:20 periodicals 12:19 periods 59:21 perjury 6:12 82:2 82:5 permit 16:1 21:14 67:16 68:9 69:6 70:4 71:8,10 78:3 permits 66:24 67:3,4,6,13 68:4 70:14 77:23 permitting 59:1 perpetrator 51:3 person 10:11 24:2 26:21 27:24 30:22 36:16 42:19 44:16 44:23,25 45:23 46:2,13 48:11 65:21 66:16 70:2 71:3 83:16 person's 65:25 69:17 personal 19:22,24 78:13,14 personally 56:23 persons 26:21 pertaining 14:14 philosophy 70:4 71:1,2,5 phone 48:3 phrase 9:23 10:9 21:6 physical 32:17 piece 62:14 place 28:16 29:24 30:6 40:3 53:14 53:17 55:7 58:17</p>	<p>58:22 75:3 82:9 83:7,9,15 places 20:3 31:7 80:2 plaintiff 3:3 plaintiff's 17:1 plaintiffs 1:7 2:11 5:10,11 11:25 15:23,25 16:20 17:11 plan 49:20 planners 56:3 planning 49:8 playground 63:7 playing 57:11 please 5:16 7:1 8:4 45:12 77:3 pllc 3:4 plotting 65:22 point 19:12 22:10 47:7 57:8 67:8 police 2:14 9:8,10 9:15 11:2,3,6,6,7 11:18 17:10 18:20 19:15 20:10 22:19 22:20 24:4,18 25:6 26:7,16,16 27:20 28:10 29:6 29:9,10,13 30:8 35:5 38:9 40:22 42:2 46:15 47:10 47:15 50:22 51:23 53:5 54:23 55:3 55:21 56:23 59:13 59:14 60:22,25 61:2 67:1 68:7 69:7,12 70:5 71:9 71:19,24,25 72:1,9 73:3,16 75:16,19 76:7</p>	<p>policies 9:20 26:23 27:2 72:13 policy 19:17,20 68:2 70:5 political 72:14 poll 66:14 polls 66:18 popped 13:17 populated 39:1,3 population 21:8 39:5 71:12,16 72:24 73:17 populations 16:2 72:18 porch 49:12,17 portion 45:13 77:4 posed 61:6 position 69:12,13 69:13 possessing 36:7 62:21 possession 20:5 21:18 46:10,14 50:24 51:1,4 75:10 possibility 31:3 66:7 possibly 30:3 54:22 potential 63:1 practice 22:25 30:13,14 preference 70:19 preparation 12:6 prepare 17:23 prepared 7:7 16:9 16:11 17:24,25 18:1 49:10 preplan 40:10 presence 13:22 31:25 40:22</p>	<p>present 3:15 49:12 56:7 74:23 83:7 presentations 55:24 presenter 56:6 president 29:8,14 72:9 pretty 24:9 73:23 prevalent 64:16 prevent 54:3 printing 66:9 prior 47:6 54:9 64:2 78:4 probable 45:17 probably 48:4 problem 65:7,8,8 65:19 problematic 57:16 problems 61:6 procedure 28:16 28:17 procedures 27:3 proceeding 83:8 83:11 proceedings 4:13 83:15 process 16:4 21:14 40:20 57:22 59:2 67:25 70:21,22 71:11 73:8 processing 65:15 profession 56:3 professor 13:11 profile 68:19 78:7 programs 55:24 promote 11:4 properly 61:22 property 77:18 proponent 56:12 56:21</p>
---	--	---	--

<p>proposition 56:25 prosecuting 68:19 protect 34:5,8,8 34:15,22 35:6,7 78:1 protected 33:1 protection 34:4,21 68:21 78:10,13 protects 33:15 35:17 protests 19:8 provide 14:3,22 18:1 33:25 45:6 45:16,20 54:6,8 58:14 78:10 80:8 provided 7:6 66:23 provides 34:21 providing 29:6 public 12:20 13:5 13:16 19:9,11,17 19:20,23 23:2 26:15 27:7,15,20 29:6,11,11,16,20 31:7 35:8 37:5 46:10 52:25 53:15 53:18 57:17 59:23 60:24 63:17 68:2 84:25 publication 19:6,6 79:16 80:5 publications 15:5 51:15 56:10 publicity 64:14 published 13:24 14:7 pulled 50:6 purchase 80:22 purpose 26:14,19 45:5</p>	<p>purposes 16:21 17:12 pursuant 4:7 21:23 put 13:13 31:6,9 49:13 50:6 55:25 58:21 putting 22:13</p> <hr/> <p style="text-align: center;">q</p> <hr/> <p>quality 30:25 65:9 quarterly 72:3,11 question 6:1,2,5 6:18,18,21 7:16,20 7:21,24,25 8:5,8 10:3 34:19 39:21 41:23 42:7 45:9 46:6 50:25 55:15 60:25 72:20 77:1 questions 5:12 8:2 8:14 9:10,11 70:25 79:4 80:14 quite 19:19 20:18 73:14 quote 76:5,6,7,9 76:11,14 79:16</p> <hr/> <p style="text-align: center;">r</p> <hr/> <p>r 3:10 5:17 racing 49:11,19 raised 59:16 random 52:2,9 53:6 raney 1:17 2:4,12 2:14 5:1,7,17 10:8 17:2,3,10,14 33:23 35:15 47:5 74:3 80:25 82:4,17 84:3,21 rape 53:7,23 raped 54:5</p>	<p>rapist 54:5 rare 64:18,19 rash 31:10 53:11 rate 38:20 rates 38:5,15 39:2 77:15 reached 27:13 67:21 70:6 reaction 23:6 46:1 46:15 63:17 64:10 reactions 63:25 read 12:18 13:8 14:6 15:17,21 27:9 45:11,13 51:20 54:11 74:10 77:3,4 82:5 reading 13:2 51:15 56:9 ready 73:24 really 32:7 57:16 reason 54:17 68:8 84:5 reasoning 40:20 recall 13:24 15:6 48:21 50:22 51:6 52:7,16 58:24 59:19,22 73:7,18 79:17,18,19 receive 80:16 received 61:16 68:19 recess 47:3 74:1 recognize 17:3,17 recollection 59:16 59:17 reconcile 77:19,21 78:22 record 6:8 7:3,18 8:3 14:16 16:25 17:9 45:13 47:5 71:13 74:3 77:4</p>	<p>reduces 39:13 reduction 39:13 refer 79:17 referenced 14:13 18:22 19:7 74:16 79:15 referencing 77:13 referring 9:24 21:19 reflect 18:14 refusing 34:14 regard 18:15 19:20 21:4 48:5 70:13 73:8,16 75:1 77:22 regarding 13:19 16:16 19:7,9,23 25:6 27:2,3,6 28:25 59:24 60:24 regards 9:9 14:11 14:12 55:1 80:3 region 20:21 regional 29:11 72:10 regular 78:24 regulate 59:8 regulation 58:25 related 19:22 43:4 43:4,9,24 48:14 51:24 52:6,17 55:7 59:23 relating 54:24 relation 78:1 relative 56:1 relevant 48:8 relied 18:24 remaining 52:7 remember 11:12 13:13 14:4 51:13 54:12 73:20</p>
---	---	--	---

<p>remembered 4:7 remote 3:1 remotely 1:18,23 4:10 repeat 45:9 77:1 rephrase 8:5 72:22 report 2:13 13:11 17:9 18:14 62:11 83:14 reported 1:23 reporter 4:12 5:22 7:7 10:2,6 45:14 46:23 47:1 75:23 77:5 80:21 81:3 83:4,9 reporting 84:1 reports 15:15 represented 29:9 representing 5:10 requested 45:13 77:4 required 7:19 research 12:15,23 12:24 13:2,14 19:4,9,12 66:13 79:11 residence 38:4 resident 30:7 34:23 64:11 residents 66:20 resolve 48:25 74:9 resolved 24:12 resort 54:1 resource 65:9 respond 8:13 26:8 35:5 47:25 61:24 64:8 responded 28:10 75:17</p>	<p>responding 28:20 41:21 42:4 response 20:6,22 23:14,14,22,25 25:10,14 27:25 28:14 63:8,25 65:1,1,3 responses 28:3 30:11 responsibility 29:5 responsible 29:6 58:1 responsive 8:14 rest 6:2,3 restaurant 63:6 66:4 restaurants 62:18 restricted 79:11 restrictions 31:7 restrictive 77:10 result 30:15 61:11 74:22 77:10 results 29:23 52:11 retained 9:9 10:14 10:17,21 11:5,9,24 retention 5:13 11:20 30:25 retired 64:12 65:11 71:11 retirement 8:21 retreat 32:10,14 32:17,18 retrieve 32:8 retrieved 49:18 review 7:8 12:5,8 15:14 38:13 68:15 80:16,24,25 reviewed 13:11 15:6 16:13,14,14</p>	<p>16:16 26:23 28:8 67:9 reviewing 38:12 67:2 richard 1:5 5:11 84:2 rifle 22:2,8 48:18 79:25 rifles 20:23 21:1 21:23 24:24 75:4 right 6:21 7:3 8:10 10:4 11:12 14:10 14:22 17:7 24:22 31:12 32:22 33:1 33:15 34:1,3 35:17,24 36:3,8,18 36:21,22 37:2,5,24 38:3 39:4,15,21,25 47:23 50:19,21 61:4 62:22 65:25 66:9,11,12,24 68:24 69:3 74:5 75:1 76:19 78:18 78:23,25 79:1,3,10 79:12 80:13 rights 13:17 21:10 77:11 ripened 73:15 rise 31:13 61:11 61:23 62:5 64:25 risks 30:16,17 31:20 road 3:5 rob 1:9 84:2 robberies 52:11 52:14 robbery 31:2 53:7 roughly 52:6 71:16 round 22:21</p>	<p>rules 5:20 rural 16:2 38:6,17 38:20 39:16,23</p> <hr/> <p style="text-align: center;">s</p> <hr/> <p>s 84:5 sacramento 3:11 safeguards 58:15 58:17,21 safety 19:9,20,23 27:7,15 29:7,11,16 57:17 59:23 60:24 san 79:15 santa 49:1,3,8 saw 31:24 saying 27:21 64:18 scarsdale 3:5 scene 41:22 48:1 49:24 scholar 36:2 scope 9:5 36:6 43:23 48:5 55:2 screen 16:18,23 77:20 scroll 17:16 second 12:21 13:3 13:4,16 17:8 19:7 21:9,24 31:18 33:7,14,24,25 35:16,23 36:4,7,14 36:16,23 37:4,14 77:14 sections 16:16,17 see 16:23 17:14 23:13 25:10 26:16 55:5 57:4,5 63:2 66:9,14 74:5,8,8 seeing 20:21 23:5 37:2 59:22 seek 50:10 segment 21:8,21</p>
--	---	---	---

<p>seismic 30:9 self 32:23 33:16 35:9 39:4,14,16,22 39:25 68:6,8,10,23 68:24 69:5,10 78:18,23 seminar 72:4 seminars 55:24 senator 57:19 sense 47:13 72:12 sent 18:6 sentence 77:14 sergeant 42:25 43:25 series 53:12 serious 54:3 serve 47:9 served 19:1 service 20:22 23:6 23:17 24:2 25:3 55:5,17 63:2 79:23 services 23:7 set 70:13 setting 30:20 seven 50:2 sexual 53:11 share 16:18 71:5 shared 22:23 23:16 55:17 sharing 77:20 sharp 52:21 sheet 84:1 sheriff 73:2 sheriff's 67:10 72:5 73:1 79:15 sheriffs 71:23 72:7 72:16 73:6,11 sherriffs 72:6 shift 30:9</p>	<p>shooter 76:17 shooting 74:15,18 75:2,17,19 76:10 76:14,16,20,20,21 shootings 52:15 shop 24:3 77:20 shops 20:3 23:11 short 47:5 shorthand 4:12 83:4,9,10 shot 31:5 49:15 54:5 75:13,14 shotgun 48:19 show 16:18 79:24 showed 20:23 showing 20:2 shows 59:21 side 22:13 51:7 56:11,20 sign 81:1 signature 17:21 83:20 signed 57:23 significant 56:2 69:9 simply 75:20 singley 62:12 sir 17:19 80:11 sit 8:13 66:3 sitting 49:17 63:5 65:13,20,23 situation 23:21 42:10,23 71:25 situations 22:23 53:6 six 56:18 60:2,3 71:18 size 39:5 skills 30:25 31:15 smaller 74:11</p>	<p>sneak 57:13 society 21:22 64:16,20 solely 68:10,23 somebody 31:22 32:4 62:20 63:5 someone's 39:15 39:21 65:12 son 48:13 49:7 sorry 10:2 35:12 53:16 62:4 69:15 74:12 sound 6:8 sounds 24:9 south 20:19 southern 20:4 44:5 sparsely 39:3 speak 6:6,8 28:23 52:14 speaking 61:5 65:10 specific 12:25 13:19,21 14:7,10 14:17 16:6 19:12 29:17 34:15 41:21 54:17 55:6 specifically 7:20 13:9 15:7,9 18:17 21:19 23:13 51:13 54:14,22 58:21 75:5 specified 83:7 speculation 25:21 35:13 38:7,22 40:6,16 41:1,15 43:5,17 44:17 46:3,17 50:13 spell 5:16 spite 63:4</p>	<p>split 31:18 spoken 27:1,5 sponsor 57:24 staff 9:8 11:1 stakeholders 58:12,13 stamping 59:20 stanford 13:12 starbucks 20:3,23 23:5 24:3 28:2 80:2 start 6:4 67:5 76:15 started 48:2 49:7 49:19 56:16 76:14 starting 23:1 starts 76:10 state 1:10 4:12 5:15 7:18 16:1,8 18:21 19:17,20 21:12 29:15 30:9 33:12 38:2,10,12 38:14 39:15 54:10 57:5,6,14,19 58:9 58:20 59:5 66:19 71:21 72:5,7 83:1 83:4 statement 66:5,6 66:10 78:15,19 statements 68:3 states 1:1 33:9,15 37:2,4 54:25 60:1 60:2,15 79:12 statistics 38:10,14 statute 34:13,20 34:25 66:23 stay 12:22 steps 66:13 stolen 31:11 stop 62:22</p>
--	--	--	---

<p>strategic 57:10 strategically 57:14 study 79:9 submit 16:5 submitted 17:18 27:10 subscribed 83:17 84:22 subscribing 55:4 subsequent 73:19 substance 7:17 18:5 79:20 suburban 29:22 38:16 63:16 successor 67:12 sued 34:22 suffered 49:22 suicide 50:3,5 suing 9:14,15 11:6 15:25 suit 49:8 suite 3:5 supreme 36:3 37:7 sure 6:25 7:25 8:10 15:3 20:18 28:17 30:24 34:19 39:12 40:19 41:5 45:10,24 46:5 59:17 60:13 62:5 77:2 79:8 surrounding 19:8 survived 49:23 51:18 suspect 49:15 switched 17:7 sworn 5:2 6:11 33:5,8,11 84:22 symposium 72:4</p>	<p>t</p>	<p>table 19:15 22:21 49:17 72:13 73:13 tactical 40:20 tailored 49:9 take 6:16,19 29:24 30:6 42:16 53:14 53:17 64:21 73:22 74:4 taken 1:18 4:9 30:24 47:3 66:13 74:1 83:8,10 takes 28:16 talk 5:24 53:3 74:15 talked 79:9 talking 35:1 56:13 80:1 talks 36:18 tapes 28:9 technical 10:1 tell 6:12 tells 7:20 ten 63:19 tenure 68:3 71:9 71:19 term 9:23 10:9,12 20:1 24:10 26:10 39:11,12 41:5,6,7 43:20 58:17 60:8 60:10 61:15 63:13 64:9 65:16 termed 57:2 termination 11:8 terminology 79:10 terms 27:18 testified 5:2 8:16 8:21,24 27:10 33:19 testify 78:17</p>	<p>testifying 6:14 testimony 6:13,20 7:8,9 15:16 35:15 35:20 36:12 47:6 64:6 77:21 78:5 79:5 82:6,8 testing 70:21,22 texas 74:19 76:2 thank 14:25 47:1 79:13 80:19 81:2 thanks 81:1 theater 63:6 65:23 66:4 theaters 62:19 thereof 4:9 thermal 49:23 thing 79:14 things 56:1,2,14 59:21 61:19 think 6:23 9:3,17 11:16 13:11,14 14:22 16:6,12 19:19 20:21 22:4 22:5,7 23:20 24:5 24:7,12 25:19 26:10,13 30:5,7,16 30:18,18 31:19,22 32:12,18 36:1,2,17 37:1,1,1,7 38:1,25 40:10,10,19 41:9 41:10 42:8 44:13 44:20 52:23 54:2 54:8 55:16 57:2 57:23 58:17 59:20 61:18 62:23 63:1 63:13,14 64:9,14 64:20,20 66:6 68:14 73:23 79:3 79:9 80:24 thinking 65:21</p>	<p>third 49:22 thought 57:14 threat 41:21 42:3 42:10 69:9 threats 68:20 78:8 three 12:10,19 13:6 47:18 70:17 threshold 69:11 ticked 77:16,17 time 6:16,23,25 7:15,15,24 13:9 15:10 20:13,16,18 21:25 22:11 23:24 24:18 40:3 42:18 47:9,15 50:7,22 51:23 58:23 67:8 67:18 74:24 78:2 79:22 80:19 82:9 83:7,9 times 6:5 8:24 9:22 37:10 59:14 today 5:12 7:10 8:14 12:6 16:10 17:5 64:16 80:19 told 28:7 top 29:8 topic 20:9 56:7 59:15 70:16,17 71:7 topics 56:18 total 47:16 track 37:7 trade 44:5 tradition 49:2,5 trained 41:19 42:2 60:23 61:1,10,22 62:6 training 32:5 42:9 61:17 62:7,11,13 62:16 80:3,5</p>
--	-----------------	--	---	--

<p>transcribed 83:12 transcript 7:6,8 80:16,22,24 83:13 transcription 82:8 83:13 transcripts 16:14 16:15 travel 79:1 travels 79:3 trending 56:2 trends 54:23 55:6 trial 15:16 tried 12:21 trigger 50:6 trojan 56:15 true 82:7 83:14 truth 6:12 truthfully 8:13 try 8:5 41:9 trying 21:11 37:9 37:11 52:5 57:6 78:22 two 10:20 11:6 12:10 13:6 15:5 18:11 21:15 47:18 56:6,14 57:22 65:10 70:22 72:8 type 28:20 43:12 53:5 types 53:22 54:6 typically 73:1</p>	<p>understand 6:10 6:11 7:13,14,22,23 8:13 10:13 15:23 15:25 33:25 34:19 37:9,11 41:23 42:7 46:5 55:15 55:16 60:13 61:1 understanding 21:13 33:23 35:3 35:16,23 36:6,14 36:21,23 37:10,13 37:14,19,20,24 38:2,11 60:11 75:6,9 76:8 77:6 understood 8:9 uneventful 24:9 24:10 unique 71:25 unit 44:1,3 united 1:1 33:9,15 unknown 63:25 unlawful 11:8 unloaded 22:10 63:19,21 64:3 79:16 unnecessary 26:11 30:11,12 unsafe 30:14 unsure 8:4 unusual 43:21 unwise 30:14 uphold 33:5,9,11 33:20 uptick 77:9 upward 77:16,17 urban 29:22 38:6 38:16,19 39:17,22 63:16 use 20:1 21:9 26:9 31:19 34:5 40:13 41:5 48:22 51:19</p>	<p>53:4,22 54:2,7 55:5 64:24 65:16 83:12 utilized 52:22</p> <p style="text-align: center;">v</p> <p>v 5:11 84:2 vague 29:25 40:5 40:15 41:2 42:6 46:4 55:12 61:12 62:1 valid 68:8 variables 32:9 variety 42:22 various 42:2 vast 53:8 59:5 vehicle 31:13 vein 13:7 veritext 84:1 versus 9:3 10:18 12:2 13:16 14:14 38:17 58:3 76:10 veto 57:9 vicinity 27:22 victim 30:23 31:4 31:5,24 32:11 40:25 45:8,22 50:25 51:7,11,14 51:18 victim's 41:11 victims 41:13 48:11 51:1 view 70:6 73:18 violating 25:3 50:18 violence 43:4,16 43:21 52:3 violent 31:24,24 32:11 35:8 40:21 40:24 43:10,13,14 43:16 44:14 51:12 51:18 53:14,17</p>	<p>65:23 69:3 77:15 78:7 79:1 vitae 18:9 voice 58:13 volume 63:1 64:15 64:23 volunteers 11:6 vs 1:8 vulnerable 40:25 41:6</p> <p style="text-align: center;">w</p> <p>waiting 59:21 want 8:9 21:16 37:19,25 60:13,14 69:10 73:23 74:4 74:10,15 77:19,21 wanted 58:10 wants 21:22 way 32:8 72:19 ways 47:12 we've 46:22 weapon 28:15 30:24 35:9 65:12 65:21 weapons 24:6 28:11 31:9 33:16 45:6 52:21 70:14 weeks 12:10 welcome 81:3 went 49:16,17,18 whereof 83:17 wholeheartedly 40:9 wide 29:15 wisdom 63:14 wise 3:10 15:1,3 18:2,6 25:21 29:25 33:2,17 34:10,16 35:10,12 35:19 36:11 37:16 37:21 38:7,22</p>
<p style="text-align: center;">u</p> <p>ultimately 48:24 58:4 unable 6:25 21:14 unanticipated 30:15 unclear 8:3 uncodified 25:15 uncomfortable 63:5,24 66:15</p>	<p>understand 6:10 6:11 7:13,14,22,23 8:13 10:13 15:23 15:25 33:25 34:19 37:9,11 41:23 42:7 46:5 55:15 55:16 60:13 61:1 understanding 21:13 33:23 35:3 35:16,23 36:6,14 36:21,23 37:10,13 37:14,19,20,24 38:2,11 60:11 75:6,9 76:8 77:6 understood 8:9 uneventful 24:9 24:10 unique 71:25 unit 44:1,3 united 1:1 33:9,15 unknown 63:25 unlawful 11:8 unloaded 22:10 63:19,21 64:3 79:16 unnecessary 26:11 30:11,12 unsafe 30:14 unsure 8:4 unusual 43:21 unwise 30:14 uphold 33:5,9,11 33:20 uptick 77:9 upward 77:16,17 urban 29:22 38:6 38:16,19 39:17,22 63:16 use 20:1 21:9 26:9 31:19 34:5 40:13 41:5 48:22 51:19</p>	<p>53:4,22 54:2,7 55:5 64:24 65:16 83:12 utilized 52:22</p> <p style="text-align: center;">v</p> <p>v 5:11 84:2 vague 29:25 40:5 40:15 41:2 42:6 46:4 55:12 61:12 62:1 valid 68:8 variables 32:9 variety 42:22 various 42:2 vast 53:8 59:5 vehicle 31:13 vein 13:7 veritext 84:1 versus 9:3 10:18 12:2 13:16 14:14 38:17 58:3 76:10 veto 57:9 vicinity 27:22 victim 30:23 31:4 31:5,24 32:11 40:25 45:8,22 50:25 51:7,11,14 51:18 victim's 41:11 victims 41:13 48:11 51:1 view 70:6 73:18 violating 25:3 50:18 violence 43:4,16 43:21 52:3 violent 31:24,24 32:11 35:8 40:21 40:24 43:10,13,14 43:16 44:14 51:12 51:18 53:14,17</p>	<p>65:23 69:3 77:15 78:7 79:1 vitae 18:9 voice 58:13 volume 63:1 64:15 64:23 volunteers 11:6 vs 1:8 vulnerable 40:25 41:6</p> <p style="text-align: center;">w</p> <p>waiting 59:21 want 8:9 21:16 37:19,25 60:13,14 69:10 73:23 74:4 74:10,15 77:19,21 wanted 58:10 wants 21:22 way 32:8 72:19 ways 47:12 we've 46:22 weapon 28:15 30:24 35:9 65:12 65:21 weapons 24:6 28:11 31:9 33:16 45:6 52:21 70:14 weeks 12:10 welcome 81:3 went 49:16,17,18 whereof 83:17 wholeheartedly 40:9 wide 29:15 wisdom 63:14 wise 3:10 15:1,3 18:2,6 25:21 29:25 33:2,17 34:10,16 35:10,12 35:19 36:11 37:16 37:21 38:7,22</p>

[wise - york]

Page 19

39:7,18 40:5,15	y
41:1,8,15 42:6	y 5:17
43:5,17 44:17	yeah 20:17 46:5
46:3,17 50:13	56:9 59:14 62:2
55:12 60:4,18	66:2 67:5 74:13
61:12 62:1 64:5	year 16:12 20:16
68:25 75:22 80:9	47:17,18,21 55:22
80:21,23	57:6,7,22
wish 80:21	years 12:20 13:6
withdraw 21:5	19:13,14,15 29:4,5
withdrawn 25:17	30:8 44:21 47:17
28:13,18 52:15	47:17,18 56:19
60:21	63:19 64:17 77:15
witness 2:12 4:10	77:16
8:21,25 9:9 16:13	york 84:1
17:2 35:11,23	
41:9 42:7 45:15	
46:5 60:19 62:2	
73:25 75:24 77:6	
82:4 83:6,17	
witness's 62:11	
witnesses' 84:3	
woman 54:5	
wondering 61:8	
word 26:9 64:24	
72:4	
words 39:15 53:23	
63:22 76:14	
work 9:16	
worked 57:18	
70:15	
working 21:9	
29:18 42:24 44:4	
world 56:1	
wrap 73:24	
wrapped 49:11	
writing 79:21	
83:10	
written 15:14	
wrong 60:14 78:18	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT 2

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

MARK BAIRD and RICHARD
GALLARDO,

Plaintiff(s),

vs.

CASE NO.
2:9-cv-00617-KJM-AC

ROB BONTA, in his official
capacity as Attorney
General of the State of
California, et al.,
Defendant(s).

DEPOSITION OF CHARLES D. HAGGARD
Appearing Remotely From Topeka, Kansas
Tuesday, October 19, 2021
Volume I

Reported by:
Carrie Pederson
CSR No. 4373, RMR, CRR
Job No. 4838109
Pages 1 - 104

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK BAIRD and RICHARD
GALLARDO,

Plaintiff(s),

vs.

CASE NO.
2:9-cv-00617-KJM-AC

ROB BONTA, in his official
capacity as Attorney
General of the State of
California, et al.,
Defendant(s).

Deposition of CHARLES D. HAGGARD, Volume I,
taken on behalf of the defendants, at Topeka, Kansas,
beginning at 9:06 a.m. and ending at 11:31 a.m. on
Tuesday, October 19, 2021, before Carrie Pederson,
Certified Shorthand Reporter No. 4373.

1 APPEARANCES :

2

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23

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Page 3

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9
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16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS:

CHARLES D. HAGGARD

Volume I

PAGE

Examination By Mr. Wise 7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

DEFENDANT'S

	DESCRIPTION	PAGE
Exhibit 1	Expert Declaration and Report of Charles "Chuck" Haggard	11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
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CERTIFIED QUESTIONS/INSTRUCTED NOT TO ANSWER

PAGE LINE

82 8

96 19

1 Topeka, Kansas, Tuesday, October 19, 2021

2 9:06 a.m. - 11:31 a.m.

3

4 CHARLES D. HAGGARD,

5 having been administered an oath, was examined and
6 testified as follows:

7 --o0o--

8 EXAMINATION

9 BY MR. WISE:

10 Q. Good morning.

11 A. Morning.

12 Q. My name's Matthew Wise. I represent the
13 California Attorney General in this case which is
14 known as Baird v. Bonta. Would you state your full
15 name and spell your last name for the record.

16 A. My name is actually Charles, D as in David,
17 Haggard, H-a-g-g-a-r-d. I go by Chuck.

18 Q. Do you understand that you're testifying
19 here under the same oath that you would be testifying
20 under in a courtroom?

21 A. I do. Yes, I do.

22 Q. You've been retained as an expert for
23 plaintiffs in this case?

24 A. Yes, sir.

25 Q. Have you ever had your deposition taken?

Page 7

1 A. Not in this case, but previously in life,
2 yes, I have.

3 Q. The court reporter's recording everything
4 that we say, so we need to try to have only one
5 person speak at a time.

6 A. Sure.

7 Q. I'll try to let you finish your answer when
8 I ask a question and before I ask another one. I
9 just ask that you try to let me finish asking my
10 question before you start to give your answer.

11 A. Certainly.

12 Q. If you need to take a break at any time,
13 just let me know. The only thing I'd ask is that if
14 there's a question pending, that you'd answer that
15 question before we take our break.

16 A. Okie-doke.

17 Q. After I ask a question, it's possible that
18 your attorney might have an objection to the
19 question. You should still answer the question
20 unless your attorney advises you not to answer the
21 question.

22 A. Okay.

23 Q. If you don't understand a question, please
24 let me know, and I'll try to rephrase the question.
25 Do you understand that?

1 A. Yep, I do.

2 Q. You'll have an opportunity, after the
3 deposition, to review the transcript that was made
4 here today, and you'll be able to make corrections to
5 the transcript, but you should know that there will
6 be a record of the corrections that were made, and
7 I'll be allowed to comment on any corrections that
8 you make.

9 A. Okay.

10 Q. Is there anything affecting you today that
11 would prevent you from thinking clearly and
12 testifying truthfully?

13 A. No.

14 Q. How did you prepare for today's deposition?

15 A. I actually did not do any real formal
16 preparation for this deposition. Ms. Bellantoni and
17 I had a casual phone conversation a couple of days
18 ago and wasn't -- actually hasn't been much more than
19 that. Read through -- I forget the -- I don't have
20 it in front of me on the email.

21 There was the other expert that has been
22 retained. He's a chief of police or former chief of
23 police. I was able to read his declaration or his
24 statement and -- but that's been -- you know, this
25 has been set up for a few weeks now, so I was able to

1 read that in the meantime, but that's about it.

2 Q. Is that the declaration of Kim Raney?

3 A. Yes.

4 Q. And other than Ms. Bellantoni, did you speak
5 with anyone about this deposition?

6 A. No, sir.

7 Q. When did you first become involved in this
8 case?

9 A. It's been awhile. As far as pulling a date
10 up, I'd have to defer to Ms. Bellantoni for when she
11 first contacted me to talk about this. It would be
12 really hard for me to say. It seems like a year or
13 two now.

14 Q. Okay. And was it Ms. Bellantoni who
15 contacted you or someone else?

16 A. Yes, she did.

17 Q. Did anyone tell you what they wanted you to
18 do as an expert in this case?

19 A. We had a conversation, Ms. Bellantoni and I,
20 on she was looking for an expert witness to speak
21 towards police training and practices as it pertained
22 to this case, so my understanding of my input, like,
23 here today would be as a law enforcement expert.

24 Q. Have you reviewed the complaint in this
25 matter?

1 A. Yes, sir.

2 Q. Did you have a role in drafting the
3 complaint?

4 A. No, I did not.

5 Q. Are you being compensated for your work in
6 this case?

7 A. I am, although I have yet to send a bill in
8 for anything, so, no, I have not been paid, but we --
9 Ms. Bellantoni and I agreed on a price. Truthfully,
10 I volunteered to do this one pro bono, and she
11 insisted that I not do that, and so I believe it's in
12 my statement or in my declaration, I think we agreed
13 to 75 an hour or something like that.

14 Q. Okay. Let me share my screen. I will try
15 to show you an exhibit here. Could we go off the
16 record for just a moment?

17 (Discussion off the record)

18 MR. WISE: Can we go back on the record now?

19 BY MR. WISE:

20 Q. Okay. We're back on the record.

21 Mr. Haggard, can you see Exhibit 1 on your screen?

22 (Exhibit 1 marked)

23 THE WITNESS: Yes.

24 BY MR. WISE:

25 Q. Okay. Do you recognize this document?

1 A. I do.

2 Q. What --

3 A. This would be the declaration that you asked
4 me, in my preparation, what I had read.

5 Q. Did you prepare this declaration?

6 A. I did not. I spoke to Ms. Bellantoni at
7 length and wrote up my thoughts, and then she made it
8 look real pretty on this document.

9 Q. Does this declaration reflect your thoughts?

10 A. Yes, sir.

11 Q. Okay. And did you sign a copy of this
12 declaration?

13 A. Yes, I did, and then because of the nature
14 of what we're doing, I had to sign and then scan that
15 and then send that in so that you guys would have a
16 legal copy.

17 Q. Okay. Let's look just at page 14 here. I
18 notice that the declaration that I have is not
19 signed, but you do have a signed version?

20 A. Yes, sir, I do.

21 Q. Okay. Would you work with plaintiff's
22 counsel to provide me a signed copy of this
23 declaration?

24 MS. BELLANTONI: Yeah, I'll get that over to
25 you, Matthew.

1 MR. WISE: Terrific.

2 BY MR. WISE:

3 Q. Your declaration cites a number of
4 documents. Besides the documents that you've cited,
5 did you rely on any other documents in reaching your
6 opinion on this case?

7 A. I read the original -- my legal training is
8 failing me here -- the filing, the case that was put
9 forward, and then the other expert, Chief Raney, I
10 read those documents.

11 Q. Did you conduct research to locate the
12 documents that form the basis of your opinion?

13 A. I'm not sure how you mean that. Which part
14 are you referring to?

15 Q. Anything in the declaration itself. Did you
16 conduct any research to try to come up with documents
17 that would support your opinion?

18 A. Not really. A big part of my declaration
19 would be personal observation and experience.

20 Q. Did anyone else provide you with documents
21 that would support the basis of your opinion?

22 A. I don't believe so. Besides the documents
23 that Ms. Bellantoni provided to me that I've talked
24 about reading as far as, like, what's already
25 pertinent to this case, I don't believe so. Like I

1 say, we've been doing this for quite awhile. I will
2 tell you that I do, you know, like, on a regular
3 basis, read up on things like news, gun control
4 issues, crime issues, things like that. All of that
5 is still pertinent to my life. I am still an active
6 duty police officer, so those are all things that I
7 pay attention to, but I don't recall being provided,
8 or, you know, anything like that, anything specific
9 for this case, no, sir.

10 Q. Anyone other than plaintiff's counsel
11 assisted you in preparing this declaration?

12 A. No. Huh-uh.

13 Q. Have you ever served as an expert witness?

14 A. Yes, sir, I have.

15 Q. How many times?

16 A. It's hard to say. Probably a good dozen.

17 I've been retained as an expert witness on police use
18 of force both in civil court and in criminal court.

19 I have been retained as a defense expert on firearms
20 and firearms training in a murder trial. I have been
21 retained as an expert witness on firearms in a
22 series. We had kind of a gang robbery homicide thing
23 that turned into a series of probably eight separate
24 trials because of the nature of that one, so I don't
25 have an -- I'd say probably 10 to 12 times at least.

1 Q. Have you ever testified as an expert on the
2 public carry of firearms?

3 A. No, I have not.

4 Q. Did you attend college?

5 A. I did.

6 Q. What college?

7 A. Kansas State University.

8 Q. Did you graduate?

9 A. I did not. The police department decided to
10 hire, and I had to weigh my options, so ended up
11 taking the job.

12 Q. Besides college experience you had, did you
13 complete any other formal education courses?

14 A. I've completed courses, Kan State
15 University, and then other courses through the
16 military that were adjunct to other colleges such as
17 Washington University, Emporia State, couple of those
18 that were out-of-state things like Louisiana State
19 University that were part of the course that I was
20 doing. That was both in a police capacity and a --
21 or, when I was in the military, military capacity,
22 and those were classes that if you did that, you
23 could gain college credit for that.

24 I've also -- not pertinent to this, but also
25 completed Kansas -- not Kansas State University --

1 Kansas University classes through things like fire
2 science and that sort of thing that all count
3 towards -- you know, so I've earned college credit in
4 a whole bunch of places but never coalesced that into
5 a degree as it were.

6 Q. Any other formal education that we haven't
7 touched on?

8 A. Quite a bit. I'm assuming that you have a
9 copy of my CV. A whole lot of what I've done is
10 things like Force Science Research Center as a force
11 analyst, training on excited delirium and things that
12 are pertinent to police use of force, human dynamic
13 factors, deescalation, verbal judo, etc., etc., as
14 all is preparation and, you know, on-the-job
15 improvement for the jobs that I was doing mainly at
16 the Topeka Police Department, which since I've
17 retired from, but then in my current roles, I'm still
18 a national trainer for National Law Enforcement
19 Training Center. I have my own business. I'm an
20 adjunct instructor for Strategos International,
21 adjunct instructor for Hardwire Tactical, and then
22 I'm a police captain here at my current job.

23 Q. You mentioned that you served in the
24 military. When did you serve in the military?

25 A. It would have been 1982 to -- it's been

1 awhile. 19 -- I'm going to -- I believe 1998, but I
2 might be off on that, but definitely started in '82.

3 Q. What positions did you hold in the military?

4 A. So I was a reconnaissance specialist, and
5 that's a fancy word for -- or fancy term for we go
6 out and find the bad guys and tell everybody else
7 where they are at. So in those roles, I was vehicle
8 driver, I was a machine gunner, I was a squad leader,
9 I was a platoon sergeant. At one point, I was an
10 acting platoon commander when we did not have a
11 lieutenant on who was assigned to our unit.

12 Q. I think you just mentioned this, but did you
13 become familiar with firearms while in the military?

14 A. Oh, yes.

15 Q. Can you describe your experience with
16 firearms in the military?

17 A. So actually in that role, in the job that I
18 had, we were required to train with and qualify on a
19 yearly basis more than most of the Army jobs. If
20 you're, like, a truck driver or something like that,
21 it's very minimal. Infantrymen, obviously you're
22 going to be more that, but just as an example, when I
23 first got into the job that I was in, I was required
24 to qualify -- train with, qualify with a .45 pistol,
25 M16a1 rifle, M60 machine gun, M2 50 caliber machine

1 gun, the M203 40 millimeter grenade launcher, the LAW
2 antitank rocket, Claymore antipersonnel mines.

3 I'm probably leaving something out of the
4 list, but -- and then that -- as firearms changed
5 within the military, like they upgraded pistol, they
6 upgraded rifles, they added grenade launching machine
7 guns and things like that, we all got -- we got
8 trained on those as well.

9 Q. You mentioned that you've had a career in
10 law enforcement. At what point did you begin that
11 career?

12 A. 1987.

13 Q. What department did you work for?

14 A. The Topeka, Kansas Police Department.

15 Q. What were your roles there?

16 A. I started out as a patrolman. I was a
17 patrol officer and eventually a patrol sergeant. I
18 ended my career. The last six years of my career, I
19 was a shift commander as a lieutenant, and then in
20 the interim, I was a member of our SWAT team for
21 little over 17 years, and so I was a breacher, I was
22 a sniper, I was a squad leader.

23 At one point I was the team leader when we
24 did not have a lieutenant assigned. I was a firearms
25 trainer for the unit, a gas guy utilizing the grenade

1 launchers, and in the wider role for the department,
2 I was a field training officer. Then when I
3 promoted, I was a field training sergeant supervising
4 field training officers.

5 I was a firearms instructor, use of force
6 instructor on things like batons, taser, Pepper
7 Spray, handcuffing, arrest and control tactics,
8 things like that, ground fighting, weapon retention.

9 So we had a regional academy that was
10 approved through our state CPOST, so we had -- we did
11 recruit training and in-service training. At one
12 point, I was responsible for all of the use of force
13 and firearms training for the department, and for
14 about -- it was just about three years there, I was
15 the range master where my primary job was to do all
16 of the recruit in-service firearms training,
17 Maintenance, and then my role as a defensive tactic
18 instructor, I was basically in charge of our use of
19 force program where I had officers working for me who
20 assisted with that training.

21 Q. Did you ever develop protocols on how to
22 respond to an incident involving a firearm?

23 A. Yes, actually, and some of it very specific.
24 Right after Columbine, we had -- you know, there was
25 kind of a watershed event in law enforcement where

1 people were like, "Oh, my God, we can't do that"
2 because the perception was that the officers there
3 kind of waited around, so you had to have what we
4 call a rapid response to an active shooter, and then,
5 of course, I don't know if you've ever seen pictures
6 coming outline of Columbine, but there was a wide
7 variety of officers. There were detectives, there
8 were officers in plainclothes, there were officers
9 who showed up off duty, things like that, uniformed
10 police officer from multiple different departments.

11 So, you know, a big part of that would be
12 training the officers on what -- it's often called
13 PID or positive identification. The last thing we
14 want to do is replicate tragedies that have happened
15 in the past in places like New York City where you
16 have a blue-on-blue, you have, like, say, a uniformed
17 officer shooting a plainclothes officer or something
18 like that, so a big part of our training was
19 responding to threat recognition and then proper
20 response, you know, to the scenario as you find it.

21 Q. And what was your role in developing that
22 training?

23 A. I actually developed it from scratch. I was
24 given the job of -- because we wanted to have a rapid
25 response program, I was given the job of, "Hey, we

1 need to come up with something for that."

2 So in my role as the primary firearms
3 trainer at that point, or one of the primary firearms
4 trainers at that point, I was given the role of
5 coming up with an in-service training package so that
6 we could run all our people through rapid response.

7 I would say Columbine was a watershed event
8 for law enforcement in recognition of this, but in my
9 career, I had already responded to two active shooter
10 events, so that was something that was, you know, the
11 type of training that, taken seriously, was really
12 near and dear to my heart, that I'm glad they finally
13 got the -- the command staff finally got the message
14 that that needed to happen.

15 Q. After working at the Topeka Police
16 Department, did you work in any other capacity as a
17 law enforcement officer?

18 A. Yes, sir. Shortly after retiring, because
19 we have a -- we have a technicality in our
20 retirement, you can't do anything for 60 days for a
21 paycheck, otherwise it screws up, you know, the --
22 how the retirement fund works. We have to take
23 60 days off before you're allowed to do anything else
24 or you get paid, so I took short vacation, and then
25 the county north of me, Jackson County Sheriff's

1 Department, was shortly of people, so I became a
2 part-time deputy for them and was helping them out
3 with road patrol and training, and then approximately
4 almost exactly a year after I retired, I took the
5 current job that I have now with Metropolitan Topeka
6 Airport Authority Police and Fire. I know that's a
7 mouthful.

8 And then since then, I am also -- I have --
9 I'm no longer working for Jackson County part-time,
10 but -- this is one of those you know, "You're getting
11 old when." One of my recruit officers is now the
12 sheriff of the county that I live in, and he asked me
13 to come onboard as a part-time deputy, so I'm a sworn
14 deputy with the Shawnee County, Kansas Police
15 Department as well, and I'm currently doing that.

16 Q. Got it. Any other law enforcement roles
17 that we haven't touched on?

18 A. No, sir.

19 Q. Do you have any other current forms of
20 employment?

21 A. Just my side business, and I do consulting.
22 Friend of mine's a retired officer, he has a security
23 company, so every once in awhile, I'll do the
24 qualifications for his guys and things like that, but
25 primarily my Agile Training consulting business.

1 Q. What is Agile Training and Consulting?
2 Would you describe it?

3 A. So my business model is I try to meet
4 clients' needs instead of having a cookie cutter type
5 package like, you know, basic -- I have Basic
6 Pistol 1, Basic Pistol 2 or something like that. I
7 kind of customize classes for people's needs. I've
8 had people hit me up for things like -- I'm currently
9 going -- about to do a in-service package for
10 University Police Department over in Kansas City,
11 Missouri, and they want to have two hours of Pepper
12 Spray update, two hours of weapon retention update
13 and then four hours of arrest and control and a
14 handcuffing package just as an eight-hour day, "Can
15 you do" -- "Yeah, I can, you know, put together a
16 training package for your needs."

17 Much of what I've done lately has been
18 firearms training, and, quite frankly, the business
19 has been a lot better for civilian capacity training
20 than law enforcement training as far as people who
21 are paying for training.

22 Q. Do you conduct any trainings that involve
23 how to respond to a person armed with a firearm?

24 A. Yes.

25 Q. An how do you train your clients to respond?

1 A. Are you talking a -- I'm assuming you mean a
2 nonsworn -- a non-police officer type person.

3 Q. Yes.

4 A. So part of the training I do is -- what we
5 look for in behavioral aspects of pre-criminal
6 assault behavior. One of my friends put a very good
7 label on there, his name is Craig Douglas, and he
8 calls it MUC, M-U-C, managing unknown contacts.

9 Say you are approached by someone on the
10 street that you don't know. How do you read that
11 type of encounter? Is it threatening? Are they
12 setting you up for, like, a mugging or a carjacking
13 or something like that? And talk about the
14 behavioral aspects of what criminal assault looks
15 like.

16 So it comes as some surprise to some people
17 that bad guys can be very sneaky, and, you know,
18 they're not going to have a big sign or, you know,
19 something on the T-shirt that says "I'm a bad guy,"
20 so a big part of mine is the pre-criminal assault
21 behavior-type things, the recognition of what type of
22 scenario you may have found yourself in to -- and
23 then the how to respond correctly in those scenarios,
24 and I will do that with verbal skills, verbal
25 deescalation.

1 Very popular part of my training has been
2 Pepper Spray, how to do something that's not -- you
3 know, what I call something between a harsh word and
4 a gun, and then recognition of is -- you know, in my
5 end of scenario that actually requires a firearms
6 response, you know and, if so, how to do that, what
7 that might that look like.

8 Q. In those classes, do you recommend that your
9 clients carry a firearm?

10 A. I never recommend to anybody that they carry
11 a firearm. That's a very personal decision. I can
12 speak to the pluses and minuses of carrying a
13 firearm, but I have clients that I have worked with
14 who -- like, one friend of mine who used to be an
15 ADA, and, as you can imagine, in that capacity
16 putting people in prison, you can -- you know, she
17 picked up a stalker, and then I helped her with a
18 security package as a friend, how to harden her house
19 and have some defensive options.

20 She was adamant she did not want a gun. She
21 was just not a gun person. I'm not going to push a
22 gun on her. So we came up with non-gun home defense
23 options for her that made her feel more comfortable.

24 So if people want firearms training, I will
25 offer firearms training. If people are adamant that

1 they don't want firearms training, that they're
2 looking for something else, then, you know, that's
3 like anything else, like whether you drink or not,
4 that's an extremely personal decision.

5 Q. And just for the record, when you said
6 "ADA," what were you referring to?

7 A. Assistant district attorney. I'm sorry.

8 Q. Do you believe that carrying a gun in and of
9 itself makes a person safer?

10 MS. BELLANTONI: Objection.

11 You can answer.

12 THE WITNESS: Excuse me. I've been talking
13 awhile. My throat is dry.

14 I believe it can. I have personally been
15 involved in scenarios where I was just another dude
16 off duty in which I know that if I had not had a
17 firearm, I would have been a victim of a violent
18 criminal assault or, you know, armed robbery, that
19 sort of thing. I believe that having a firearm gives
20 one the option of being able to not leave oneself at
21 the other guy's mercy.

22 BY MR. WISE:

23 Q. Would you consider a gun a tool of limited
24 utility in most situations?

25 A. It is definitely a tool of deadly force,

1 and, you know, one of the things that people need to
2 know is you can't legally shoot people a little bit.
3 It is a tool for managing situations that require a
4 deadly force option.

5 Q. I think you were mentioning this earlier,
6 but are there particular steps that you recommend
7 that your clients take before they carry a firearm in
8 public?

9 MS. BELLANTONI: Objection.

10 You can answer.

11 THE WITNESS: I would -- it sounds
12 self-serving because I am in a training business, but
13 I obviously counsel people that they need to have
14 some sort of training and education both how to
15 safely handle firearms -- I mean, something as
16 simple -- even in a hunting capacity, most people
17 would want to go through -- like we -- here in
18 Kansas, we have a hunter safety course, you know,
19 that just seems like a very logical thing, but going
20 through some -- both the mechanics of how the firearm
21 works and then how to effectively mechanically shoot
22 the gun, what you would think of as marksmanship
23 training and then having some sort of education on
24 when that's appropriate.

25 I suppose smart people can do things like

1 here in Kansas, you can pull up the state law, and
2 it's very clearly stated when defense of a person or
3 your domicile is allowed, but I counsel people that
4 they probably want to get some education, probably
5 want to get some training just like anything else. I
6 counsel driver's ed before you get behind the wheel
7 of a car. It just seems to make sense.

8 BY MR. WISE:

9 Q. Before your clients carry a firearm in
10 public, do you recommend that they get physically
11 fit?

12 MS. BELLANTONI: Objection.

13 You can answer.

14 THE WITNESS: Was that, "Go ahead and
15 answer" or --

16 MS. BELLANTONI: Go ahead and answer.

17 THE WITNESS: Actually, I recommend
18 everybody get as physically fit as they can because
19 we know heart attacks kill a lot more people than
20 virtually anything else, you know, lifestyle. I
21 don't want to get too deep in the whole COVID thing,
22 but when you look at what makes you susceptible to
23 COVID, the comorbidities are a very big deal.

24 However, comma, the most vulnerable
25 populations are the people who are elderly, less

1 physically fit, you know, and I have some sympathy to
2 that. In my prime when I was in my 30s and I could
3 run two miles in 12 and a half minutes and pick up
4 600 pounds off of the ground any time I felt like it
5 and I was a judo and Jujitsu guy, I could handle
6 virtually any grown man that I ran into.

7 Now I'm 57, and I have a bad knee, and I've
8 jumped out of too many airplanes, and I've
9 rub-marched too many times. I have no cartilage in
10 one of my knees and little cartilage in the other,
11 and I need a hip replacement according to -- two out
12 of three orthos say I need a hip replacement.

13 So the thought occurs to me that people who
14 are less physically capable need more means to defend
15 themselves, and that often means that they need tools
16 to solve that problem.

17 BY MR. WISE:

18 Q. Before your clients carry a firearm, would
19 you recommend that they carry other items to defend
20 themselves?

21 A. So part of my training is -- I've obviously
22 already mentioned that I'm a big proponent of Pepper
23 Spray, I have taught it for a long time, and I've
24 used it in a law enforcement capacity hundreds of
25 times. I'm a big believer in that as a less than

1 lethal tool, and I point out that there are
2 situations -- like, I know as a police officer, there
3 are situations where if you use sufficient force
4 early, that you could interdict having to use more
5 force later.

6 The case of Kyle Dinkheller, who was a
7 deputy who was famously murdered on his -- on car
8 camera in a gun fight is one of those cases that's a
9 glaring example. But Pepper Spray is a less than
10 deadly force option for in a case where you find
11 yourself subject to physical force. Guns are a tool
12 of deadly force, and those are two different
13 scenarios.

14 Q. Why do you train your clients to take these
15 other steps before when they carry a firearm in
16 public?

17 MS. BELLANTONI: I'm going to ask for some
18 clarification on what other steps you're referring
19 to.

20 THE WITNESS: I was about to do the same,
21 so --

22 BY MR. WISE:

23 Q. Sure. And the other steps I mean are
24 getting training, carrying Pepper Spray, reading up
25 on the law, the steps that you just mentioned.

1 MS. BELLANTONI: I'm going to object to that
2 as well because I don't believe there was testimony
3 that he recommends they carry Pepper Spray, but maybe
4 we could get clarification on that.

5 THE WITNESS: So I'm a big believer in human
6 beings being as capable as possible, and that may be
7 an artifice of my time as a police officer. I
8 believe that, as a cop, you're in the lifesaving
9 business, and now, you know, I'm also a firefighter
10 on the side, so I'm in another lifesaving business,
11 you should be as capable as you possibly can, so my
12 counsel to human beings in general is that we should
13 be working to be better human beings this week than
14 we were last week, if you will, and that's kind of an
15 off-take of that.

16 Also, the more capability -- the more
17 training, education and capability you have, the more
18 situations you are going to be able to overcome if
19 you find yourself in a bad place. I think we could
20 agree if you were an Olympic class swimmer, when your
21 sailboat sinks, you're going to be a lot better off
22 than your average dude that falls off a sailboat.

23 So if looking at my experience with street
24 crime, things like muggings, purse snatchings,
25 carjackings, person robberies, things like that,

1 those can have a -- they can be a large range of
2 circumstances, so recognition of the problem,
3 figuring out ways to try to deescalate that, if
4 possible, having options if it's not a deadly force
5 scenario, and then having options if it is a deadly
6 force scenario is my counsel to people on how to best
7 cover the range of possibilities that people find
8 themselves in.

9 BY MR. WISE:

10 Q. Do you have concerns that some persons that
11 carry openly don't know how to properly handle their
12 firearm in public?

13 A. I'm not sure how to tactfully word this, but
14 I have concerns, and I don't mean just the public, I
15 mean the police and the military. I have concerns
16 about the quality and quantity of training available
17 to the human race in general.

18 I'm currently in a bit of a dispute with our
19 state academy over what I believe is not -- the
20 training they're offering could be better, I'll just
21 say that. Do I worry about other people carrying
22 guns? I've been around other people carrying guns my
23 entire life, so not that much.

24 Q. You have already responded in part to this,
25 but would you agree that a factor that affects

1 whether a person uses a firearm safely is their
2 training?

3 A. Probably, yeah, yeah, I'd say that. Just
4 like anything else, I mean, if you were to -- if
5 you've never used a chainsaw before and you go pick
6 one up and start it up, you know, that might not be
7 the safest way to do business.

8 Q. Would you agree that a factor that affects
9 whether a person uses a firearm safely is their
10 ability to deescalate a situation?

11 MS. BELLANTONI: Objection.

12 You can answer.

13 THE WITNESS: I don't know that I'd agree
14 per se with that. Deescalation is a two-way
15 communication process, and the other person has a say
16 in what you are doing. We have to deal with that in
17 depth right now in law enforcement, "deescalation"
18 has been a whole big ugly buzz word, but let's say I
19 have somebody in a state of excited delirium or very
20 high on drugs. You know, I can't communicate or
21 deescalate with another person who isn't -- doesn't
22 even realize I'm on the same planet with them.

23 I've had to deal with people who are -- you
24 know, you try verbal deescalation, and you realize
25 you're dealing with somebody who's profoundly

1 paranoid schizophrenic on a psychotic break, can't
2 really talk to that person, so the onus, the -- you
3 know, the weight of the deescalation on the person
4 carrying the gun, I think, is only -- you can only do
5 so much.

6 BY MR. WISE:

7 Q. Are there certain situations, though, when
8 the ability to deescalate a situation allows a person
9 to carry a firearm more safely?

10 MS. BELLANTONI: Objection.

11 You can answer.

12 THE WITNESS: So I would argue that in some
13 scenarios, like I was in a case where I was off duty,
14 and I was with my girlfriend, we missed the last
15 Metro, we missed the last subway back to our hotel,
16 had to walk back in the dark, got confronted for what
17 would have been a street robbery by three dudes who
18 were all my size, so that's a fight I cannot win,
19 can't fight three guys empty-handed.

20 I ended up pulling a snub nose revolver on
21 them, and a combination of having a gun and then
22 verbal commands was what allowed me to deescalate
23 that scenario and kept it from turning into -- either
24 into a robbery where I got beat down or a situation
25 where I had to shoot one or more of them.

1 So I would say with a gun, that the use of
2 the gun can be part -- or the availability of the gun
3 can be in fact part of the deescalation process
4 where, if you have a criminal, they realize that you
5 have the capability to defeat their means of
6 assaulting you, and that becomes part of the
7 deescalation process whereas if you did not have that
8 with you, they would go ahead and carry on.

9 BY MR. WISE:

10 Q. And so in that situation, your ability to
11 deescalate the situation prevented you from having to
12 fire your gun, for example?

13 A. Well, in that case, the display of the gun
14 and then the verbal -- you know, my commands to them
15 to stop what they were doing was what allowed me --
16 those in concert was what allowed me to keep that
17 from turning into either a beat-down on my part or a
18 shooting on their part.

19 Q. Let me just circle back again and just make
20 sure I'm understanding correctly.

21 A. Okay.

22 Q. So are there any situations where a person's
23 ability to deescalate a situation allows them to
24 carry a firearm more safely?

25 MS. BELLANTONI: I just want to just

1 clarify, I should have a couple of questions ago, but
2 when we talk about deescalation, are we talking in
3 terms of a uniformed police officer attempting a
4 deescalation or civilian?

5 MR. WISE: Yeah. I was talking about a
6 civilian. Thanks for clarifying.

7 MS. BELLANTONI: I object.

8 But you can go ahead and answer.

9 THE WITNESS: I'm having trouble thinking of
10 a scenario where that would fit.

11 BY MR. WISE:

12 Q. Okay. Do you agree that a factor that
13 affects whether a person uses a firearm safely is
14 their decision making process under stress?

15 A. I could agree with that.

16 Q. Would you agree that a factor that affects
17 whether a person uses a firearm safely is their
18 marksmanship?

19 MS. BELLANTONI: I'm going to object to
20 that, and I'm going to ask for clarification on
21 distance, if you can provide more of a scenario-based
22 circumstance because there's a lot of factors that go
23 into that decision.

24 THE WITNESS: May I interject on that? So
25 my answer was going to be not as much as people would

1 suspect. So in an overall view of most nonpolice
2 defensive shootings, if you take anecdotal databases
3 like the one that -- the ones we get off of the news
4 that go into the NRA magazine that's out every
5 month -- and they have an article called The Armed
6 Citizen.

7 The vast majority of the people involved in
8 these cases where you see, like, "78-year-old Grandma
9 Shoots Burglar Used Alleging .22 rifle." Vast
10 majority of those people have very little or no
11 formal training.

12 And then the marksmanship issue that we see
13 in a -- on the street -- I'm not talking about a home
14 defense scenario, although that could -- it's pretty
15 similar, but in a street, what I would consider a
16 civilian street encounter or street crime encounter,
17 let's say a mugging or carjacking or something like
18 that, these encounters tend to be incredibly close.

19 The vast majority of bad guys, when they go
20 to do things like mug you or car jack you, things
21 like that, are within touching distance of the
22 victim. Even in police encounters, we see that the
23 vast majority of police officers, when they're
24 feloniously killed with a firearm or killed within
25 three feet to three yards of the suspect, so if we

1 look at the -- there's an old saying in pistol fights
2 that it's three yards, three shots, three seconds,
3 and if you look at a lot of these encounters, they
4 fit right into what we're talking about, is the
5 marksmanship issue actually isn't that tough.

6 BY MR. WISE:

7 Q. Would you agree that a factor that affects
8 whether a civilian uses a firearm safely is their
9 mental state?

10 MS. BELLANTONI: Objection.

11 You can answer.

12 THE WITNESS: So I'm going to assume -- by
13 "mental state," do you mean their mental health or,
14 like, their emotional state at the moment, or what do
15 we mean?

16 BY MR. WISE:

17 Q. Sure. Let's just take that one-by-one then.
18 Their mental health.

19 A. Well, I would hope that people who have
20 significant mental health issues would not be running
21 around with a gun. We're kind of supposed to screen
22 for that. But then as far as their current mental
23 state, having been in that scenario, being criminally
24 victimized is obviously a very exciting, and, you
25 know, it's an event in which it's going to be

1 emotionally charged, so I don't think that you can
2 put somebody in a scenario like that and not have a
3 significant emotional response out of just human
4 beings in general.

5 Q. Let's assume that they're not being
6 victimized by just their carrying a firearm, okay,
7 and so my question is would you agree that a factor
8 that affects whether a person uses a firearm safely
9 is, let's just say, their emotional state?

10 MS. BELLANTONI: Objection. So using a
11 firearm, but they're not being victimized, so if I
12 could just get more clarity on that question.

13 BY MR. WISE:

14 Q. Let's say that -- I'm sorry. I should just
15 say carrying a firearm.

16 A. I'm not sure exactly how to quantify that
17 one. I think like a lot of things that human beings
18 do like driving cars, you should probably --
19 utilizing chainsaws, you should probably be a mature
20 adult if you will. There's a reason why we, you
21 know, don't give 13-year-olds driver's licenses and
22 things like that. So that, I guess, emotional
23 stability or emotional maturity kind of comes with
24 that, so I guess I'm kind of agreeing with you.

25 Q. Would you agree that a factor that affects

1 whether a civilian uses a firearm safely is whether
2 they're intoxicated?

3 A. Certainly.

4 Q. Would you agree that in general, an off duty
5 officer is more likely to be prepared to use a
6 firearm safely than the average civilian?

7 MS. BELLANTONI: Objection.

8 You can answer.

9 THE WITNESS: I'm on the fence on that one.
10 I'm really on the fence on that one. It's hard for
11 me to mentally average law enforcement officers.
12 It's also hard for me to mentally average non- -- I
13 know -- I can think of quite a few people who are not
14 cops that I would rather have backing me up on
15 something bad happening than some of the cops that I
16 know, and, of course, the flip side is also there, so
17 that would be one I would have to ponder. I really
18 can't give you an answer on that one.

19 BY MR. WISE:

20 Q. Would you agree that in general, an
21 undercover officer is more likely to be prepared to
22 use a firearm safely than the average person?

23 MS. BELLANTONI: Objection.

24 You can answer.

25 THE WITNESS: I'd have to have the caveat of

1 having to know what some of their training is. Like,
2 here in my state, unfortunately, there's no
3 requirement for police officers to do anything but
4 shoot the qualification course from their police duty
5 belt, so there's no formal instruction in the police
6 system here in my state on, like, how to carry a gun
7 concealed or how to deploy a gun concealed.

8 Officers who are doing those things and are
9 very competent at them are either working that
10 problem themselves or seeking training outside of
11 their department to get that, or they have a very
12 progressive training department who is offering that
13 sort of training to their people. So, again, I'm not
14 sure I can say that I agree with that.

15 BY MR. WISE:

16 Q. Would you agree that in general, a retired
17 officer is more likely to be prepared to use a
18 firearm safely than the average person?

19 MS. BELLANTONI: Objection.

20 You can answer.

21 THE WITNESS: I would say that if you've got
22 a good street cop and they've had a lot of years on
23 the job, what they're going to be good at, because
24 they've been in a bunch of them, is handling critical
25 incidents, so potentially, yes.

1 BY MR. WISE:

2 Q. Would you agree that in general, a person
3 who a law enforcement agency has determined to have
4 good cause to possess a firearm is more likely to be
5 prepared to use a firearm safely than the average
6 civilian?

7 MS. BELLANTONI: Objection.

8 You can answer.

9 THE WITNESS: So I'm assuming, like, in a,
10 you know, show cause type of state, if -- like, in
11 New York, I know you have to prove that you have a
12 good reason to have a gun before they'll give you a
13 permit or something like that, so I assume you're
14 speaking to that type of paradigm.

15 BY MR. WISE:

16 Q. That's right.

17 A. I can't say that's the case. You know, it
18 would entirely depend upon the criteria. You know,
19 they could make a -- depending on the criteria, but
20 generally I disagree with that. I know a lot of the
21 people who get permits, and I'll pick on New York. I
22 have a little bit of knowledge of that, particularly
23 New York City.

24 Your cause has to do with things like, you
25 know, you're a high end jeweler and you carry a lot

1 of cash or you do cash transports or jewelry
2 transports or things like that, so the official
3 perception of your threat level wouldn't really have
4 anything to do with your ability to respond to that.

5 Q. Do you train your clients on how to prevent
6 their firearm from being stolen?

7 A. Yes, I do.

8 MS. BELLANTONI: Objection. Can I just get
9 more clarification on what you mean by "stolen"?
10 Like, from the person? From their home?

11 BY MR. WISE:

12 Q. Stolen from their person, from their home,
13 their car, wherever.

14 A. Actually, all of the above. I talk about --
15 let's say you have a concealed carry, but you go to
16 some someplace that has one of those no gun signs.
17 Like, here in my state, you can lock your gun up in
18 your car legally in the parking lot of that property,
19 but, you know, you're not supposed to go -- like,
20 let's say it's a department store. You're not
21 supposed to go in the store with a gun, but you can
22 lock your gun up legally on the parking lot, so they
23 clarified that in the law.

24 You don't just want to leave your gun in
25 someplace like the glove box, that's ill-advised, so

1 I advise things on like how to secure a gun in a car,
2 how to secure a gun in the home, how to avoid having,
3 like, your toddler get ahold of your gun or something
4 like that, but then also one of my specialties is
5 weapon retention and disarming skills. I've been
6 teaching that for a very long time. So how to keep
7 your gun from being taken away from you.

8 Q. Why is it important for your clients not to
9 allow their firearms to be stolen?

10 A. You don't want the bad guys to have your
11 guns, or, you know, something like leaving it out
12 where a toddler can get it or, you know, whatever the
13 case may be. I can point to specific cases. One
14 of -- the last officer that was killed on my old job
15 was a friend of mine, and he was shot in a gun stolen
16 out of a home burglary. So somebody had an unsecured
17 loaded pistol laying around their house, and he was
18 shot dead with it during the course of a speeding --
19 a car stopped for speeding.

20 So those are the type of things that, you
21 know, I never -- I've worked a couple of cases where
22 small children were shot over playing with guns, and
23 those are pictures that are stuck in my head that are
24 never going to go away, so I counsel people on the
25 importance of things like safe storage but then also,

1 you know, if you have the gun on your person, how to
2 go about safely doing that as well.

3 Q. Have you ever published any articles on
4 topics related to the public carry of firearms?

5 A. I have.

6 Q. What articles did you publish?

7 A. It's been a few. So I've written for Recoil
8 Magazine which is a paper, you know, type magazine.
9 I have written for the Tactical Wire, which is a
10 strictly online type of thing, and I have talked
11 about, like, carriage of smaller guns, utilizing
12 revolvers, things like that. So, yeah, I've dabbled
13 in that.

14 Q. Were any of these articles based on
15 independent research that you conducted?

16 A. I can't say formal research. Like, I did
17 not do a scholarly-type paper or something like that,
18 no, sir. It would be more things that I've read,
19 things that I've studied up on and then personal
20 observation and experience through my travels.

21 Q. Do you have any academic background in
22 conducting research?

23 A. Minimal.

24 Q. Besides what we've discussed today, do you
25 have any other experience that informs your views on

1 the public carry of firearms?

2 A. I have quite a bit of experience with being
3 around it. My state, of course, with Kansas, if you
4 go back, we had Wyatt Earp, Bat Masterson, things
5 like that, we had the Frontier Days, the cattle
6 drives, Oregon-California Trail, things like that
7 going on. I'm a big history buff.

8 And then if you go back to when I started my
9 time in law enforcement, there was no way for anyone
10 besides a commissioned law enforcement officer to
11 carry a gun in the State of Kansas outside of, like,
12 hunt -- they had an exception for hunting and
13 fishing, you could carry a concealed handgun, and,
14 obviously, if you're hunting, you could do things
15 like carry your shotgun or your deer rifle, things
16 like that, but that's -- it was allowed -- the state
17 allowed individual cities to ban carry of firearms,
18 things like that.

19 It was legal to have a loaded gun in your
20 car but not on your person, weirdly enough, but then
21 a lot of the cities banned loaded guns in cars. So
22 that's where I started my time in law enforcement,
23 and then since then, there's been decisions, legal
24 precedents, things like that, particularly after
25 Heller, the Kansas attorney general who came down

1 with an opinion that certain Kansas laws were
2 unconstitutional. Some of those laws were changed.

3 There were several court cases where cities
4 tried to go back to the old way of doing business,
5 and they were disallowed from that, so in my time as
6 a cop, we went from nobody could carry, and including
7 retired law enforcement officers could not carry a
8 gun. The only people who could carry was on duty
9 cops or off duty cops but only with the permission of
10 their chief law enforcement officer, so some off duty
11 cops couldn't carry.

12 And then we went to a rather strict conceal
13 carry permit system, then a much looser conceal carry
14 permit system and then an attorney general's opinion
15 that allowed what people would call the
16 constitutional carry, if you will, where you could
17 carry concealed or open carry without a license, and
18 there were several lawsuits over -- like, I know
19 Overland Park, Kansas tried to ban open carry, and
20 the attorney general's office took them to court over
21 that or was at least part of those proceedings.

22 And so in my state, it is legal to carry
23 concealed, it is legal to carry unconcealed, it is
24 legal to -- you can get a conceal carry permit which
25 a lot of people do if that allows reciprocity. Like,

1 if you have a Kansas permit, you can carry in
2 Missouri, Nebraska, Oklahoma, Colorado, Texas.
3 There's a litany of places you could carry.

4 So some -- a lot of people will get the
5 permit because, you know, you can travel, but also a
6 lot of people don't. So it's very common for me to
7 deal with nonpolice firearms carriers or to see
8 people carrying a gun in public.

9 Q. Over the course of your career, have you
10 served in any law enforcement command positions?

11 A. Yes, sir. I was a lieutenant shift
12 commander for my department. At one point, we had a
13 hiring freeze, and we had a promotion freeze, so I
14 was simultaneously the first shift and second shift
15 patrol commanders, and I was in charge of the
16 motorcycle unit and the school resource officers.

17 Q. And what department were you working for?
18 What timeframe?

19 A. That was Topeka, Kansas PD, and that would
20 have been approximately -- I'm doing the math here.
21 So I retired in December of 2014, and that would have
22 been about -- I believe I got promoted in 2008 to
23 lieutenant. I'm going to have to look that one up.
24 It might have been '06, but it could have been '08,
25 but I did approximately right about -- would be about

1 eight years, just under eight years as a lieutenant.

2 And then my current job, I'm the captain for
3 the Airport Police and Fire here in the south part of
4 Topeka at the airport, and so I'm in charge of all
5 three of the lieutenants. I have all three of the
6 shifts that we have. We have 24-hour shifts, so we
7 have an A, B and C shift, I'm in charge of them, and
8 then I'm also in charge of all of our firearms and
9 other police training. We have another captain
10 that's in charge of all the fire part of the
11 organization.

12 Q. How long have you served in that role as
13 captain?

14 A. About a year.

15 Q. Have you ever served as a deputy chief of
16 police?

17 A. No, sir.

18 Q. Have you ever served as a chief of police?

19 A. No, sir.

20 Q. And I should go to the sheriff's department
21 too. Have you served in any similar capacity,
22 sheriff?

23 A. No. Just as a deputy.

24 Q. Do you have any background in public policy?

25 A. I have a background in police policy. I

1 have written a number of policy papers, what you
2 would think of as general orders, things like that,
3 but if you mean a larger -- like, the grandest thing
4 I have done is written a municipal ordinance as far
5 as, like, an overarching public policy.

6 Q. What was that municipal ordinance?

7 A. It was a Topeka city code on -- had to do
8 with protests, and it bans masks and body armor while
9 you're in the middle of a protest. I could pull up
10 the number for you if you ever want to look at it.

11 Q. That's okay for now. Any other work that
12 you've done creating a municipal ordinance or similar
13 work?

14 A. Not on that. Mainly I -- I was the author
15 of some of the general orders that we had at Topeka
16 Police Department. My current department, I have
17 written general orders, use of force policy, things
18 like that. I have assisted in policy writing for the
19 IACP.

20 Like, I was part of the model policy for
21 response to excited delirium for International
22 Association for Chiefs of Police organization. So
23 the vast majority of the stuff I've done in that
24 regard has all been cop stuff.

25 Q. Have you ever worked with a policy maker in

1 the creation of public safety policy?

2 A. If you mean like state laws or something
3 like that, not more than lobbying or that sort of
4 thing, no.

5 Q. Have you ever worked with a community
6 stakeholder in the creation of public safety policy?

7 A. On the police level, yes, we had input.
8 Like, things like our chase policy and our police use
9 of force, things like that, we did take -- that
10 wasn't all in-house. There was other people involved
11 in that, mayor's office, city council members, other
12 community -- I'll use the "stakeholder" word.

13 Q. Any other examples besides what you've just
14 reviewed?

15 A. No, sir, none that I can think of.

16 Q. Have you ever worked with a researcher in
17 the creation of public safety policy?

18 A. No, not really, no.

19 Q. Okay. Let's turn to your opinions. What
20 field would you consider yourself an expert in?

21 MS. BELLANTONI: Objection.

22 You can answer.

23 THE WITNESS: Personally, I think the term
24 "expert" is overused, but the courts have said I'm an
25 expert in police use of force, use of force decision

1 making, firearms, firearms training and ballistics,
2 terminal ballistics, firearms identification, police
3 use of force other than firearms, Pepper Spray,
4 taser, arrest and control tactics. I've been
5 utilized as an expert on police response tactics. At
6 any rate, those are the things that I've been
7 court-recognized as an expert.

8 BY MR. WISE:

9 Q. What is the basis for your opinions in this
10 case?

11 A. Basically the totality of my training and
12 experience as a police officer.

13 Q. Okay. Let's look at page seven of your
14 report.

15 A. I have to find my glasses for this one.

16 Q. Can you see the screen okay?

17 A. Yes, sir.

18 Q. Okay. Great.

19 A. I can now.

20 Q. Let's look at paragraph 20. You state "The
21 implementation of laws that allow open carry in
22 public does not have a negative impact on public
23 safety. The act itself, a lawful person openly
24 carrying a firearm in public does not have any
25 negative or detrimental effect on public safety, does

1 not itself create a safety hazard, and is not the
2 cause of accidental or mistake-of-fact shootings of
3 civilians by police officers." Is this your opinion?

4 A. Yes.

5 Q. Okay. Would you explain what you mean?

6 A. So just the mere fact that somebody's
7 carrying a gun -- and I'll go with a holstered
8 handgun, let's say, in and of itself. It just is
9 what it is. It isn't a negative or doesn't have an
10 effect on public safety.

11 The idea that the police would show up and
12 be, "Oh, my God, that guy's got a gun, we better
13 shoot him" borders on the ridiculous in my mind, that
14 -- and a bunch of that is personal observation.

15 Both here in Kansas and part of the business
16 that I do both as a police trainer and in my own
17 business as a -- we'll just say civilian firearm
18 trainer, is travelling to other states. You know,
19 just this year, I've been to -- I've conducted
20 training or been at training in Texas, Oklahoma,
21 Missouri, Utah, Wyoming. I'm leaving something out.

22 But at any rate, I see -- I go to a lot of
23 places, see a lot of stuff, and this is something
24 that -- part of the reason in conversation when I
25 talk to Ms. Bellantoni, you know, what's my personal

1 observations, like I guarantee you I can walk out of
2 here now and go to someplace like Walmart here in my
3 town and find somebody carrying a pistol in a holster
4 visible on their belt or, quite frankly, carrying
5 concealed poorly where everybody can tell that
6 they're carrying a pistol, but, you know, you can see
7 that there's an obvious bulge and things like that.

8 I can find somebody -- I can walk out of
9 here and find somebody in 15 or 20 minutes, and it's
10 just -- it just is what it is. It's like saying,
11 "It's a sunny day out, that guy's carrying a gun."
12 It's not a positive, it's not a negative, it just is.

13 I haven't noted, in observation in my time
14 as a cop in dealing with people on the street, that
15 open carry does anything that doesn't bring any
16 detriment to the public safety realm.

17 Q. Besides your personal observations, what
18 else did you rely on to reach this opinion?

19 A. Primarily, that was it. One of my big
20 things that I do is every chance that I get, I delve
21 into anything that involves the police. A lot of
22 things that are out there in the police world get
23 write-ups. There are famous things that we have to
24 look at.

25 Obviously, you know, the George Floyd thing

1 last year, that was a botched arrest and control
2 scenario, and that's right in the middle of my
3 bailiwick on, you know, teaching cops how to avoid
4 things like in custody deaths; and then, you know,
5 less well known but pretty famous, the bad shooting
6 that turned into a riot that came out of Atlanta PD,
7 which was, you know, basically another arrest and
8 control scenario with a taser.

9 So I try to stay on top of those trends
10 absolutely as much as I can, and I also pay attention
11 to anything in the police publications or any of the
12 newsletters, any of the stuff that comes through my
13 email. My email lists are fairly extensive.

14 So I'm always looking for after actions on
15 incidents as much as possible, both to support my
16 business and helping, you know, regular people not be
17 the victims of crime, look for criminal, crime
18 trends, look for trends in law enforcement. We know
19 in the past couple of years, ambushes has been a
20 thing that has been up, so trying to stay on top of
21 that sort of thing as well.

22 Q. Did you rely on any research to support your
23 opinion?

24 MS. BELLANTONI: Other than what he
25 testified to?

1 THE WITNESS: I can't point you to a
2 specific paper or anything like that, no, sir.

3 BY MR. WISE:

4 Q. You continue on page eight, paragraph 21 --

5 A. Uh-huh.

6 Q. -- stating "The lack of proper police
7 training creates or can lead to a public safety
8 hazard and the accidental shooting of civilians,
9 whether unarmed, carrying concealed, or carrying
10 exposed open carry." Would you explain what you
11 mean?

12 A. So if you don't have -- you know, and this
13 is something that is deep in the training that good
14 law enforcement firearms instructors find themselves
15 in. If we look at some of the court cases that are
16 out there like, you know, the places lost big
17 lawsuits, Zuchel v. Denver is an example that is
18 glaring in the police world that is brought up.

19 If you look at Popow v. Margate and we look
20 at what do the courts say valid police training
21 should look like versus what had happened -- you
22 know, if you look at the Popow case, they were
23 shooting at a man that was running, and gentleman
24 came out on his porch to see what was going on, and
25 then as the suspect was running past the gentleman on

1 his porch, he got shot by the police because he was
2 downrange of where the bad guy was.

3 So that would be a glaring historical
4 example of incorrect or improper or nonexistent
5 police training contributing to a public safety
6 hazard that, quite frankly, didn't exist before the
7 police showed up. So avoiding mistake-of-fact
8 shootings is a big deal in the police world and the
9 training that is done right.

10 Q. Is it your opinion that proper law
11 enforcement training is the most important factor to
12 prevent civilian shootings by law enforcement
13 officers?

14 A. If you mean mistake-of-fact or not shooting,
15 shooting the wrong people, then I would say yes.

16 Q. Incidentally, is that one of the reasons you
17 founded your company, Agile Tactical?

18 A. So I founded the company because I was
19 getting -- I had been a police trainer for so long,
20 and then that was mainly what I did, and as I reached
21 retirement, I had so many people asking me outside of
22 the police world for training, I thought, well, I
23 should kind of formalize this thing.

24 Q. Do you believe that a person who is carrying
25 a firearm in public, a civilian who's carrying a

1 firearm in public is more likely, all things being
2 equal, to be shot than a civilian is who is unarmed?

3 MS. BELLANTONI: Objection.

4 You can answer if you can.

5 THE WITNESS: So historically, if you look
6 at people who are big crime victims according to --
7 and this is according to national stats, which, of
8 course, fluctuate every -- year to year, things like
9 that, but if you look at people who resist things
10 like robberies, that sort of thing, the safest way to
11 do that is to utilize a firearm. Statistically,
12 that's the case, and that's been the case for quite
13 some time.

14 So I'm not exactly sure how to quantify your
15 question on are they more likely to be shot or not be
16 shot, but I think it's pretty clear statistically if
17 they resist being a crime victim through the use of a
18 firearm, then they're less likely to suffer any
19 injury at all. That's been the running statistic
20 coming from the feds every year.

21 BY MR. WISE:

22 Q. And when you're referring to the statistics,
23 what in particular are you referring to?

24 A. The national -- so I'm going to look up the
25 formal name of that so I don't -- it's Bureau of

1 Justice Statistics. I don't want to misstate the
2 name of what I'm talking about. I'm firing up my
3 other magic Google box.

4 Q. If that would refresh your recollection, go
5 ahead.

6 A. Okay. So the formal name for that page is
7 Bureau of Justice Statistics. I was having a little
8 Alzheimer's on the name of that one.

9 Q. Thank you. Okay. Do you believe that a
10 civilian who's carrying a firearm in public is more
11 likely, all things being equal, to be shot by a law
12 enforcement officer than a person or a civilian who's
13 unarmed?

14 MS. BELLANTONI: Objection.

15 You can answer if you can.

16 THE WITNESS: I don't because a lot of the
17 mistake-of-fact shootings, particularly the ones that
18 are very high profile, we can point to demonstrate
19 they did not have a firearm on their person, and they
20 were shot in a mistake-of-fact shooting because they
21 had something as innocuous as a cellphone or
22 something else.

23 If you look at the famous case out of NYPD,
24 I can't pronounce the gentleman's name or -- well,
25 it's something like Diallo, where their street crimes

1 unit fired the -- you know, the famous 47 rounds that
2 Bruce Springsteen spoke of, he had a wallet in his
3 hand when he was shot.

4 BY MR. WISE:

5 Q. I just want to make sure I'm understanding
6 you because you mentioned a few examples. Are you
7 talking in general or just examples that come to
8 mind? And what I'm trying to --

9 A. I --

10 Q. Yeah.

11 A. I don't believe that you would be more
12 likely to be mistakenly shot by the police, and I'm
13 assuming someone who is not a criminal actor, but,
14 you know, just an average Joe, I don't think you're
15 more likely to be shot by the police whether you have
16 a gun or you don't have a gun.

17 Q. Let's look at paragraph 24, still on
18 page eight.

19 A. Okay.

20 Q. You state "Mr. Raney's opinions are based on
21 speculation and a generalized fear that law-abiding
22 individuals, simply by the act of carrying their
23 firearm exposed, will cause panic among police
24 officers and the public, waste political" -- excuse
25 me -- "waste police resources and ultimately lead to

1 police officers shooting civilians carrying exposed."

2 A. Okay.

3 Q. Is that your opinion?

4 A. Yes.

5 Q. Okay. Do you understand Mr. Raney to have
6 the opinion that police officers will panic when
7 responding to a call about a person who is carrying a
8 firearm openly?

9 A. What he describes in his declaration sure
10 appears to color it that way.

11 Q. Do you understand Mr. Raney to have the
12 opinion that police officers are likely to shoot a
13 person simply because they are carrying a firearm
14 openly?

15 A. He also seemed to hint at that in his
16 opinion.

17 Q. Do you understand those things to be his
18 opinion, or are you saying that --

19 A. That's what I believe I read from his
20 opinion.

21 Q. Okay. Let's look at page 26. We're still
22 on page eight. I'm sorry. Paragraph 26. You state
23 that "When open carry without a permit became allowed
24 in Kansas, no instant mayhem was created"; is that
25 right?

1 A. Yes.

2 Q. Okay. Do you understand Mr. Raney to have
3 the opinion that instant mayhem will result if open
4 carry were allowed in California?

5 A. Without rereading his opinion on the spot,
6 I'm not sure that I would -- I could say he said
7 those exact words, but his opinion that I read, the
8 impression of his opinion that I got from him was
9 people couldn't open carry because it would make
10 things much more chaotic, you know, the police would
11 have all kinds of problems differentiating good guys
12 from bad guys for, you know, cops and robbers, from
13 want of a better term, and that it would cause -- you
14 know, he'd almost colored it as though it would cause
15 some sort of mass public hysteria.

16 Q. Let's look at page nine, paragraph 28. You
17 state that "When open carry became allowed in Kansas,
18 our police officers were not spontaneously shooting
19 members of the public they observed carrying a
20 firearm exposed on their body in public;" is that
21 right?

22 A. Was that a -- I'm assuming that was the
23 upper part. You said -- 28 now talks about banning
24 open carry.

25 Q. Yeah. Let me see here. One second.

1 A. I think you were on the previous --

2 Q. Oh, sorry. I meant paragraph 26 on
3 page eight still.

4 A. Sure.

5 Q. Is that your opinion in paragraph 26?

6 A. That police officers were not shooting
7 members of the public?

8 Q. Correct.

9 A. Absolutely.

10 Q. Do you understand Mr. Raney had the opinion
11 that if open carry were allowed in California, police
12 officers would spontaneously shoot members of the
13 public who were openly carrying firearms?

14 A. His opinion read to me as though he believed
15 that open carry could not be allowed in the State of
16 California because it would pose too great of risk of
17 police officers shooting the wrong people merely for
18 carrying a gun in the open. That is what I took from
19 part of his opinion.

20 Q. Okay. Now let's go to paragraph 28.

21 A. Okay.

22 Q. You state "Banning open carry does not
23 greatly enhance public safety, nor does it cure
24 deficiencies in departmental training of police
25 officers." Would you explain what you mean?

1 A. Well, as I said, in my experience in the
2 world, I went from a place where nobody could carry
3 except the cops legally. A lot of people did it, but
4 nobody could legally carry a gun beside the cops, and
5 you certainly couldn't run around open carrying to a
6 world where you could get a permit to a world to
7 where you could open carry or conceal carry as you
8 see fit.

9 During that period of time, we actually had
10 a great -- quite a bit of a -- and I cannot point to
11 a statistical cause and effect relationship, but I
12 did note that locally, you know, when I first started
13 in the police world with things like gang violence
14 and that sort of thing, our crime was significant.

15 There was a port in my career where I looked
16 up crime stats for the United States early in the
17 '90s, and that's when things were still banned, and
18 Topeka had a per capita crime rate greater than
19 Los Angeles, and now we come to a point where you can
20 carry a gun as you see fit, if you want to be open
21 carry or conceal carry without a permit, or you can
22 get a permit, and there was -- you know, that
23 coincided with no uptick in crime.

24 In fact, for the longest time, we had a
25 Leave It to Beaver era level crime where it was so --

1 crime had dropped so much, everybody kind of forgot
2 what that was like, but there was certainly no uptick
3 in things like police shootings or, you know, other
4 crimes relevant to -- I see -- and I guess I'm -- I
5 don't know if I'm speaking out of turn here because
6 it's more of a larger than this case, but there's
7 people who push the opinion that if you allow people
8 to carry guns, they're just going to run around
9 killing people over things like parking lot disputes
10 or, you know, "You took my parking space" or
11 something like that. We just didn't see it. We
12 didn't see any of that.

13 Q. When you state that "Banning open carry does
14 not cure deficiencies in law enforcement training,"
15 are you emphasizing, as we've discussed before, the
16 critical importance of training in public safety?

17 A. Yes, and whether or not you're going to have
18 mistake-of-fact shootings, things like that.

19 Q. Setting aside training for the moment, does
20 banning open carry enhance public safety at least to
21 some extent?

22 A. I don't believe so. I don't believe so.

23 Q. When you state that banning open carry does
24 not, quote, "greatly enhance public safety," do you
25 mean that banning open carry improves public safety

1 to some degree?

2 A. I don't believe it does. I don't believe it
3 does. I see no -- I have personally noticed no cause
4 and effect relationship. I have noticed no
5 difference in police-citizen encounters.

6 One could argue that there's a possibility,
7 although it's always -- it's impossible to measure in
8 negative. Have people with an open carry firearm not
9 been targeted for a crime because a criminal could
10 see that that person is armed? We won't know. Those
11 things are nebulous.

12 So I can't point to an exact cause and
13 effect relationship or put statistics on that, but
14 what I haven't noticed is we had open carry, and
15 then, oh, my God, all of this bad stuff started
16 happening. That was clearly not the case and hasn't
17 been the case, and it hasn't been the case for years
18 now. I know I'm kind of generalizing on that.

19 Q. I appreciate that. And the reason I'm
20 asking is I'm just looking at your language, your
21 report that says "Banning open carry does not greatly
22 enhance public safety." It doesn't say, for example,
23 banning open carry does not enhance public safety.
24 That's why I was asking whether it enhances public
25 safety to some extent.

1 A. I totally get where you're coming from, and
2 I don't believe it does either way, either one of
3 those ways of wording that sentence.

4 Q. Let's look at page nine, paragraph 31.

5 (Discussion off the record)

6 (Recess)

7 BY MR. WISE:

8 Q. Okay. Let's go back on the record and look
9 at page nine, paragraph 31. You observed that Kim
10 Raney's report states that when an officer comes upon
11 a scene where a person is carrying openly, the
12 officer must rapidly assess a person's behavior,
13 paragraph 22?

14 A. Yes.

15 Q. Split-second decisions sometimes have to be
16 made, paragraph 24, where the results could be
17 deadly, paragraph 22; is that right?

18 A. Yes.

19 MS. BELLANTONI: I'm going to ask that you
20 read that back. Are you saying that that's what
21 Mr. Haggard is saying or that's what he's referring
22 to Mr. Raney's declaration?

23 MR. WISE: Yeah.

24 BY MR. WISE:

25 Q. You're referring to Mr. Raney's declaration;

1 correct?

2 A. Yes.

3 Q. Okay. Do you understand Mr. Raney to have
4 the opinion that it is uncommon in police work for an
5 officer to have to rapidly assess a person's
6 behavior?

7 A. I can't say that exactly, but it appears as
8 though he tries to paint a picture that if you don't
9 have open carry, then you won't have all of that
10 going on.

11 Q. Do you understand Mr. Raney to have the
12 opinion that it is uncommon in police work for an
13 officer to have to make a split-second decision where
14 the results could be deadly?

15 A. I can't say that he would have that opinion.
16 Again, he appears to color his opinion as though if
17 we were to eliminate open carry, that that would
18 somehow solve that problem.

19 Q. Do you understand Mr. Raney to have the
20 opinion that allowing open carry would increase the
21 circumstances in which an officer would have to
22 rapidly assess a person's behavior and make a
23 split-second decision where the results could be
24 deadly?

25 A. He appears to have that opinion to me.

1 That's what I gather from reading his opinion.

2 Q. Do you agree that an officer that comes upon
3 a scene where a civilian is carrying openly is more
4 likely to have to rapidly assess that person's
5 behavior?

6 MS. BELLANTONI: Objection.

7 You can answer.

8 THE WITNESS: I do not.

9 BY MR. WISE:

10 Q. Why not?

11 A. So something that is standard practice in
12 the police world and has been by progressive
13 departments who train hard since, if we get into the
14 history of very tragic incidents, late '60s, early
15 '70s, events such as the Newhall massacre there in
16 California, the incidents that were written up in the
17 famous book "Officer Down, Code 3," what we look at
18 is that officers should be assessing, "Just because I
19 can't see a gun doesn't mean somebody should have
20 one."

21 Standard officer safety practice is if you
22 pull somebody over for speeding or if you pull
23 somebody -- you make a stop for whatever, the only
24 safe assumption is to assume that a person is armed
25 and that you comport yourself and your tactics and

1 your approach and things like that with the
2 assumption that a person could pull out a concealed
3 weapon and utilize that weapon, and then, you know,
4 if you run with that assumption, your tactics, your
5 decision making, things like that, that it keeps you
6 in the best frame of mind for good officer safety.

7 So in my mind, if we think that we're
8 solving a problem by banning open carry -- so let's
9 say I could push a magic button and there was no open
10 carry. I've never had to deal with that problem.
11 That doesn't solve the problem that we see in police
12 work.

13 Q. Let's go to your example of the routine
14 traffic stop. Would the presence of a firearm
15 heighten the danger for the officer?

16 MS. BELLANTONI: Objection.

17 Can I get more -- can you be more specific
18 in that scenario?

19 MR. WISE: I can ask the question again.

20 BY MR. WISE:

21 Q. In a routine traffic stop, would the
22 presence of a firearm by the civilian in a car
23 heighten the danger for the officer?

24 MS. BELLANTONI: Objection.

25 You can answer it if you can.

1 THE WITNESS: It would depend on that
2 person's intent. I can tell you personally I've
3 never really had to worry about the guns that I could
4 see. I've walked up on car stops where I've had
5 people with shotguns and rifles in the back window of
6 a pickup truck, guns in consoles, guns laying on
7 seats, I've dealt with people who are wearing
8 holstered guns on their hip, that sort of thing, and,
9 quite frankly, the guns that I can see, the weapons
10 that I can see, I was never very worried about.

11 I was worried about the behavior of the
12 people who were, you know, literally being furtive,
13 who were trying to conceal what they were up to. It
14 was more behavior-focused, you know, "Is this person
15 in the middle of a crime and, thus, might try to take
16 me out because they want to make an escape and
17 utilize a weapon as part of that escape process?"

18 And literally the guns that I could see, I
19 was never worried about. It's what you don't know
20 that is a problem.

21 BY MR. WISE:

22 Q. In a routine traffic stop, would the
23 presence of a firearm in the car make it more likely
24 that an officer would have to make a split-second
25 decision where the results could be deadly?

1 MS. BELLANTONI: Objection.

2 You can answer it if you can.

3 THE WITNESS: Again, I don't believe so. I
4 have seen people do things like reach under the seat
5 of the car, reach into a glove compartment, reach
6 into a console in between the seats, bags, things
7 like that.

8 Again, it's the things you don't know, it's
9 the things you can't see that are the most worrisome,
10 and that's where the split-second decision really
11 comes into play, and then that becomes a
12 behavioral -- reading the behavior of the person
13 versus if they have, you know, a visible firearm or
14 not, you know, and then it becomes reading the
15 behavior and the scenario that you find yourself in.

16 Quite frankly, if I know -- let's say I have
17 an actual bad guy, I know he's a bad guy, he's a
18 suspect that we -- say we have a picture of the guy
19 or video of the guy and I know that's the guy and I
20 see he's got a gun on him, that's kind of a gimme on
21 the decision making process.

22 It's when you don't know and you have to
23 make those split second decisions because is he
24 armed? Is he not armed? I don't know. That's where
25 things become very worrisome.

1 BY MR. WISE:

2 Q. Let me just drill down on that for a moment
3 then. So what if you don't know the person's a bad
4 guy, as you were saying, and they have a firearm?
5 Does that affect the way that you approach that
6 person?

7 MS. BELLANTONI: Objection.

8 You can answer if you can.

9 THE WITNESS: It --

10 MS. BELLANTONI: Can we get more clarity on
11 where this firearm is? Very situational thing. It's
12 very, like, amorphous scenario without much detail.

13 MR. WISE: Sure. I was going off the
14 scenario he was talking about.

15 THE WITNESS: So I can point to -- I think
16 more pertinent to what we're talking about, I can
17 point to after we legalized the conceal carry, we had
18 a gentleman come into the state who believed he was
19 going to -- he was kind of antipolice, and he was
20 going to do a conceal carry, what he called an
21 audit -- or I mean a gun rights audit -- and see how
22 we would react.

23 So he was wearing a visible -- a very large
24 handgun in a holster visible, and he was walking up
25 and down the sidewalk, on a public sidewalk in front

1 of a very well-to-do subdivision, small gated
2 community, and somebody thought he was acting kooky,
3 so they called police.

4 We made contact with the guy. He was
5 carrying a gun. We could see he had a gun, you know.
6 I would instruct the gentleman, you know, "Don't
7 reach for the gun that's clearly there," you know.
8 "What's going on? We got a call."

9 And basically he was trying to turn it into
10 a, "See, the police are antigun" confrontation type
11 of thing, and the whole thing diffused because, you
12 know, quite frankly, we didn't overreact. We had a
13 guy pacing back and forth on a sidewalk, you know, so
14 we have to ascertain, "is this a guy -- maybe he's
15 suffering from mental illness, or, you know, why is
16 he here?"

17 Because his behavior, his pacing back and
18 forth did alarm people more than anything, you know,
19 "Why is that guy acting kooky out here?"

20 And then when it turned out to be a
21 specific -- kind of a public, you know, "We're going
22 to get gotcha video on the police" type of a stunt
23 that he was pulling and he didn't get the reaction he
24 was hoping for, then the whole thing was over with.

25 And I've had to deal with a few things like

1 that, but overall, you know, if I were to have to
2 make an approach on somebody, part of that approach
3 would be, "What are the circumstances?" you know.

4 Is this guy in an alley behind a business in
5 the middle of the night, or is this guy just walking
6 down the sidewalk or -- you know, I guarantee you,
7 like I say, I could go someplace in town here, like
8 go to our Walmart, and I could find somebody with a
9 gun on their hip, and, you know, they're in the green
10 bean aisle and it's just an innocuous thing.

11 BY MR. WISE:

12 Q. Let's go to page 12, paragraph 40.

13 A. Again, it's silly, but every time you start
14 to do that, I reach for my own mouse, and I feel like
15 an idiot.

16 Q. Okay. Paragraph 40, you state "The behavior
17 and demeanor of a person exercising his right to open
18 carry will be markedly different than that of an
19 individual posing a threat to the public. Any
20 experienced honest law enforcement officer knows that
21 to be the truth." Would you explain what you mean?

22 A. So it's a whole behavioral package. If you
23 have a guy who's got a gun on his hip walking his
24 dog, you got a guy, gun on his hip, shopping for
25 groceries, whatever the case may be, there's no

1 criminalistic behavior involved in any of those
2 activities that would lead you -- like, whether he
3 had a gun on his hip or not, this is not something
4 that I could have probable cause for a stop, it is
5 not something that I could do a Terry stop on a
6 person over, you know, because it doesn't -- they're
7 not -- if they're -- if they just exist and they
8 happen to be carrying a gun and are going about their
9 business and there's no behavioral indicators that
10 would indicate criminal activity is afoot, then it
11 just isn't an issue.

12 If you look at -- well, if you look at the
13 classic case of Terry v. Ohio that speaks exactly
14 what I'm talking about, the criminals in that case
15 had handguns that were deeply concealed, but whether
16 they saw -- whether Detective McFadden saw the guns
17 or didn't see the guns, he obviously did not, it was
18 the behavior manifest that they were displaying in
19 that that led to the stop, the classic what we know
20 as a Terry stop nowadays. Somebody just having a gun
21 on their hip isn't -- it's -- the totality of the
22 behavior is what a good cop is going to look at.

23 Q. And what is the behavior that you're looking
24 for to be able to determine whether a person carrying
25 openly does not pose a threat to the public?

1 MS. BELLANTONI: Objection.

2 You can answer.

3 THE WITNESS: That's wide open. You know,
4 it has everything to do with the location, is their
5 activity congruent with the location, the time of
6 day, things like that. You know, I mentioned
7 previously do I have a guy behind a business after
8 dark after it's closed? You know, that would be a
9 guy that I'm going to take a second look at. Is this
10 guy up to no good? You know, is he looking to
11 burglarize this establishment? That sort of thing.
12 So it's, you know, demeanor, their actual activity,
13 the time of day, the location. All of that goes into
14 play.

15 BY MR. WISE:

16 Q. And what's the basis for your opinion?

17 MS. BELLANTONI: Which one?

18 BY MR. WISE:

19 Q. In paragraph 40.

20 A. Thirty-four years of law enforcement and
21 dealing with people both pre- and post-open carry
22 being legal, that's just -- I would call that good
23 police work at the street level is being able to read
24 human beings and then evaluate their behavior.

25 Q. Let's talk about active shooter events.

1 What is an active shooter event?

2 A. I'm actually not a big -- so that's a term
3 of common usage that so many people utilize now. I'm
4 not a fan of it, but if we want to talk about -- you
5 know, something I prefer is, like, a mass murder or
6 serial murder in progress where you have somebody
7 actively -- you know, and I know of cases where they
8 have been -- instead of an active shooter, they're an
9 active stabber, you know.

10 You know, we've had cases in the literature
11 of knives, swords. They just had one in Norway the
12 other day that he was -- the dude was killing people
13 with a bow and arrow. So I would call it a rabid
14 serial murder in progress if you want a more precise
15 term.

16 Q. So during such an event, an active shooter,
17 mass shooting event, is the shooter always easily
18 identifiable?

19 A. Well, at both of the ones that I went to, he
20 sure was. Often if you don't know exactly where the
21 person is, then what we teach our tactics for
22 movement to contact, but the important part of an
23 active shooter is it's active.

24 You have some -- if you don't see that's the
25 guy shooting people or that's the guy stabbing

1 people, or in one case I was involved in, the guy
2 was -- he was an active shooter, active bomber. He
3 was throwing pipe bombs, what you would think of
4 nowadays as IEDs, inside the building. If.

5 You don't see that or hear some stimulus to
6 draw you where the person is, then it's not really an
7 active shooter if you will.

8 Q. So in the scenario where you're not
9 immediately able to identify where the shooting is
10 coming from, what is the -- can you describe the
11 atmosphere at such an event?

12 MS. BELLANTONI: I'm going to object.

13 You can answer, but I think we're going
14 outside the scope of this case and causes of action
15 that are being brought. But you can go ahead and
16 answer.

17 THE WITNESS: In a word, it's going to be
18 pretty tense. At the attack on our federal
19 courthouse here in Topeka, we had a gentleman that
20 was doing an active shooting, active bombing. He was
21 throwing IEDs all over the building when I showed up.
22 Things had gotten real quiet, and we had to
23 transition from what you would think of now as a
24 rapid response to what we believed we had was a
25 hostage scenario in progress.

1 So that's part of what we do in the training
2 is classically things like dealing with hostage
3 negotiations, dealing with barricaded gunmen, things
4 like that. You want to slow the scenario down and
5 then utilize things like SWAT teams and negotiators
6 and things like that.

7 So part of what you do in police training is
8 a recognition of has the situation transitioned from
9 one type of scenario to another, because that's
10 entirely possible, but what you're looking for is
11 either identifying the suspect or a stimulus that
12 draws you to a location to where you can try to
13 identify the suspect.

14 BY MR. WISE:

15 Q. In a scene like that, can the sensation be
16 chaotic or, you know, distort your perception, I
17 guess?

18 A. Well, any --

19 MS. BELLANTONI: Objection. I'm going to
20 object again. Same objection, that this is outside
21 the scope of the causes of action that are being
22 brought.

23 You can answer.

24 THE WITNESS: Any critical incident I've
25 been involved in has been tense, and human beings are

1 subject to their perceptions under duress.

2 BY MR. WISE:

3 Q. If a person who's not immediately
4 identifiable as a cop is openly carrying a firearm
5 during an active shooter event, how are the on duty
6 law enforcement officers likely to react to that
7 person?

8 MS. BELLANTONI: Objection.

9 You can answer if you can.

10 THE WITNESS: Well, I would hope that they
11 were extraordinarily well trained because in my
12 experience, every cop that knows about it is going to
13 go regardless of their equipment and their mode of
14 dress.

15 So if you look at photos of Columbine as an
16 example, you have people with guns wearing suit and
17 ties, you have people with guns -- there was one
18 gentleman wearing gym shorts. If you look at video
19 of the very famous North Hollywood event, one of the
20 SWAT guys is wearing gym shorts and carrying an M-16.

21 So part of my assertion and my opinion on
22 this paper was if you're going to have well-trained
23 officers, they're going to have to allow for positive
24 identification of -- you know, have some training on
25 can't just see a gun and start shooting at that

Page 81

1 person because odds are pretty good it could be an
2 off duty or undercover cop or some other person who
3 is not in uniform who is not in fact your problem.

4 BY MR. WISE:

5 Q. What if that civilian is openly carrying
6 their truck gun, let's say an AR-15? How are the on
7 duty law enforcement officers likely to react?

8 MS. BELLANTONI: I'm going to object and ask
9 you not to respond to that because we're not talking
10 about the open carriage of ARs and long guns.
11 Specifically about handguns here, so that's
12 completely outside the scope of this case and this
13 deposition.

14 BY MR. WISE:

15 Q. You may recall that Dallas Chief of Police
16 David Brown, in the aftermath of an active shooter
17 event at a community protest that included the
18 presence of openly carrying civilians, stated, "We
19 don't know who the good guy is versus the bad guy
20 when everyone starts shooting." Do you recall that?

21 A. I do.

22 Q. Do you agree with Chief Brown?

23 A. I do not.

24 Q. Why not?

25 A. So I have a little bit of insider baseball

1 on the Dallas Police Department, and they used to be,
2 used to be one of the most extraordinarily
3 well-trained police departments on the planet, and I
4 can't say that that is any longer the case.

5 Their firearms training, their use of force
6 training, their defensive tactics training, in my
7 opinion and observation, has suffered from politics
8 and neglect. He may have found it to be problematic,
9 or he may have been making it as a political
10 statement for it to be problematic, but everything
11 that I have seen -- and I have studied that incident
12 at length because part of that incident was there was
13 a lot of controversy on the manner in which they took
14 that bad guy out, you know.

15 They utilized a police bomb to kill the
16 gunman in that case, delivered by a robot, so there
17 was a lot of controversy about that. I think the
18 police officers who were right there on the scene
19 immediately knew who the bad guy was.

20 If you see people running away who happen to
21 be carrying -- and I know I'm dangerously segueing
22 into what Ms. Bellantoni stated she didn't want me to
23 answer because I knew people had long guns at that
24 event as part of their -- the political part of the
25 protest. If you have people leaving the vicinity in

1 a hurry, you can tell by demeanor and their carriage,
2 how they're acting, that, "Yeah, that's not the guy
3 I'm looking for."

4 Q. And by "demeanor" and "carriage," are you
5 talking about the same factors you were saying
6 earlier, behavior and demeanor, or are there other
7 factors that we haven't discussed?

8 A. People who look like they're trying to kill
9 you don't look like people who are afraid and trying
10 to get out of someplace. That's been my experience.

11 Q. What if somebody is running toward the scene
12 instead of away from the scene?

13 A. Well, then you'd have to evaluate, "Is that
14 a good guy? Is that a bad guy? Is that an off duty
15 SWAT cop that had his gear in the car and he hasn't
16 had time to change clothes? Etc., etc.

17 Q. And how can you go about evaluating that?

18 A. It's going to be right there in the moment,
19 you know. If the guy is running towards the scene,
20 then I know he's not -- he hasn't been part of the
21 scene. Is he -- do I look at that guy? What is his
22 demeanor? What is his body posture? How does his
23 facial expressions look? What is his movement like?
24 Is he trying to get -- you know, is he putting a
25 muzzle on people that are perceived to be victims?

1 That sort of thing. It all plays into that.

2 Q. Let's look at pages 12 and 13, paragraph 42.
3 You state "There is, however, historical precedent to
4 note that citizen non-law enforcement interdiction of
5 active shooter suspects happens more frequently than
6 interdiction by law enforcement officers." Would you
7 explain what you mean?

8 A. So post-Columbine, the trend was to have
9 what we would call a rapid response team approach
10 where you would get -- depending on who was doing the
11 training, typically it was a four-officer team, would
12 gather together and then move in.

13 Let's take, for an example, because
14 everybody's familiar with the Columbine event, that
15 if you showed up at Columbine in the middle of that
16 event, that you would wait for three other officers
17 to show up, and then you would move in as a team in a
18 particular set of tactics and then attempt to make
19 contact with the suspects and do that as rapidly as
20 possible.

21 What we found -- so -- excuse me. Sorry.
22 Ragweed is bad right now, and my allergies are acting
23 up.

24 So I wrote an article on solo response by
25 officers to an active shooter event because I'm a big

1 believer that you don't have time to wait for a team.
2 One of the active shooter events that I went to, I
3 had to respond by myself. I didn't have anybody who
4 was there, going to be there in a timely manner to
5 assist me. I couldn't wait for backup.

6 So in doing my research for these events,
7 what we find is is that more often than a law
8 enforcement officer -- in any kind of team or normal
9 police response that you would think of, more often
10 than not, that there's more events that are
11 interdicted by armed citizens than there are teams of
12 police officers showing up on the scene.

13 If you extrapolate that paradigm to include,
14 like, the Trolley Square mall shooting in Utah where
15 it was an off duty officer on his own time,
16 plainclothes, carrying a gun just like anybody else
17 would be carrying, that was another event where we
18 have off duty officer, but there are many events
19 where we have civilian.

20 And I use a generic term "conceal carrier"
21 but a civilian with a gun that's not -- somebody who
22 is not a cop is the person that is right there on the
23 scene and successfully interdicts or stops the bad
24 guy versus a law enforcement response putting an end
25 to it.

1 Q. Are the events that you just mentioned the
2 historical precedent you're referring to, or are you
3 referring to other historical precedent?

4 A. If you take a history of active shooters in
5 the United States as a modern study, that's what I'm
6 referring to.

7 Q. And are you aware of research that supports
8 this opinion?

9 A. I am.

10 Q. Okay. What is that research?

11 A. There's going to be a little bit of a pile
12 of that. What we're talking about is -- what we're
13 talking about is when you actually quantify active
14 shooter events, you know, beyond the famous ones like
15 Columbine, etc., and you look at the factors involved
16 in those events, what has been successful, what has
17 not been successful, which has led to things like my
18 advocacy for police solo response versus waiting for
19 a team approach.

20 You know, one of the reasons, and I'm a big
21 advocate of that, is that's where the research,
22 that's where the data points to is what is
23 successful, what is not successful. Team approach
24 takes too long. It hasn't been successful.

25 The last I checked into that, there was one,

1 maybe two of these events that were successful by the
2 team approach. Vast majority of the time, the cops
3 show up too late if they utilize that model.

4 So one of the reasons I'm a big advocate for
5 solo response on the police part is because that's
6 been the model for success because it's more rapid,
7 and if you look at these incidents on an anecdotal
8 basis, if you have an armed good guy, whether they
9 have a badge or not, immediately on the scene that
10 takes action, that tends to be a successful
11 interdiction.

12 As far as, like, titles to papers like a
13 specific paper on the subject, I would definitely
14 have to get back to you on that.

15 Q. Yeah. If there's any specific research you
16 have in mind, would you work with Ms. Bellantoni to
17 provide that to me?

18 A. Absolutely.

19 Q. Thank you. I appreciate that.

20 Do you mind if we go off the record for just
21 a moment? I'm going to need 30 seconds to make sure
22 my computer does not turn off.

23 (Discussion off the record)

24 MR. WISE: Thank you. I appreciate that.

25 We can go back on the record.

1 THE WITNESS: Okay.

2 BY MR. WISE:

3 Q. Let's look at page 13, paragraph 43. You
4 state "Allowing open carry will not create a danger
5 to public safety"; is that right?

6 A. Yes, sir.

7 Q. Are you familiar with research finding that
8 right to carry laws are associated with higher
9 aggregate violent crime rates?

10 MS. BELLANTONI: Objection.

11 You can answer.

12 THE WITNESS: I have read some of that, yes,
13 sir.

14 BY MR. WISE:

15 Q. And what is your view of those studies in
16 terms of your opinion on whether open carry of
17 firearms in public --

18 A. It directly contradicts my firsthand
19 observation in multiple states. I believe that those
20 papers -- it is easy to utilize statistics to come to
21 a prearranged opinion and to make opinion -- or to
22 push an opinion towards a political end.

23 Q. And so have you evaluated the basis for that
24 research?

25 MS. BELLANTONI: I'm going to object.

1 You can answer.

2 THE WITNESS: Depends on how you mean
3 "evaluate," but in my opinion of observing -- and I
4 don't know specifically which one you're -- which --
5 because there's been a couple of such studies that
6 have been pushing that idea. I put it up there with
7 the same research that people like Kellerman were
8 pushing that if you have a gun in your home, you're
9 43 times more likely to be killed than if you don't
10 have a gun in your home which was statistically
11 cooking the books.

12 If you look at the realities of crime and
13 street crime and the people -- people will talk.
14 They'll push an alarming statement like, "You're more
15 likely to be killed by somebody you know than
16 somebody you don't."

17 Well, that's certainly my experience as far
18 as, like, gang crime because most people don't just
19 up and kill people they don't know. They have a
20 specific beef with them. You know, your rival drug
21 dealer whom you know by name, you're going to go
22 whack because he's coming -- he's, like, selling in
23 your territory, things like that.

24 So you have to take -- you have to look at
25 these things in context and, you know, look at the

1 numbers, where the numbers come from, what's the
2 context of the numbers and that sort of thing because
3 it's very, very easy to come to false conclusions on
4 this sort of thing.

5 BY MR. WISE:

6 Q. You've reviewed the preliminary injunction
7 submissions in this case?

8 A. Okay. I think so. I believe that's part of
9 the -- Amy, was that all part of the paperwork that
10 you gave me, or was that not?

11 MS. BELLANTONI: I'm not entirely sure. I'd
12 have to look and see what I sent over.

13 THE WITNESS: Okay. I guess --

14 MS. BELLANTONI: We could refer to your
15 declaration. It says that there's something that was
16 turned over that you relied on.

17 MR. WISE: I believe it does. That's why I
18 was asking the question.

19 BY MR. WISE:

20 Q. And the reason I'm asking is you had
21 mentioned you're familiar with a few of the studies.
22 Are you familiar with the peer reviewed studies
23 conducted by Professor John Donahue about right to
24 carry laws and the association with higher aggregate
25 violent crime rates?

1 MS. BELLANTONI: I'm going to object because
2 he's not a statistical expert, so that wouldn't have
3 been in the purview of what he reviewed.

4 MR. WISE: He just mentioned he was familiar
5 with a few studies, so I was trying to know which
6 studies those might be.

7 MS. BELLANTONI: And I'm going to object
8 because he's not a statistician, so I'm not going to
9 have him giving testimony on -- it's not his
10 expertise.

11 MR. WISE: Uh-huh.

12 MS. BELLANTONI: He's not a statistician,
13 so --

14 BY MR. WISE:

15 Q. So just so I'm clear on what your opinion
16 is, then, you're indicating that the findings of
17 those studies are not consistent with your personal
18 observations in the field; is that right?

19 A. Yes.

20 Q. But to be clear, you haven't relied on
21 studies that -- for your opinion in this case at
22 least, that support your opinion or that contradict
23 the studies that we were just discussing?

24 A. So a big part of why I am here is both to
25 speak to the law enforcement part of this and

1 personal experience that I can point to in living in
2 the reality of an open carry state and not only my
3 state but other states that I travel to, other states
4 that I do business in and, you know, states where I
5 am commonly in an open carry environment, if you
6 will.

7 So a big part of why I'm here and we're
8 talking is that firsthand observation and experience
9 over a number of years as it deals with the open
10 carry and the dynamic of police involvement with open
11 carry people.

12 Q. Let's look at paragraph 44. We're still on
13 page 13. You refer to U.S. News and World Reports
14 public safety rankings and note that the top three
15 states, in terms of public safety, Maine,
16 New Hampshire and Idaho, allow a broader right to
17 public carry than California; is that right?

18 A. That was certainly true at that time, yes,
19 and then it's easy to look that up, the U.S. News and
20 World Report part of that.

21 Q. Are you aware of how U.S. News and World
22 Report determined these rankings?

23 A. I am not. Again, I can't say, you know, did
24 they hire a statistician, did they look up Bureau of
25 Justice Statistics or what their research methodology

1 was.

2 Q. Do you know whether U.S. News and World
3 Report compared factors such as population density
4 that might account for the difference in crime rates
5 between states such as Maine versus California?

6 A. I don't, nor do I know if they looked at
7 things like sentencing guidelines or a variety of
8 other factors.

9 Q. Do you agree that regional differences are
10 an important factor to consider in developing an
11 effective public safety response?

12 MS. BELLANTONI: Objection. And
13 specifically what public safety response are you
14 referring to?

15 MR. WISE: Well, response that includes open
16 carry policy.

17 MS. BELLANTONI: Could you be more specific?
18 I'm not understanding the question.

19 MR. WISE: Sure. Well, this case is about
20 California, and the expert here is from Kansas, and
21 I'm asking if he agrees. Let me restate the
22 question.

23 BY MR. WISE:

24 Q. Do you agree that regional differences are
25 an important factor to consider in developing an

1 effective public safety response with regard to
2 firearms?

3 A. And --

4 MS. BELLANTONI: I object.

5 You can go ahead and answer.

6 THE WITNESS: I'm going to say in this case,
7 it does not, just as, you know, if we look at police
8 use of force, everybody in the United States is bound
9 by things like Graham v. Conner, Garr versus
10 Tennessee. It is what it is. Is my First Amendment
11 right to free speech different in the State of
12 California versus the State of Kansas? It is not.

13 Is my freedom of religion different in the
14 State of California versus the State of Kansas? It
15 is not. So as far as that context, we're still
16 talking about the United States of America. So, no,
17 I don't believe so.

18 BY MR. WISE:

19 Q. Do you agree that demographic differences
20 are an important factor to consider in developing an
21 effective public safety response, again, with regard
22 to firearms?

23 MS. BELLANTONI: Objection.

24 You can answer.

25 THE WITNESS: I don't. I don't because I

1 believe that public safety factors response policy
2 are all far, far, far broader than that.

3 BY MR. WISE:

4 Q. Have you ever been to California?

5 A. Yes.

6 Q. Have you ever served as a law enforcement
7 officer in California?

8 A. I have not.

9 Q. Are you familiar with open carry laws in
10 California?

11 A. Just from what I have been able to read as
12 far as what is publicly available and then what I
13 have been briefed on in this case by Ms. Bellantoni.

14 Q. Would you describe your understanding of
15 where, if at all, open carry is permitted in
16 California?

17 MS. BELLANTONI: Objection. He's not
18 testifying as an expert in that area. I'm going to
19 ask him not to answer that question.

20 MR. WISE: So is he an expert in open carry
21 in Kansas only? I'm confused.

22 MS. BELLANTONI: He's an expert and a law
23 enforcement officer in open carry jurisdiction. It's
24 kind of irrelevant since it's banned in California
25 anyway, so --

1 BY MR. WISE:

2 Q. Are you aware that open carry is allowed in
3 certain circumstances in the State of California?

4 MS. BELLANTONI: Objection. That's actually
5 not true.

6 BY MR. WISE:

7 Q. Are you aware that there are laws permitting
8 open carry in certain circumstances in California?

9 MS. BELLANTONI: Objection.

10 THE WITNESS: Frankly, at this point, with
11 the two attorneys arguing about that, I believe that
12 that would be the type of thing that you guys would
13 be the experts in. It appears that you guys are at
14 an impasse on whether it's legal or not. That would
15 certainly leave a layperson at a disadvantage to know
16 whether they were breaking the law or not.

17 BY MR. WISE:

18 Q. Let's look at paragraph 45, same page, still
19 on page 13. You state "People who legally possess
20 and carry firearms are generally compliant and
21 law-abiding, statistically speaking among the most
22 law-abiding group of persons in our country." Would
23 you explain what you mean?

24 A. So if you take people with -- and I'm going
25 to go with the statistics because we can nail those

Page 97

1 down on persons with a concealed carry license
2 because we can actually quantify that because, quite
3 frankly, on a day-to-day basis, if nobody tells
4 anybody that they're carrying a gun, we're not --
5 who's going to know about it?

6 So if we look at statistically people with a
7 concealed carry license, they are more law-abiding
8 than virtually any other demographic in the United
9 States, and that includes police officers.

10 When you look at things like -- even minor
11 things like DUI arrests, that sort of thing, they
12 tend to have a far lower criminal rate than any other
13 demographic you would pluck out of whatever pool you
14 want to look at, if you want to look at a certain
15 profession or whatever the case may be.

16 And then, you know, the rest of that
17 paragraph, if you will, my experience is is that
18 people who are going to unlawfully do things don't
19 look for permission, they don't get concealed carry,
20 whether it's banned or not, you know.

21 In Kansas, when we banned all carry, even
22 retired officers could not carry a gun, and that
23 didn't slow down the gang members one little bit, you
24 know. My belief, what we're talking about here is
25 law-abiding citizens trying to gain access to the

1 ability to open carry legally within your state,
2 clearly trying to go about doing thing the right way
3 and stay within the boundaries of the law.

4 Q. What is the basis for your opinion?

5 A. Again, 34 years of street level police work
6 and then some consultation of things like, you know,
7 research that has been done in this area as far as,
8 you know -- in particular, one of the things I look
9 at is police use of force, and then I have been
10 involved extensively in internal affairs
11 investigations on police officers and then
12 investigation on, like, officer-involved shootings,
13 use of force, things like that.

14 So I've had occasion to look at the
15 statistics that are out there that are available
16 on -- if you look at how my profession stacks up to
17 other professions where actually, you know, we do a
18 lot better than a lot of other professions that are
19 out there even though we -- you know, we are commonly
20 demonized for violating people's rights and that sort
21 of thing.

22 And then having looked into that as somebody
23 in the past who I actually advocated for concealed
24 carry in Kansas, which was -- didn't make me real
25 popular in some law enforcement circles, but you have

1 to make sure you have your ducks in a row if you're
2 going to advocate for something and make statements
3 like that.

4 And in other places before Kansas had
5 concealed carry, like Florida was very famous for
6 that beginning in the '80s, the states of
7 New Hampshire and Vermont were very, very liberal,
8 and, in fact, my belief is Vermont has always had no
9 permit carry within the state. I may have switched
10 that with New Hampshire, but one of those two has
11 always, like, historically had no permit carry, and
12 if you look at the demographics of people with
13 concealed carry, they tend to be extraordinarily
14 law-abiding.

15 Q. And I think you were mentioning research
16 this supports your opinion. What is that research
17 specifically?

18 A. Some of it would be -- I can point to John
19 Lott, the famous gun rights researcher, but then to
20 another of -- pardon me -- a number of other sources
21 as far as, like, the actual titles of that, again, I
22 would have to research that and get back with you.

23 Q. Yeah, that'd be great if you could work with
24 plaintiff's counsel to provide me any research that
25 supports that opinion. I'd appreciate it.

1 Do you agree that there are incidents in
2 which a previously law-abiding person engages in
3 criminal behavior?

4 A. Well, I would argue, counselor, that
5 everybody that doesn't have a criminal record who
6 becomes a criminal was previously not, I mean,
7 law-abiding.

8 Q. That's all the questions.

9 Ms. Bellantoni, are you on mute?

10 MS. BELLANTONI: Yeah, I was. I'm sorry.
11 Can we just take a brief break? Just need to -- is
12 that okay?

13 MR. WISE: Of course. I'm done with my
14 questions. That was my last one.

15 MS. BELLANTONI: Can we just hold on one
16 second before we wrap up?

17 MR. WISE: Of course.

18 MS. BELLANTONI: All right. Thanks.

19 THE WITNESS: I'm over here making myself a
20 note on looking back at what we've been talking about
21 so I can get back to Amy.

22 MR. WISE: Thank you.

23 (Recess)

24 MS. BELLANTONI: So I guess we're done. I
25 don't have any questions.

1 MR. WISE: Let's go back on the record
2 briefly.

3 Okay. I am done with my questions.

4 THE REPORTER: And, Ms. Bellantoni, do you
5 want a copy?

6 MS. BELLANTONI: Mr. Wise, will you be
7 sending a copy to the witness for him to review?

8 THE REPORTER: That's why I got his email.
9 Veritext will send him a locked PDF.

10 MS. BELLANTONI: That's fine. I'll take a
11 copy.

12 And also, Mr. Wise, can you just put some
13 requests -- I know there were some requests made.
14 Can you just put them in writing for me so I can
15 refer to them and properly have whatever additional
16 documents provided to you?

17 MR. WISE: Sure, of course. How formal
18 would you like me to make the request?

19 MS. BELLANTONI: Email.

20 MR. WISE: Email? Okay.

21 MS. BELLANTONI: Email.

22 MR. WISE: Thank you.
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I, CHARLES D. HAGGARD, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this _____ day of _____,
20_____, at _____, _____.
(City) (State)

CHARLES D. HAGGARD

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were duly sworn; that a record
8 of the proceedings was made by me using machine
9 shorthand which was thereafter transcribed under my
10 direction; that the foregoing transcript is a true
11 record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review of
15 the transcript [] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21

22 Dated: 10/30/2021

23



CARRIE PEDERSON

24

CSR No. 4373

25

1 CHARLES D. HAGGARD

2 chuck@agiletactical.com

3 November 1, 2021

4 RE: BAIRD vs. BONTA

5 October 19, 2021, CHARLES D. HAGGARD, JOB NO. 4838109

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25

Page 105

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1 BAIRD vs. BONTA

2 CHARLES D. HAGGARD (#4838109)

3 E R R A T A S H E E T

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&	2025.520 105:9,12	75 11:13	actions 55:14
& 105:23 106:9	21 56:4	78 37:8	active 14:5 20:4
0	22 37:9 67:13,17	8	21:9 77:25 78:1,8
00617 1:7 2:7	24 49:6 60:17	8 6:3	78:9,16,23,23 79:2
06 48:24	67:16	80s 100:6	79:2,7,20,20 81:5
08 48:24	26 61:21,22 63:2,5	82 6:3 17:2	82:16 85:5,25
1	28 62:16,23 63:20	9	86:2 87:4,13
1 1:24 5:4 11:21	2:9 1:7 2:7	90s 64:17	actively 78:7
11:22 23:6 105:3	3	914-367-0090 3:10	activities 76:2
106:1	3 69:17	94244-2550 3:21	activity 76:10 77:5
10 14:25	30 88:21 106:1	944255 3:19	77:12
10/30/2021 104:22	30s 29:2	96 6:4	actor 60:13
104 1:24	31 67:4,9	9:06 2:18 7:2	actual 72:17 77:12
10583 3:9	34 99:5	a	100:21
11 5:4	4	a.m. 2:18,18 7:2,2	ada 25:15 26:6
11:31 2:18 7:2	40 18:1 75:12,16	abell 3:11	adamant 25:20,25
12 14:25 29:3	77:19	abiding 60:21	added 18:6
75:12 85:2	400 3:8	97:21,22 98:7,25	additional 102:15
125 3:18	42 85:2	100:14 101:2,7	adjunct 15:16
13 39:21 85:2 89:3	43 89:3 90:9	ability 33:10 34:8	16:20,21
93:13 97:19	4373 1:22 2:20	35:10,23 43:4	administered 7:5
1300 3:17	104:24	99:1	adult 39:20
14 12:17	44 93:12	able 9:4,23,25	advise 44:1
15 54:9 82:6	45 17:24 97:18	26:20 31:18 76:24	advised 43:25
16 81:20	47 60:1	77:23 79:9 96:11	advises 8:20
17 18:21	4838109 1:23	absolutely 55:10	advocacy 87:18
19 1:17 2:19 6:4	105:5 107:2	63:9 88:18	advocate 87:21
7:1 17:1 105:5	5	ac 1:7 2:7	88:4 100:2
1982 16:25	50 17:25	academic 45:21	advocated 99:23
1987 18:12	57 29:7	academy 19:9	affairs 99:10
1998 17:1	6	32:19	affect 73:5
2	60 21:20,23	access 98:25	afoot 76:10
2 3:7 23:6	600 29:4	accidental 53:2	afraid 84:9
20 52:20 54:9	60s 69:14	56:8	aftermath 82:16
103:17	6995 104:23	account 94:4	agency 42:3
2008 48:22	7	act 52:23 60:22	aggregate 89:9
2014 48:21	7 4:6	acting 17:10 74:2	91:24
2021 1:17 2:19 7:1	70s 69:15	74:19 84:2 85:22	agile 22:25 23:1
105:3,5		action 79:14 80:21	57:17
		88:10 104:17,18	agiletactical.com
			105:2

[ago - avoid]

ago 9:18 36:1 agree 31:20 32:25 33:8,13 36:12,15 36:16 38:7 39:7 39:25 40:4,20 41:14,16 42:2 69:2 82:22 94:9 94:24 95:19 101:1 agreed 11:9,12 agreeing 39:24 agrees 94:21 ahead 28:14,16 35:8 36:8 59:5 79:15 95:5 ahold 44:3 airplanes 29:8 airport 22:6 49:3 49:4 aisle 75:10 al 1:9 2:9 alarm 74:18 alarming 90:14 alleging 37:9 allergies 85:22 alley 75:4 allow 44:9 52:21 65:7 81:23 93:16 allowed 9:7 21:23 28:3 34:22 35:15 35:16 46:16,17 47:15 61:23 62:4 62:17 63:11,15 97:2 allowing 68:20 89:4 allows 34:8 35:23 47:25 alzheimer's 59:8 ambushes 55:19 amendment 95:10	america 95:16 amorphous 73:12 amy 3:5 91:9 101:21 analyst 16:11 anecdotal 37:2 88:7 angeles 64:19 answer 6:1 8:7,10 8:14,19,20 26:11 27:10 28:13,15,16 33:12 34:11 36:8 36:25 38:11 40:8 40:18,24 41:20 42:8 51:22 58:4 59:15 69:7 70:25 72:2 73:8 77:2 79:13,16 80:23 81:9 83:23 89:11 90:1 95:5,24 96:19 antigun 74:10 antipersonnel 18:2 antipolice 73:19 antitank 18:2 anybody 25:10 86:3,16 98:4 anyway 96:25 appear 103:13 appearances 3:1 appearing 1:16 105:18 106:7 appears 61:10 68:7,16,25 97:13 appreciate 66:19 88:19,24 100:25 approach 70:1 73:5 75:2,2 85:9 87:19,23 88:2	approached 24:9 appropriate 27:24 approved 19:10 approximately 22:3 48:20,25 ar 82:6 area 96:18 99:7 argue 34:12 66:6 101:4 arguing 97:11 armed 23:23 26:18 37:5 66:10 69:24 72:24,24 86:11 88:8 armor 50:8 army 17:19 arrest 19:7 23:13 52:4 55:1,7 arrests 98:11 arrow 78:13 ars 82:10 article 37:5 85:24 articles 45:3,6,14 artifice 31:7 ascertain 74:14 aside 65:19 asked 12:3 22:12 asking 8:9 57:21 66:20,24 91:18,20 94:21 aspects 24:5,14 assault 24:6,14,20 26:18 assaulting 35:6 assertion 81:21 assess 67:12 68:5 68:22 69:4 assessing 69:18 assigned 17:11 18:24	assist 86:5 assistant 26:7 assisted 14:11 19:20 50:18 associated 89:8 association 50:22 91:24 assume 38:12 39:5 42:13 69:24 assuming 16:8 24:1 42:9 60:13 62:22 assumption 69:24 70:2,4 atlanta 55:6 atmosphere 79:11 attached 103:14 attack 79:18 attacks 28:19 attempt 85:18 attempting 36:3 attend 15:4 attention 14:7 55:10 attorney 1:8 2:8 3:6,14,16 7:13 8:18,20 26:7 46:25 47:14,20 104:18 attorneys 97:11 audit 73:21,21 author 50:14 authority 22:6 availability 35:2 available 32:16 96:12 99:15 average 31:22 40:6,11,12,22 41:18 42:5 60:14 avoid 44:2 55:3
---	---	---	---

[avoiding - bulge]

avoiding 57:7	barricaded 80:3	91:8,17 95:17	bill 11:7
aware 87:7 93:21	baseball 82:25	96:1 97:11	bit 16:8 27:2 32:18
97:2,7	based 36:21 45:14	believed 63:14	42:22 46:2 64:10
awhile 10:9 14:1	60:20	73:18 79:24	82:25 87:11 98:23
17:1 22:23 26:13	basic 23:5,5,6	believer 29:25	blue 20:16,16
b	basically 19:18	31:5 86:1	body 50:8 62:20
b 49:7 106:1	52:11 55:7 74:9	bellantoni 3:4,5,11	84:22
back 11:18,20	basis 13:12,21	9:16 10:4,10,14,19	bomb 83:15
34:15,16 35:19	14:3 17:19 52:9	11:9 12:6,24	bomber 79:2
46:4,8 47:4 67:8	77:16 88:8 89:23	13:23 26:10 27:9	bombing 79:20
67:20 71:5 74:13	98:3 99:4	28:12,16 30:17	bombs 79:3
74:17 88:14,25	bat 46:4	31:1 33:11 34:10	bono 11:10
100:22 101:20,21	batons 19:6	35:25 36:7,19	bonta 1:7 2:7 7:14
102:1	bean 75:10	38:10 39:10 40:7	105:4 107:1
background 45:21	beat 34:24 35:17	40:23 41:19 42:7	book 69:17
49:24,25	beaver 64:25	43:8 51:21 53:25	books 90:11
backing 40:14	beef 90:20	55:24 58:3 59:14	borders 53:13
backup 86:5	beginning 2:18	67:19 69:6 70:16	botched 55:1
bad 17:6 24:17,19	100:6	70:24 72:1 73:7	bound 95:8
29:7 31:19 37:19	behalf 2:17	73:10 77:1,17	boundaries 99:3
40:15 44:10 55:5	behavior 24:6,21	79:12 80:19 81:8	bow 78:13
57:2 62:12 66:15	67:12 68:6,22	82:8 83:22 88:16	box 3:19 43:25
72:17,17 73:3	69:5 71:11,14	89:10,25 91:11,14	59:3
82:19 83:14,19	72:12,15 74:17	92:1,7,12 94:12,17	breacher 18:21
84:14 85:22 86:23	75:16 76:1,18,22	95:4,23 96:13,17	break 8:12,15 34:1
badge 88:9	76:23 77:24 84:6	96:22 97:4,9	101:11
bags 72:6	101:3	101:9,10,15,18,24	breaking 97:16
bailiwick 55:3	behavioral 24:5	102:4,6,10,19,21	brief 101:11
baird 1:4 2:4 3:25	24:14 72:12 75:22	belt 41:5 54:4	briefed 96:13
7:14 105:4 107:1	76:9	best 32:6 70:6	briefly 102:2
ballistics 52:1,2	beings 31:6,12,13	better 23:19 31:13	bring 54:15
ban 46:17 47:19	39:4,17 77:24	31:21 32:20 53:12	broader 93:16
banned 46:21	80:25	62:13 99:18	96:2
64:17 96:24 98:20	belief 98:24 100:8	beyond 87:14	brought 56:18
98:21	believe 11:11	big 13:18 20:11,18	79:15 80:22
banning 62:23	13:22,25 17:1	24:18,20 28:23	brown 82:16,22
63:22 65:13,20,23	26:8,14,19 31:2,8	29:22,25 31:5	bruce 60:2
65:25 66:21,23	32:19 48:22 57:24	33:18 46:7 54:19	buff 46:7
70:8	59:9 60:11 61:19	56:16 57:8 58:6	building 79:4,21
bans 50:8	65:22,22 66:2,2	78:2 85:25 87:20	bulge 54:7
	67:2 72:3 89:19	88:4 92:24 93:7	

[bunch - chuck]

bunch 16:4 41:24 53:14 bureau 58:25 59:7 93:24 burglar 37:9 burglarize 77:11 burglary 44:16 business 16:19 22:21,25 23:3,18 27:12 31:9,10 33:7 47:4 53:15 53:17 55:16 75:4 76:9 77:7 93:4 button 70:9 buzz 33:18	capita 64:18 captain 16:22 49:2 49:9,13 car 28:7 30:7 37:20 43:13,18 44:1,19 46:20 70:22 71:4,23 72:5 84:15 career 18:9,11,18 18:18 21:9 48:9 64:15 carjacking 24:12 37:17 carjackings 31:25 carriage 45:11 82:10 84:1,4 carrie 1:21 2:19 104:23 carrier 86:20 carriers 48:7 carry 15:2 25:9,10 27:7 28:9 29:18 29:19 30:15 31:3 32:11 34:9 35:8 35:24 41:6 42:25 43:15 45:4 46:1 46:11,13,15,17 47:6,7,8,11,13,13 47:16,17,17,19,22 47:23,24 48:1,3 52:21 54:15 56:10 61:23 62:4,9,17,24 63:11,15,22 64:2,4 64:7,7,20,21,21 65:8,13,20,23,25 66:8,14,21,23 68:9 68:17,20 70:8,10 73:17,20 75:18 77:21 89:4,8,16 91:24 93:2,5,10,11 93:17 94:16 96:9	96:15,20,23 97:2,8 97:20 98:1,7,19,21 98:22 99:1,24 100:5,9,11,13 carrying 25:12 26:8 30:24 32:21 32:22 34:4 39:6 39:15 48:8 52:24 53:7 54:3,4,6,11 56:9,9 57:24,25 59:10 60:22 61:1 61:7,13 62:19 63:13,18 64:5 67:11 69:3 74:5 76:8,24 81:4,20 82:5,18 83:21 86:16,17 98:4 cars 39:18 46:21 cartilage 29:9,10 case 1:6 2:6 7:13 7:23 8:1 10:8,18 10:22 11:6 13:6,8 13:25 14:9 30:6 30:10 34:13 35:13 42:17 44:13 52:10 56:22 58:12,12 59:23 65:6 66:16 66:17,17 75:25 76:13,14 79:1,14 82:12 83:4,16 91:7 92:21 94:19 95:6 96:13 98:15 104:14 cases 30:8 37:8 44:13,21 47:3 56:15 78:7,10 cash 43:1,1 casual 9:17 cattle 46:5 cause 42:4,10,24 53:2 60:23 62:13	62:14 64:11 66:3 66:12 76:4 causes 79:14 80:21 caveat 40:25 ccp 105:9,12 cellphone 59:21 center 16:10,19 certain 34:7 47:1 97:3,8 98:14 certainly 8:11 40:3 64:5 65:2 90:17 93:18 97:15 certified 2:20 6:1 104:1 certify 104:3,16 chainsaw 33:5 chainsaws 39:19 chance 54:20 change 84:16 107:4,7,10,13,16 107:19 changed 18:4 47:2 chaotic 62:10 80:16 charge 19:18 48:15 49:4,7,8,10 charged 39:1 charles 1:15 2:16 4:2 5:4 7:4,16 103:10,21 105:1,5 107:2 chase 51:8 checked 87:25 chief 9:22,22 13:9 47:10 49:15,18 82:15,22 chiefs 50:22 children 44:22 chuck 5:4 7:17 105:2
c			
c 24:8 49:7 ca 105:9,12,20 caliber 17:25 california 1:2,9 2:2,9 3:14,20 7:13 46:6 62:4 63:11 63:16 69:16 93:17 94:5,20 95:12,14 96:4,7,10,16,24 97:3,8 104:2 call 20:4 25:3 47:15 61:7 74:8 77:22 78:13 85:9 called 20:12 37:5 73:20 74:3 calls 24:8 camera 30:8 capability 31:16 31:17 35:5 capable 29:14 31:6,11 capacity 1:8 2:8 15:20,21 21:16 23:19 25:15 27:16 29:24 49:21			

[circle - contacted]

circle 35:19 circles 99:25 circumstance 36:22 circumstances 32:2 68:21 75:3 97:3,8 cited 13:4 cites 13:3 cities 46:17,21 47:3 citizen 37:6 66:5 85:4 citizens 86:11 98:25 city 20:15 23:10 42:23 50:7 51:11 103:17 civil 14:18 105:19 105:20 civilian 23:19 36:4 36:6 37:16 38:8 40:1,6 42:6 53:17 57:12,25 58:2 59:10,12 69:3 70:22 82:5 86:19 86:21 civilians 53:3 56:8 61:1 82:18 clarification 30:18 31:4 36:20 43:9 clarified 43:23 clarify 36:1 clarifying 36:6 clarity 39:12 73:10 class 31:20 classes 15:22 16:1 23:7 25:8 classic 76:13,19	classically 80:2 claymore 18:2 clear 58:16 92:15 92:20 clearly 9:11 28:2 66:16 74:7 99:2 clients 23:4,25 25:9,13 27:7 28:9 29:18 30:14 43:5 44:8 close 37:18 closed 77:8 clothes 84:16 coalesced 16:4 code 50:7 69:17 105:9,12,19,20 coincided 64:23 college 15:4,6,12 15:23 16:3 colleges 15:16 color 61:10 68:16 colorado 48:2 colored 62:14 columbine 19:24 20:6 21:7 81:15 85:8,14,15 87:15 combination 34:21 come 13:16 21:1 22:13 60:7 64:19 73:18 89:20 91:1 91:3 comes 24:16 39:23 55:12 67:10 69:2 72:11 comfortable 25:23 coming 20:6 21:5 58:20 67:1 79:10 90:22 comma 28:24	command 21:13 48:10 commander 17:10 18:19 48:12 commanders 48:15 commands 34:22 35:14 comment 9:7 commissioned 46:10 common 48:6 78:3 commonly 93:5 99:19 communicate 33:20 communication 33:15 community 51:5 51:12 74:2 82:17 comorbidities 28:23 company 22:23 57:17,18 compared 94:3 compartment 72:5 compensated 11:5 competent 41:9 complaint 10:24 11:3 complete 15:13 completed 15:14 15:25 105:7,17 106:6 completely 82:12 completion 104:14 106:10 compliant 97:20 comport 69:25 computer 88:22	conceal 47:12,13 47:24 64:7,21 71:13 73:17,20 86:20 concealed 41:7,7 43:15 46:13 47:17 47:23 54:5 56:9 70:2 76:15 98:1,7 98:19 99:23 100:5 100:13 concerns 32:10,14 32:15 concert 35:16 conclusions 91:3 conduct 13:11,16 23:22 conducted 45:15 53:19 91:23 conducting 45:22 confrontation 74:10 confronted 34:16 confused 96:21 congruent 77:5 conner 95:9 consider 26:23 37:15 51:20 94:10 94:25 95:20 consistent 92:17 console 72:6 consoles 71:6 constitutional 47:16 consultation 99:6 consulting 22:21 22:25 23:1 contact 74:4 78:22 85:19 105:9 contacted 10:11 10:15
---	---	---	---

[contacts - deescalate]

contacts 24:8 contained 103:14 context 90:25 91:2 95:15 continue 56:4 contradict 92:22 contradicts 89:18 contributing 57:5 control 14:3 19:7 23:13 52:4 55:1,8 controversy 83:13 83:17 conversation 9:17 10:19 53:24 cookie 23:4 cooking 90:11 cop 31:8 41:22 47:6 50:24 54:14 76:22 81:4,12 82:2 84:15 86:22 cops 40:14,15 47:9 47:9,11 55:3 62:12 64:3,4 88:2 copy 12:11,16,22 16:9 102:5,7,11 correct 63:8 68:1 103:15 corrected 103:15 corrections 9:4,6,7 103:13 105:14,15 106:3,4 correctly 24:23 35:20 council 51:11 counsel 12:22 14:10 27:13 28:3 28:6 31:12 32:6 44:24 100:24 105:18,21 106:7 counselor 101:4	count 16:2 country 97:22 county 21:25,25 22:9,12,14 couple 9:17 15:17 36:1 44:21 55:19 90:5 course 15:19 20:5 27:18 40:16 41:4 44:18 46:3 48:9 58:8 101:13,17 102:17 courses 15:13,14 15:15 court 1:1 2:1 8:3 14:18,18 47:3,20 52:7 56:15 courthouse 79:19 courtroom 7:20 courts 51:24 56:20 cover 32:7 covid 28:21,23 cpost 19:10 craig 24:7 create 53:1 89:4 created 61:24 creates 56:7 creating 50:12 creation 51:1,6,17 credit 15:23 16:3 crime 14:4 31:24 37:16 55:17,17 58:6,17 64:14,16 64:18,23,25 65:1 66:9 71:15 89:9 90:12,13,18 91:25 94:4 crimes 59:25 65:4 criminal 14:18 24:5,14,20 26:18 35:4 55:17 60:13	66:9 76:10 98:12 101:3,5,6 criminalistic 76:1 criminally 38:23 criminals 76:14 criteria 42:18,19 critical 41:24 65:16 80:24 crr 1:22 csr 1:22 104:24 cure 63:23 65:14 current 16:17,22 22:5,19 38:22 49:2 50:16 currently 22:15 23:8 32:18 custody 55:4 customize 23:7 cutter 23:4 cv 1:7 2:7 16:9	days 9:17 21:20,23 46:5 dead 44:18 deadly 26:25 27:4 30:10,12 32:4,5 67:17 68:14,24 71:25 deal 28:23 33:16 33:23 48:7 57:8 70:10 74:25 dealer 90:21 dealing 33:25 54:14 77:21 80:2 80:3 deals 93:9 dealt 71:7 dear 21:12 deaths 55:4 december 48:21 decided 15:9 decision 25:11 26:4 36:14,23 51:25 68:13,23 70:5 71:25 72:10 72:21 decisions 46:23 67:15 72:23 declaration 5:4 9:23 10:2 11:12 12:3,5,9,12,18,23 13:3,15,18 14:11 61:9 67:22,25 91:15 declare 103:10 deep 28:21 56:13 deeply 76:15 deer 46:15 deescalate 32:3 33:10,21 34:8,22 35:11,23
		d	
		d 1:15 2:16 4:2 7:4 7:16,17 103:10,21 105:1,5 107:2 dabbled 45:12 dallas 82:15 83:1 danger 70:15,23 89:4 dangerously 83:21 dark 34:16 77:8 data 87:22 databases 37:2 date 10:9 104:19 105:16 106:5 107:24 dated 104:22 david 7:16 82:16 day 23:14 54:11 77:6,13 78:12 98:3,3 103:16	

[deescalation - early]

<p>deescalation 16:13 24:25 33:14,17,24 34:3 35:3,7 36:2,4</p> <p>defeat 35:5</p> <p>defend 29:14,19</p> <p>defendant 1:10 2:10 3:13</p> <p>defendant's 5:2</p> <p>defendants 2:17</p> <p>defense 14:19 25:22 28:2 37:14</p> <p>defensive 19:17 25:19 37:2 83:6</p> <p>defer 10:10</p> <p>deficiencies 63:24 65:14</p> <p>definitely 17:2 26:25 88:13</p> <p>degree 16:5 66:1</p> <p>delirium 16:11 33:19 50:21</p> <p>delivered 83:16</p> <p>delve 54:20</p> <p>demeanor 75:17 77:12 84:1,4,6,22</p> <p>demographic 95:19 98:8,13</p> <p>demographics 100:12</p> <p>demonized 99:20</p> <p>demonstrate 59:18</p> <p>density 94:3</p> <p>denver 56:17</p> <p>department 15:9 16:16 18:13,14 19:1,13 21:16 22:1,15 23:10 41:11,12 43:20 48:12,17 49:20 50:16,16 83:1</p>	<p>departmental 63:24</p> <p>departments 20:10 69:13 83:3</p> <p>depend 42:18 71:1</p> <p>depending 42:19 85:10</p> <p>depends 90:2</p> <p>deploy 41:7</p> <p>deposition 1:15 2:16 7:25 9:3,14 9:16 10:5 82:13 104:13 105:19,22 105:24 106:8,10</p> <p>depth 33:17</p> <p>deputy 22:2,13,14 30:7 49:15,23</p> <p>describe 17:15 23:2 79:10 96:14</p> <p>describes 61:9</p> <p>description 5:3</p> <p>detail 73:12</p> <p>detective 76:16</p> <p>detectives 20:7</p> <p>determine 76:24</p> <p>determined 42:3 93:22 105:18,22 106:7</p> <p>detriment 54:16</p> <p>detrimental 52:25</p> <p>develop 19:21</p> <p>developed 20:23</p> <p>developing 20:21 94:10,25 95:20</p> <p>diallo 59:25</p> <p>difference 66:5 94:4</p> <p>differences 94:9 94:24 95:19</p> <p>different 20:10 30:12 75:18 95:11</p>	<p>95:13</p> <p>differentiating 62:11</p> <p>diffused 74:11</p> <p>dinkheller 30:6</p> <p>direction 104:10</p> <p>directly 89:18</p> <p>disadvantage 97:15</p> <p>disagree 42:20</p> <p>disallowed 47:5</p> <p>disarming 44:5</p> <p>discussed 45:24 65:15 84:7</p> <p>discussing 92:23</p> <p>discussion 11:17 67:5 88:23</p> <p>display 35:13</p> <p>displaying 76:18</p> <p>dispute 32:18</p> <p>disputes 65:9</p> <p>distance 36:21 37:21</p> <p>distort 80:16</p> <p>district 1:1,2 2:1,2 26:7</p> <p>document 11:25 12:8</p> <p>documents 13:4,4 13:5,10,12,16,20 13:22 102:16</p> <p>dog 75:24</p> <p>doing 12:14 14:1 15:20 16:15 22:15 33:16 35:15 41:8 45:2 47:4 48:20 79:20 85:10 86:6 99:2</p> <p>doj.ca.gov 3:22</p> <p>doke 8:16</p>	<p>domicile 28:3</p> <p>donahue 91:23</p> <p>douglas 24:7</p> <p>downrange 57:2</p> <p>dozen 14:16</p> <p>drafting 11:2</p> <p>draw 79:6</p> <p>draws 80:12</p> <p>dress 81:14</p> <p>drill 73:2</p> <p>drink 26:3</p> <p>driver 17:8,20</p> <p>driver's 28:6 39:21</p> <p>drives 46:6</p> <p>driving 39:18</p> <p>dropped 65:1</p> <p>drug 90:20</p> <p>drugs 33:20</p> <p>dry 26:13</p> <p>ducks 100:1</p> <p>dude 26:15 31:22 78:12</p> <p>dudes 34:17</p> <p>dui 98:11</p> <p>duly 104:7</p> <p>duress 81:1</p> <p>duty 14:6 20:9 26:16 34:13 40:4 41:4 47:8,9,10 81:5 82:2,7 84:14 86:15,18</p> <p>dynamic 16:12 93:10</p>
			e
			<p>e 105:9,12 106:1 107:3,3,3</p> <p>earlier 27:5 84:6</p> <p>early 30:4 64:16 69:14</p>

[earned - famous]

earned 16:3 earp 46:4 easily 78:17 eastern 1:2 2:2 easy 89:20 91:3 93:19 ed 28:6 education 15:13 16:6 27:14,23 28:4 31:17 effect 52:25 53:10 64:11 66:4,13 effective 94:11 95:1,21 effectively 27:21 eight 14:23 23:14 49:1,1 56:4 60:18 61:22 63:3 either 34:23 35:17 41:9 67:2,2 80:11 elderly 28:25 eliminate 68:17 email 9:20 55:13 55:13 102:8,19,20 102:21 emotional 38:14 39:3,9,22,23 emotionally 39:1 emphasizing 65:15 employee 104:17 employment 22:20 emporia 15:17 empty 34:19 encounter 24:11 37:16,16 encounters 37:18 37:22 38:3 66:5 ended 15:10 18:18 34:20	enforcement 10:23 16:18 18:10 19:25 21:8,17 22:16 23:20 29:24 33:17 40:11 42:3 46:9,10,22 47:7,10 48:10 55:18 56:14 57:11,12 59:12 65:14 75:20 77:20 81:6 82:7 85:4,6 86:8,24 92:25 96:6,23 99:25 engages 101:2 enhance 63:23 65:20,24 66:22,23 enhances 66:24 entire 32:23 entirely 42:18 80:10 91:11 environment 93:5 equal 58:2 59:11 equipment 81:13 era 64:25 errata 105:14,16 106:3,5 escape 71:16,17 establishment 77:11 et 1:9 2:9 evaluate 77:24 84:13 90:3 evaluated 89:23 evaluating 84:17 event 19:25 21:7 38:25 78:1,16,17 79:11 81:5,19 82:17 83:24 85:14 85:16,25 86:17 events 21:10 69:15 77:25 86:2,6,10,18 87:1,14,16 88:1	eventually 18:17 everybody 17:6 28:18 54:5 65:1 95:8 101:5 everybody's 85:14 exact 62:7 66:12 exactly 22:4 39:16 58:14 68:7 76:13 78:20 examination 4:6 7:8 examined 7:5 example 17:22 30:9 35:12 56:17 57:4 66:22 70:13 81:16 85:13 examples 51:13 60:6,7 exception 46:12 excited 16:11 33:19 50:21 exciting 38:24 excuse 26:12 60:24 85:21 executed 103:16 exercising 75:17 exhibit 5:4 11:15 11:21,22 exhibits 5:1 exist 57:6 76:7 experience 13:19 15:12 17:15 31:23 45:20,25 46:2 52:12 64:1 81:12 84:10 90:17 93:1 93:8 98:17 experienced 75:20 expert 5:4 7:22 9:21 10:18,20,23 13:9 14:13,17,19 14:21 15:1 51:20	51:24,25 52:5,7 92:2 94:20 96:18 96:20,22 expertise 92:10 experts 97:13 explain 53:5 56:10 63:25 75:21 85:7 97:23 exposed 56:10 60:23 61:1 62:20 expressions 84:23 extensive 55:13 extensively 99:10 extent 65:21 66:25 extraordinarily 81:11 83:2 100:13 extrapolate 86:13 extremely 26:4
f			
facial 84:23 fact 35:3 53:2,6 57:7,14 59:17,20 64:24 65:18 82:3 100:8 factor 32:25 33:8 36:12,16 38:7 39:7,25 57:11 94:10,25 95:20 factors 16:13 36:22 84:5,7 87:15 94:3,8 96:1 failing 13:8 fairly 55:13 falls 31:22 false 91:3 familiar 17:13 85:14 89:7 91:21 91:22 92:4 96:9 famous 54:23 55:5 59:23 60:1 69:17 81:19 87:14 100:5			

[famous - give]

<p>100:19 famously 30:7 fan 78:4 fancy 17:5,5 far 10:9 13:24 23:20 38:22 50:4 88:12 90:17 95:15 96:2,2,2,12 98:12 99:7 100:21 fear 60:21 federal 79:18 104:13 106:1,8,9 feds 58:20 feel 25:23 75:14 feet 37:25 feloniously 37:24 felt 29:4 fence 40:9,10 field 19:2,3,4 51:20 92:18 fight 30:8 34:18,19 fighting 19:8 fight 38:1 figuring 32:3 filing 13:8 finally 21:12,13 financially 104:16 find 17:6 20:20 30:10 31:19 32:7 52:15 54:3,8,9 56:14 72:15 75:8 86:7 finding 89:7 findings 92:16 fine 102:10 finish 8:7,9 fire 16:1 22:6 35:12 49:3,10 firearm 19:22 23:23 25:9,11,13 26:17,19 27:7,20</p>	<p>28:9 29:18 30:15 32:12 33:1,9 34:9 35:24 36:13,17 37:24 38:8 39:6,8 39:11,15 40:1,6,22 41:18 42:4,5 43:6 52:24 53:17 57:25 58:1,11,18 59:10 59:19 60:23 61:8 61:13 62:20 66:8 70:14,22 71:23 72:13 73:4,11 81:4 firearms 14:19,20 14:21 15:2 17:13 17:16 18:4,24 19:5,13,16 21:2,3 23:18 25:5,24,25 26:1 27:15 44:9 45:4 46:1,17 48:7 49:8 52:1,1,2,3 56:14 63:13 83:5 89:17 95:2,22 97:20 fired 60:1 firefighter 31:9 firing 59:2 firm 3:4 first 10:7,11 17:23 48:14 64:12 95:10 firsthand 89:18 93:8 fishing 46:13 fit 28:11,18 29:1 36:10 38:4 64:8 64:20 flip 40:16 florida 100:5 floyd 54:25 fluctuate 58:8</p>	<p>focused 71:14 follows 7:6 105:8 force 14:18 16:10 16:10,12 19:5,12 19:19 26:25 27:4 30:3,5,10,11,12 32:4,6 50:17 51:9 51:25,25 52:3 83:5 95:8 99:9,13 foregoing 103:12 104:4,6,10,12 forget 9:19 forgot 65:1 form 13:12 formal 9:15 15:13 16:6 37:11 41:5 45:16 58:25 59:6 102:17 formalize 57:23 former 9:22 forms 22:19 forth 74:13,18 104:5 forward 13:9 found 24:22 83:8 85:21 founded 57:17,18 four 23:13 77:20 85:11 frame 70:6 frankly 23:18 54:4 57:6 71:9 72:16 74:12 97:10 98:3 frcp 106:1 free 95:11 freedom 95:13 freeze 48:13,13 frequently 85:5 friend 22:22 25:14 25:18 44:15</p>	<p>friends 24:6 front 9:20 73:25 frontier 46:5 full 7:14 fund 21:22 further 104:12,16 furtive 71:12</p> <hr/> <p style="text-align: center;">g</p> <hr/> <p>g 7:17,17 gain 15:23 98:25 gallardo 1:4 2:4 gang 14:22 64:13 90:18 98:23 garr 95:9 gas 18:25 gated 74:1 gather 69:1 85:12 gear 84:15 general 1:8 2:8 3:14 7:13 31:12 32:17 39:4 40:4 40:20 41:16 42:2 46:25 50:2,15,17 60:7 general's 47:14,20 generalized 60:21 generalizing 66:18 generally 42:20 97:20 generic 86:20 gentleman 56:23 56:25 73:18 74:6 79:19 81:18 gentleman's 59:24 george 54:25 getting 22:10 30:24 57:19 gimme 72:20 girlfriend 34:14 give 8:10 39:21 40:18 42:12</p>
---	---	--	--

[given - hereto]

given 20:24,25 21:4 104:11 gives 26:19 giving 92:9 glad 21:12 glaring 30:9 56:18 57:3 glasses 52:15 glove 43:25 72:5 go 7:17 11:15,18 17:5 27:17 28:14 28:16 33:5 35:8 36:8,22 37:4,19 43:15,19,21 44:24 45:2 46:4,8 47:4 49:20 53:7,22 54:2 59:4 63:20 67:8 70:13 75:7,8 75:12 79:15 81:13 84:17 88:20,25 90:21 95:5 97:25 99:2 102:1 god 20:1 53:12 66:15 goes 77:13 going 17:1,22 23:9 24:18 25:21 27:19 30:17 31:1,18,21 36:19,20,25 38:12 38:25 41:23 44:24 46:7 48:23 56:24 58:24 65:8,17 67:19 68:10 73:13 73:19,20 74:8,21 76:8,22 77:9 79:12,13,17 80:19 81:12,22,23 82:8 84:18 86:4 87:11 88:21 89:25 90:21 92:1,7,8 95:6 96:18 97:24 98:5	98:18 100:2 good 7:10 14:16 24:6 41:22,23 42:4,12 56:13 62:11 70:6 76:22 77:10,22 82:1,19 84:14 88:8 google 59:3 gotcha 74:22 gotten 79:22 graduate 15:8 graham 95:9 grandest 50:3 grandma 37:8 great 52:18 63:16 64:10 100:23 greater 64:18 greatly 63:23 65:24 66:21 green 75:9 grenade 18:1,6,25 groceries 75:25 ground 19:8 29:4 group 97:22 grown 29:6 guarantee 54:1 75:6 guess 39:22,24 65:4 80:17 91:13 101:24 guidelines 94:7 gun 14:3 17:25 18:1 25:4,20,21,22 25:22 26:8,23 27:22 30:8 34:4 34:21 35:1,2,2,12 35:13 38:21 41:6 41:7 42:12 43:16 43:17,21,22,24 44:1,2,3,7,15 45:1 46:11,19 47:8	48:8 53:7,12 54:11 60:16,16 63:18 64:4,20 69:19 72:20 73:21 74:5,5,7 75:9,23 75:24 76:3,8,20 81:25 82:6 86:16 86:21 90:8,10 98:4,22 100:19 gunman 83:16 gunmen 80:3 gunner 17:8 guns 18:7 30:11 32:22,22 44:11,22 45:11 46:21 65:8 71:3,6,6,8,9,18 76:16,17 81:16,17 82:10 83:23 guy 18:25 24:19 29:5 57:2 72:17 72:17,18,19,19 73:4 74:4,13,14,19 75:4,5,23,24 77:7 77:9,10 78:25,25 79:1 82:19,19 83:14,19 84:2,14 84:14,19,21 86:24 88:8 guy's 26:21 53:12 54:11 guys 12:15 17:6 22:24 24:17 34:19 37:19 44:10 62:11 62:12 81:20 97:12 97:13 gym 81:18,20	103:10,21 105:1,5 107:2 half 29:3 hampshire 93:16 100:7,10 hand 60:3 handcuffing 19:7 23:14 handed 34:19 handgun 46:13 53:8 73:24 handguns 76:15 82:11 handle 27:15 29:5 32:11 handled 105:8 handling 41:24 happen 21:14 76:8 83:20 happened 20:14 56:21 happening 40:15 66:16 happens 85:5 hard 10:12 14:16 40:10,12 69:13 harden 25:18 hardwire 16:21 harsh 25:3 hazard 53:1 56:8 57:6 head 44:23 health 38:13,18,20 hear 79:5 heart 21:12 28:19 heighten 70:15,23 heller 46:25 helped 25:17 helping 22:2 55:16 hereto 103:14
			h
		h 7:17 107:3 haggard 1:15 2:16 4:2 5:4 7:4,17 11:21 67:21	

[hey - job]

<p>hey 20:25 high 33:20 42:25 59:18 higher 89:8 91:24 hint 61:15 hip 29:11,12 71:8 75:9,23,24 76:3,21 hire 15:10 93:24 hiring 48:13 historical 57:3 85:3 87:2,3 historically 58:5 100:11 history 46:7 69:14 87:4 hit 23:8 hold 17:3 101:15 hollywood 81:19 holster 54:3 73:24 holstered 53:7 71:8 home 25:22 37:13 43:10,12 44:2,16 90:8,10 homicide 14:22 honest 75:20 hope 38:19 81:10 hoping 74:24 hostage 79:25 80:2 hotel 34:15 hour 11:13 23:14 49:6 hours 23:11,12,13 house 25:18 44:17 51:10 huh 14:12 56:5 92:11 human 16:12 31:5 31:12,13 32:17 39:3,17 77:24 80:25</p>	<p>hundreds 29:24 hunt 46:12 hunter 27:18 hunting 27:16 46:12,14 hurry 84:1 hysteria 62:15</p> <hr/> <p style="text-align: center;">i</p> <hr/> <p>iacp 50:19 idaho 93:16 idea 53:11 90:6 identifiable 78:18 81:4 identification 20:13 52:2 81:24 identify 79:9 80:13 identifying 80:11 idiot 75:15 ieds 79:4,21 illness 74:15 imagine 25:15 immediately 79:9 81:3 83:19 88:9 impact 52:22 impasse 97:14 implementation 52:21 importance 44:25 65:16 important 44:8 57:11 78:22 94:10 94:25 95:20 impossible 66:7 impression 62:8 improper 57:4 improvement 16:15 improves 65:25 incident 19:22 80:24 83:11,12</p>	<p>incidentally 57:16 incidents 41:25 55:15 69:14,16 88:7 101:1 include 86:13 included 82:17 105:14 106:3 includes 94:15 98:9 including 47:6 incorrect 57:4 increase 68:20 incredibly 37:18 independent 45:15 index 4:1 indicate 76:10 indicating 92:16 indicators 76:9 individual 46:17 75:19 individuals 60:22 infantrymen 17:21 informs 45:25 initialed 103:13 injunction 91:6 injury 58:19 ink 103:13 innocuous 59:21 75:10 input 10:22 51:7 inside 79:4 insider 82:25 insisted 11:11 instant 61:24 62:3 instruct 74:6 instructed 6:1 instruction 41:5 instructor 16:20 16:21 19:5,6,18</p>	<p>instructors 56:14 intent 71:2 interdict 30:4 interdicted 86:11 interdiction 85:4,6 88:11 interdicts 86:23 interested 104:17 interim 18:20 interject 36:24 internal 99:10 international 16:20 50:21 intoxicated 40:2 investigation 99:12 investigations 99:11 involve 23:22 involved 10:7 26:15 37:7 51:10 76:1 79:1 80:25 87:15 99:10,12 involvement 93:10 involves 54:21 involving 19:22 irrelevant 96:24 issue 37:12 38:5 76:11 issues 14:4,4 38:20 items 29:19</p> <hr/> <p style="text-align: center;">j</p> <hr/> <p>jack 37:20 jackson 21:25 22:9 jeweler 42:25 jewelry 43:1 job 1:23 15:11 16:14,22 17:17,23 19:15 20:24,25 22:5 41:23 44:14</p>
--	--	--	---

[job - lists]

49:2 105:5 jobs 16:15 17:19 joe 60:14 john 91:23 100:18 judo 16:13 29:5 jujitsu 29:5 jumped 29:8 jurisdiction 96:23 justice 59:1,7 93:25	knees 29:10 knew 83:19,23 knives 78:11 know 8:13,24 9:5 9:24 14:2,8 16:3 16:14 19:24 20:5 20:11,20 21:10,21 22:6,10 23:5,15 24:10,17,18 25:3,4 25:6,16 26:2,16,18 27:1,2,18 28:19,20 29:1 30:2 31:9 32:11 33:6,13,20 33:24 34:3 35:14 38:25 39:21 40:13 40:16 41:1 42:10 42:11,17,18,20,25 43:19 44:11,12,21 45:1,8 47:18 48:5 53:18,25 54:6,25 55:3,4,7,16,18 56:12,16,22 60:1 60:14 62:10,12,14 64:12,22 65:3,5,10 66:10,18 70:3 71:12,14,19 72:8 72:13,14,16,17,19 72:22,24 73:3 74:5,6,7,12,13,15 74:18,21 75:1,3,6 75:9 76:6,19 77:3 77:6,8,10,12 78:5 78:7,7,9,10,20 80:16 81:24 82:19 83:14,21 84:19,20 84:24 87:14,20 90:4,15,19,20,21 90:25 92:5 93:4 93:23 94:2,6 95:7 97:15 98:5,16,20 98:24 99:6,8,17,19	102:13 knowledge 42:22 known 7:14 55:5 knows 75:20 81:12 kooky 74:2,19 kyle 30:6 l l 3:5 label 24:7 lack 56:6 language 66:20 large 32:1 73:23 larger 50:3 65:6 late 69:14 88:3 lately 23:17 launcher 18:1 launchers 19:1 launching 18:6 law 3:4,6,16 10:23 16:18 18:1,10 19:25 21:8,17 22:16 23:20 28:1 29:24 30:25 33:17 40:11 42:3 43:23 46:9,10,22 47:7,10 48:10 55:18 56:14 57:10,12 59:11 60:21 65:14 75:20 77:20 81:6 82:7 85:4,6 86:7,24 92:25 96:6,22 97:16,21,22 98:7 98:25 99:3,25 100:14 101:2,7 law.com 3:11 lawful 52:23 laws 47:1,2 51:2 52:21 89:8 91:24 96:9 97:7 lawsuits 47:18 56:17	laying 44:17 71:6 layperson 97:15 lead 56:7 60:25 76:2 leader 17:8 18:22 18:23 leave 26:20 43:24 64:25 97:15 leaving 18:3 44:11 53:21 83:25 led 76:19 87:17 legal 12:16 13:7 46:19,23 47:22,23 47:24 77:22 97:14 105:7 legalized 73:17 legally 27:2 43:18 43:22 64:3,4 97:19 99:1 length 12:7 83:12 lethal 30:1 level 43:3 51:7 64:25 77:23 99:5 liberal 100:7 license 47:17 98:1 98:7 licenses 39:21 lieutenant 17:11 18:19,24 48:11,23 49:1 lieutenants 49:5 life 8:1 14:5 32:23 lifesaving 31:8,10 lifestyle 28:20 limited 26:23 line 6:2 105:15 106:4 107:4,7,10 107:13,16,19 list 18:4 lists 55:13
k			
kan 15:14 kansas 1:16 2:17 7:1 15:7,25,25 16:1 18:14 22:14 23:10 27:18 28:1 46:3,11,25 47:1,19 48:1,19 53:15 61:24 62:17 94:20 95:12,14 96:21 98:21 99:24 100:4 keep 35:16 44:6 keeps 70:5 kellerman 90:7 kept 34:23 kill 28:19 83:15 84:8 90:19 killed 37:24,24 44:14 90:9,15 killing 65:9 78:12 kim 10:2 67:9 kind 14:22 19:25 20:3 23:7 31:14 38:21 39:23,24 57:23 65:1 66:18 72:20 73:19 74:21 86:8 96:24 kinds 62:11 kjm 1:7 2:7 knee 29:7			

[litany - military]

litany 48:3 literally 71:12,18 literature 78:10 little 18:21 27:2 29:10 37:10 42:22 59:7 82:25 87:11 98:23 live 22:12 living 93:1 loaded 44:17 46:19,21 lobbying 51:3 locally 64:12 locate 13:11 location 77:4,5,13 80:12 lock 43:17,22 locked 102:9 105:12 106:1 logical 27:19 long 29:23 44:6 49:12 57:19 82:10 83:23 87:24 longer 22:9 83:4 longest 64:24 look 12:8,17 24:5 25:7 28:22 38:1,3 48:23 50:10 52:13 52:20 54:24 55:17 55:18 56:15,19,19 56:21,22 58:5,9,24 59:23 60:17 61:21 62:16 67:4,8 69:17 76:12,12,22 77:9 81:15,18 84:8,9,21,23 85:2 87:15 88:7 89:3 90:12,24,25 91:12 93:12,19,24 95:7 97:18 98:6,10,14 98:14,19 99:8,14	99:16 100:12 looked 64:15 94:6 99:22 looking 10:20 26:2 31:23 55:14 66:20 76:23 77:10 80:10 84:3 101:20 looks 24:14 looser 47:13 los 64:19 lost 56:16 lot 16:9 23:19 28:19 31:21 36:22 38:3 39:17 41:22 42:20,25 43:18,22 46:21 47:25 48:4 48:6 53:22,23 54:21 59:16 64:3 65:9 83:13,17 99:18,18 lott 100:19 louisiana 15:18 lower 98:12	maker 50:25 making 36:14 52:1 70:5 72:21 83:9 101:19 mall 86:14 man 29:6 56:23 managing 24:8 27:3 manifest 76:18 manner 83:13 86:4 marched 29:9 margate 56:19 mark 1:4 2:4 3:25 marked 11:22 markedly 75:18 marksmanship 27:22 36:18 37:12 38:5 masks 50:8 mass 62:15 78:5 78:17 massacre 69:15 master 19:15 masterson 46:4 math 48:20 matter 10:25 matthew 3:15 7:12 12:25 matthew.wise 3:22 mature 39:19 maturity 39:23 mayhem 61:24 62:3 mayor's 51:11 mcfadden 76:16 mean 13:13 24:1 27:15 30:23 32:14 32:15 33:4 38:13 38:15 43:9 50:3	51:2 53:5 56:11 57:14 63:25 65:25 69:19 73:21 75:21 85:7 90:2 97:23 101:6 means 29:14,15 35:5 meant 63:2 measure 66:7 mechanically 27:21 mechanics 27:20 meet 23:3 member 18:20 members 51:11 62:19 63:7,12 98:23 mental 38:9,13,13 38:18,20,22 74:15 mentally 40:11,12 mentioned 16:23 17:12 18:9 29:22 30:25 60:6 77:6 87:1 91:21 92:4 mentioning 27:5 100:15 mercy 26:21 mere 53:6 merely 63:17 message 21:13 methodology 93:25 metro 34:15 metropolitan 22:5 middle 50:9 55:2 71:15 75:5 85:15 miles 29:3 military 15:16,21 15:21 16:24,24 17:3,13,16 18:5 32:15
	m		
	m 24:8 81:20 m16a1 17:25 m2 17:25 m203 18:1 m60 17:25 machine 17:8,25 17:25 18:6 104:8 magazine 37:4 45:8,8 magic 59:3 70:9 maine 93:15 94:5 maintenance 19:17 majority 37:7,10 37:19,23 50:23 88:2		

[millimeter - officer]

millimeter 18:1	multiple 20:10	new 3:9 20:15	82:8 89:25 92:1,7
mind 53:13 60:8	89:19	42:11,21,23 93:16	95:4
70:6,7 88:16,20	municipal 50:4,6	100:7,10	objection 8:18
mine 24:20 25:14	50:12	newhall 69:15	26:10 27:9 28:12
44:15	murder 14:20	news 14:3 37:3	33:11 34:10 38:10
mine's 22:22	78:5,6,14	93:13,19,21 94:2	39:10 40:7,23
mines 18:2	murdered 30:7	newsletters 55:12	41:19 42:7 43:8
minimal 17:21	mute 101:9	night 75:5	51:21 58:3 59:14
45:23	muzzle 84:25	nine 62:16 67:4,9	69:6 70:16,24
minor 98:10	n	non 24:2 25:22	72:1 73:7 77:1
minuses 25:12	nail 97:25	40:12 85:4	80:19,20 81:8
minutes 29:3 54:9	name 7:15,15,16	nonexistent 57:4	89:10 94:12 95:23
missed 34:14,15	24:7 58:25 59:2,6	nonpolice 37:1	96:17 97:4,9
missouri 23:11	59:8,24 90:21	48:7	observation 13:19
48:2 53:21	104:20	nonsworn 24:2	45:20 53:14 54:13
misstate 59:1	name's 7:12	normal 86:8	83:7 89:19 93:8
mistake 53:2 57:7	national 16:18,18	north 21:25 81:19	observations 54:1
57:14 59:17,20	58:7,24	norway 78:11	54:17 92:18
65:18	nature 12:13	nose 34:20	observed 62:19
mistakenly 60:12	14:24	notating 105:15	67:9
mode 81:13	near 21:12	106:4	observing 90:3
model 23:3 50:20	nebraska 48:2	note 64:12 85:4	obvious 54:7
88:3,6	nebulous 66:11	93:14 101:20	obviously 17:21
modern 87:5	necessary 105:14	noted 54:13	27:13 29:21 38:24
moment 11:16	106:3	103:13	46:14 54:25 76:17
38:14 65:19 73:2	need 8:4,12 21:1	notice 12:18	occasion 99:14
84:18 88:21	27:1,13 29:11,12	noticed 66:3,4,14	occurs 29:13
month 37:5	29:14,15 88:21	november 105:3	october 1:17 2:19
morning 7:10,11	101:11	nowadays 76:20	7:1 105:5
motorcycle 48:16	needed 21:14	79:4	odds 82:1
mouse 75:14	needs 23:4,7,16	nra 37:4	offer 25:25
mouthful 22:7	negative 52:22,25	number 13:3 50:1	offering 32:20
move 85:12,17	53:9 54:12 66:8	50:10 93:9 100:20	41:12
movement 78:22	neglect 83:8	105:15 106:4	office 47:20 51:11
84:23	negotiations 80:3	numbers 91:1,1,2	105:11
muc 24:8	negotiators 80:5	nypd 59:23	officer 14:6 18:17
mug 37:20	neither 104:16	o	19:2 20:10,17,17
mugging 24:12	never 16:4 25:10	o0o 7:7	21:17 22:22 24:2
37:17	33:5 44:21,24	oath 7:5,19	30:2 31:7 36:3
muggings 31:24	70:10 71:3,10,19	object 31:1 36:7	40:5,21 41:17
		36:19 79:12 80:20	44:14 46:10 47:10

[officer - particularly]

52:12 59:12 67:10 67:12 68:5,13,21 69:2,17,21 70:6,15 70:23 71:24 75:20 85:11 86:8,15,18 96:7,23 99:12 officers 19:4,19 20:2,7,8,8,12 22:11 37:23 40:11 41:3,8 47:7 48:16 53:3 57:13 60:24 61:1,6,12 62:18 63:6,12,17,25 69:18 81:6,23 82:7 83:18 85:6 85:16,25 86:12 98:9,22 99:11 official 1:7 2:7 43:2 oh 17:14 20:1 53:12 63:2 66:15 ohio 76:13 okay 8:22 9:9 10:14 11:14,20,25 12:11,17,21 35:21 36:12 39:6 50:11 51:19 52:13,16,18 53:5 59:6,9 60:19 61:2,5,21 62:2 63:20,21 67:8 68:3 75:16 87:10 89:1 91:8,13 101:12 102:3,20 okie 8:16 oklahoma 48:2 53:20 old 22:11 37:8 38:1 44:14 47:4 olds 39:21 olympic 31:20	onboard 22:13 once 22:23 ones 37:3 59:17 78:19 87:14 oneself 26:20 online 45:10 onus 34:2 open 47:17,19 52:21 54:15 56:10 61:23 62:3,9,17,24 63:11,15,18,22 64:5,7,20 65:13,20 65:23,25 66:8,14 66:21,23 68:9,17 68:20 70:8,9 75:17 77:3,21 82:10 89:4,16 93:2,5,9,10 94:15 96:9,15,20,23 97:2 97:8 99:1 openly 32:11 52:23 61:8,14 63:13 67:11 69:3 76:25 81:4 82:5 82:18 opinion 13:6,12,17 13:21 47:1,14 53:3 54:18 55:23 57:10 61:3,6,12,16 61:18,20 62:3,5,7 62:8 63:5,10,14,19 65:7 68:4,12,15,16 68:20,25 69:1 77:16 81:21 83:7 87:8 89:16,21,21 89:22 90:3 92:15 92:21,22 99:4 100:16,25 opinions 51:19 52:9 60:20	opportunity 9:2 option 26:20 27:4 30:10 options 15:10 25:19,23 32:4,5 orders 50:2,15,17 ordinance 50:4,6 50:12 oregon 46:6 organization 49:11 50:22 original 13:7 104:13 105:10,21 orthos 29:12 outline 20:6 outside 41:10 46:11 57:21 79:14 80:20 82:12 overall 37:1 75:1 overarching 50:5 overcome 31:18 overhill 3:7 overland 47:19 overreact 74:12 overused 51:24	pages 1:24 85:2 105:14,17,17 106:3,6,6 paid 11:8 21:24 paint 68:8 panic 60:23 61:6 paper 45:8,17 56:2 81:22 88:13 papers 50:1 88:12 89:20 paperwork 91:9 paradigm 42:14 86:13 paragraph 52:20 56:4 60:17 61:22 62:16 63:2,5,20 67:4,9,13,16,17 75:12,16 77:19 85:2 89:3 93:12 97:18 98:17 paranoid 34:1 pardon 100:20 park 47:19 parking 43:18,22 65:9,10 part 13:13,18 15:19 20:11,18 22:2,9,13 24:4,20 25:1 29:21 32:24 35:2,3,6,17,18 47:21 49:3,10 50:20 53:15,24 62:23 63:19 71:17 75:2 78:22 80:1,7 81:21 83:12,24,24 84:20 88:5 91:8,9 92:24,25 93:7,20 particular 27:6 58:23 85:18 99:8 particularly 42:22 46:24 59:17
		p	
		p.o. 3:19 pacing 74:13,17 package 21:5 23:5 23:9,14,16 25:18 75:22 page 4:5 5:3 6:2 12:17 52:13 56:4 59:6 60:18 61:21 61:22 62:16 63:3 67:4,9 75:12 89:3 93:13 97:18,19 105:15 106:4 107:4,7,10,13,16 107:19	

[party - police]

<p>party 104:18 patrol 18:17,17 22:3 48:15 patrolman 18:16 pay 14:7 55:10 paycheck 21:21 paying 23:21 pd 48:19 55:6 pdf 102:9 105:12 106:1 pederson 1:21 2:19 104:23 peer 91:22 penalty 103:11 105:16 106:5 pending 8:14 people 20:1 21:6 22:1 23:8,20 24:16 25:16,24,25 27:1,2,13,16,25 28:3,19,25 29:13 32:6,7,21,22 33:23 36:25 37:7,10 38:19 40:13 41:13 42:21 44:24 47:8 47:15,25 48:4,6,8 51:10 54:14 55:16 57:15,21 58:6,9 62:9 63:17 64:3 65:7,7,9 66:8 71:5 71:7,12 72:4 74:18 77:21 78:3 78:12,25 79:1 81:16,17 83:20,23 83:25 84:8,9,25 90:7,13,13,18,19 93:11 97:19,24 98:6,18 100:12 people's 23:7 99:20</p>	<p>pepper 19:6 23:11 25:2 29:22 30:9 30:24 31:3 52:3 perceived 84:25 perception 20:2 43:3 80:16 perceptions 81:1 period 64:9 105:18 106:7 perjury 103:11 105:17 106:6 permission 47:9 98:19 permit 42:13 47:13,14,24 48:1,5 61:23 64:6,21,22 100:9,11 permits 42:21 permitted 96:15 permitting 97:7 person 8:5 23:23 24:2 25:21 26:9 28:2 31:25 33:1,9 33:15,21 34:2,3,8 36:13,17 39:8 40:22 41:18 42:2 43:10,12 45:1 46:20 52:23 57:24 59:12,19 61:7,13 66:10 67:11 69:24 70:2 71:14 72:12 73:6 75:17 76:6 76:24 78:21 79:6 81:3,7 82:1,2 86:22 101:2 person's 35:22 67:12 68:5,22 69:4 71:2 73:3 personal 13:19 25:11 26:4 45:19 53:14,25 54:17</p>	<p>92:17 93:1 personally 26:14 51:23 66:3 71:2 persons 32:10 97:22 98:1 pertained 10:21 pertains 104:12 pertinent 13:25 14:5 15:24 16:12 73:16 phone 9:17 photos 81:15 physical 30:11 physically 28:10 28:18 29:1,14 pick 29:3 33:5 42:21 picked 25:17 pickup 71:6 picture 68:8 72:18 pictures 20:5 44:23 pid 20:13 pile 87:11 pipe 79:3 pistol 17:24 18:5 23:6,6 38:1 44:17 54:3,6 place 31:19 64:2 104:5 places 16:4 20:15 48:3 53:23 56:16 100:4 plainclothes 20:8 20:17 86:16 plaintiff 1:5 2:5 3:3 plaintiff's 12:21 14:10 100:24 plaintiffs 7:23</p>	<p>planet 33:22 83:3 platoon 17:9,10 play 72:11 77:14 playing 44:22 plays 85:1 please 8:23 pllc 3:4 pluck 98:13 pluses 25:12 point 17:9 18:10 18:23 19:12 21:3 21:4 30:1 44:13 48:12 56:1 59:18 64:10,19 66:12 73:15,17 93:1 97:10 100:18 points 87:22 police 9:22,23 10:21 14:6,17 15:9,20 16:12,16 16:22 18:14 20:10 21:15 22:6,14 23:10 24:2 30:2 31:7 32:15 36:3 37:22,23 41:3,4,5 49:3,9,16,18,25 50:16,22 51:7,8,25 52:2,5,12 53:3,11 53:16 54:21,22 55:11 56:6,18,20 57:1,5,7,8,19,22 60:12,15,23,25 61:1,6,12 62:10,18 63:6,11,17,24 64:13 65:3 66:5 68:4,12 69:12 70:11 74:3,10,22 77:23 80:7 82:15 83:1,3,15,18 86:9 86:12 87:18 88:5 93:10 95:7 98:9</p>
--	---	---	---

[police - putting]

<p>99:5,9,11 policy 49:24,25 50:1,5,17,18,20,25 51:1,6,8,17 94:16 96:1 political 60:24 83:9,24 89:22 politics 83:7 ponder 40:17 pool 98:13 poorly 54:5 popow 56:19,22 popular 25:1 99:25 population 94:3 populations 28:25 porch 56:24 57:1 port 64:15 pose 63:16 76:25 posing 75:19 positions 17:3 48:10 positive 20:13 54:12 81:23 possess 42:4 97:19 possibilities 32:7 possibility 66:6 possible 8:17 31:6 32:4 55:15 80:10 85:20 possibly 31:11 post 77:21 85:8 posture 84:22 potentially 41:25 pounds 29:4 practice 69:11,21 practices 10:21 pre 24:5,20 77:21 prearranged 89:21</p>	<p>precedent 85:3 87:2,3 precedents 46:24 precise 78:14 prefer 78:5 preliminary 91:6 preparation 9:16 12:4 16:14 prepare 9:14 12:5 prepared 40:5,21 41:17 42:5 preparing 14:11 presence 70:14,22 71:23 82:18 present 3:24 pretty 12:8 37:14 55:5 58:16 79:18 82:1 prevent 9:11 43:5 57:12 prevented 35:11 previous 63:1 previously 8:1 77:7 101:2,6 price 11:9 primarily 22:25 54:19 primary 19:15 21:2,3 prime 29:2 prior 104:7 prison 25:16 pro 11:10 probable 76:4 probably 14:16,23 14:25 18:3 28:4,4 33:3 39:18,19 problem 29:16 32:2 41:10 68:18 70:8,10,11 71:20 82:3</p>	<p>problematic 83:8 83:10 problems 62:11 procedure 105:19 105:20 proceedings 47:21 104:4,6,8,14 process 33:15 35:3 35:7 36:14 71:17 72:21 profession 98:15 99:16 professions 99:17 99:18 professor 91:23 profile 59:18 profoundly 33:25 program 19:19 20:25 progress 78:6,14 79:25 progressive 41:12 69:12 promoted 19:3 48:22 promotion 48:13 pronounce 59:24 proper 20:19 56:6 57:10 properly 32:11 102:15 property 43:18 proponent 29:22 protest 50:9 82:17 83:25 protests 50:8 protocols 19:21 prove 42:11 provide 12:22 13:20 36:21 88:17 100:24</p>	<p>provided 13:23 14:7 102:16 105:19 106:8 psychotic 34:1 public 15:2 27:8 28:10 30:16 32:12 32:14 45:4 46:1 48:8 49:24 50:5 51:1,6,17 52:22,22 52:24,25 53:10 54:16 56:7 57:5 57:25 58:1 59:10 60:24 62:15,19,20 63:7,13,23 65:16 65:20,24,25 66:22 66:23,24 73:25 74:21 75:19 76:25 89:5,17 93:14,15 93:17 94:11,13 95:1,21 96:1 publications 55:11 publicly 96:12 publish 45:6 published 45:3 pull 28:1 50:9 69:22,22 70:2 pulling 10:9 34:20 74:23 purse 31:24 purview 92:3 push 25:21 65:7 70:9 89:22 90:14 pushing 90:6,8 put 13:8 23:15 24:6 39:2 66:13 90:6 102:12,14 putting 25:16 84:24 86:24</p>
--	--	--	---

[qualification - research]

q	rapidly 67:12 68:5 68:22 69:4 85:19 rate 52:6 53:22 64:18 98:12 rates 89:9 91:25 94:4 reach 54:18 72:4,5 72:5 74:7 75:14 reached 57:20 reaching 13:5 react 73:22 81:6 82:7 reaction 74:23 read 9:19,23 10:1 12:4 13:7,10 14:3 24:10 45:18 61:19 62:7 63:14 67:20 77:23 89:12 96:11 103:11 reading 13:24 30:24 69:1 72:12 72:14 105:23 106:9 real 9:15 12:8 79:22 99:24 realities 90:12 reality 93:2 realize 33:22,24 35:4 really 10:12 13:18 21:11 34:2 40:10 40:17 43:3 51:18 71:3 72:10 79:6 realm 54:16 reason 39:20 42:12 53:24 66:19 91:20 107:6,9,12 107:15,18,21 reasons 57:16 87:20 88:4	recall 14:7 82:15 82:20 recess 67:6 101:23 reciprocity 47:25 recognition 20:19 21:8 24:21 25:4 32:2 80:8 recognize 11:25 recognized 52:7 recoil 45:7 recollection 59:4 recommend 25:8 25:10 27:6 28:10 28:17 29:19 recommends 31:3 reconnaissance 17:4 record 7:15 9:6 11:16,17,18,20 26:5 67:5,8 88:20 88:23,25 101:5 102:1 104:7,11 recording 8:3 recruit 19:11,16 22:11 refer 91:14 93:13 102:15 referenced 105:6 referring 13:14 26:6 30:18 58:22 58:23 67:21,25 87:2,3,6 94:14 reflect 12:9 refresh 59:4 regard 50:24 95:1 95:21 regardless 81:13 regional 19:9 94:9 94:24 regular 14:2 55:16	related 45:4 relationship 64:11 66:4,13 relative 104:17 released 105:21 relevant 65:4 relied 91:16 92:20 religion 95:13 rely 13:5 54:18 55:22 remotely 1:16 rephrase 8:24 replacement 29:11 29:12 replicate 20:14 report 5:4 52:14 66:21 67:10 93:20 93:22 94:3 reported 1:21 reporter 2:20 102:4,8 104:2 reporter's 8:3 reports 93:13 represent 7:12 request 102:18 requested 104:15 106:1,9,10 requests 102:13 102:13 require 27:3 required 17:18,23 requirement 41:3 requires 25:5 rereading 62:5 research 13:11,16 16:10 45:15,16,22 55:22 86:6 87:7 87:10,21 88:15 89:7,24 90:7 93:25 99:7 100:15 100:16,22,24
r	r 3:15 7:17 107:3,3 r&s 106:1,9 rabid 78:13 race 32:17 ragweed 85:22 ran 29:6 raney 10:2 13:9 61:5,11 62:2 63:10 68:3,11,19 raney's 60:20 67:10,22,25 range 19:15 32:1,7 rankings 93:14,22 rapid 20:4,24 21:6 79:24 85:9 88:6		

[researcher - see]

researcher 51:16 100:19 resist 58:9,17 resource 48:16 resources 60:25 respond 19:22 23:23,25 24:23 43:4 82:9 86:3 responded 21:9 32:24 responding 20:19 61:7 response 20:4,20 20:25 21:6 25:6 39:3 50:21 52:5 79:24 85:9,24 86:9,24 87:18 88:5 94:11,13,15 95:1,21 96:1 responsible 19:12 rest 98:16 restate 94:21 result 62:3 results 67:16 68:14,23 71:25 retained 7:22 9:22 14:17,19,21 retention 19:8 23:12 44:5 retired 16:17 22:4 22:22 41:16 47:7 48:21 98:22 retirement 21:20 21:22 57:21 retiring 21:18 return 105:17 106:6 review 9:3 102:7 104:14 105:8,10 105:13 106:2	reviewed 10:24 51:14 91:6,22 92:3 revolver 34:20 revolvers 45:12 richard 1:4 2:4 ridiculous 53:13 rifle 17:25 37:9 46:15 rifles 18:6 71:5 right 19:24 33:17 38:4 42:16 48:25 55:2 57:9 61:25 62:21 67:17 75:17 83:18 84:18 85:22 86:22 89:5,8 91:23 92:18 93:16 93:17 95:11 99:2 101:18 rights 73:21 99:20 100:19 riot 55:6 risk 63:16 rival 90:20 rmr 1:22 road 3:7 22:3 rob 1:7 2:7 robberies 31:25 58:10 robbers 62:12 robbery 14:22 26:18 34:17,24 robot 83:16 rocket 18:2 role 11:2 17:17 19:1,17 20:21 21:2,4 49:12 roles 16:17 17:7 18:15 22:16 rounds 60:1	routine 70:13,21 71:22 row 100:1 rub 29:9 rules 106:8 run 21:6 29:3 64:5 65:8 70:4 running 38:20 56:23,25 58:19 83:20 84:11,19 s s 1:5,10 2:5,10 3:3 3:13 107:3 sacramento 3:20 safe 44:25 69:24 safely 27:15 33:1,9 34:9 35:24 36:13 36:17 38:8 39:8 40:1,6,22 41:18 42:5 45:2 safer 26:9 safest 33:7 58:10 safety 27:18 51:1 51:6,17 52:23,25 53:1,10 54:16 56:7 57:5 63:23 65:16,20,24,25 66:22,23,25 69:21 70:6 89:5 93:14 93:15 94:11,13 95:1,21 96:1 sailboat 31:21,22 saw 76:16,16 saying 38:1 54:10 61:18 67:20,21 73:4 84:5 says 24:19 66:21 91:15 scan 12:14 scarsdale 3:9	scenario 20:20 24:22 25:5 32:5,6 34:23 36:10,21 37:14 38:23 39:2 55:2,8 70:18 72:15 73:12,14 79:8,25 80:4,9 scenarios 24:23 26:15 30:13 34:13 scene 67:11 69:3 80:15 83:18 84:11 84:12,19,21 86:12 86:23 88:9 schedule 105:10 schizophrenic 34:1 scholarly 45:17 school 48:16 science 16:2,10 scope 79:14 80:21 82:12 scratch 20:23 screen 11:14,21 38:21 52:16 screws 21:21 se 33:14 seat 72:4 seats 71:7 72:6 second 48:14 62:25 67:15 68:13 68:23 71:24 72:10 72:23 77:9 101:16 seconds 38:2 88:21 secure 44:1,2 security 22:22 25:18 see 11:21 37:8,12 37:22 48:7 52:16 53:22,23 54:6 56:24 62:25 64:8
---	--	--	--

[see - sort]

64:20 65:4,11,12 66:3,10 69:19 70:11 71:4,9,10,18 72:9,20 73:21 74:5,10 76:17 78:24 79:5 81:25 83:20 91:12 seeking 41:10 seen 20:5 72:4 83:11 segueing 83:21 self 27:12 selling 90:22 send 11:7 12:15 102:9 sending 102:7 sensation 80:15 sense 28:7 sent 91:12 sentence 67:3 sentencing 94:7 separate 14:23 sergeant 17:9 18:17 19:3 serial 78:6,14 series 14:22,23 seriously 21:11 serve 16:24 served 14:13 16:23 48:10 49:12 49:15,18,21 96:6 service 19:11,16 21:5 23:9 serving 27:12 set 9:25 85:18 104:5 setting 24:12 65:19 seven 52:13 share 11:14	shawnee 22:14 sheriff 22:12 49:22 sheriff's 21:25 49:20 shift 18:19 48:11 48:14,14 49:7 shifts 49:6,6 shirt 24:19 shoot 27:2,21 34:25 41:4 53:13 61:12 63:12 shooter 20:4 21:9 77:25 78:1,8,16,17 78:23 79:2,7 81:5 82:16 85:5,25 86:2 87:14 shooters 87:4 shooting 20:17 35:18 55:5 56:8 56:23 57:14,15 59:20 61:1 62:18 63:6,17 78:17,25 79:9,20 81:25 82:20 86:14 shootings 37:2 53:2 57:8,12 59:17 65:3,18 99:12 shoots 37:9 shopping 75:24 short 21:24 shorthand 2:20 104:1,9 shortly 21:18 22:1 shorts 81:18,20 shot 44:15,18,22 57:1 58:2,15,16 59:11,20 60:3,12 60:15	shotgun 46:15 shotguns 71:5 shots 38:2 show 11:15 42:10 53:11 85:17 88:3 showed 20:9 57:7 79:21 85:15 showing 86:12 side 22:21 31:10 40:16 sidewalk 73:25,25 74:13 75:6 sign 12:11,14 24:18 105:16 106:5 signature 104:23 105:21,23,23 106:9 signed 12:19,19,22 significant 38:20 39:3 64:14 signs 43:16 silly 75:13 similar 37:15 49:21 50:12 simple 27:16 simply 60:22 61:13 simultaneously 48:14 sinks 31:21 sir 7:24 10:6 11:1 12:10,20 14:9,14 21:18 22:18 45:18 48:11 49:17,19 51:15 52:17 56:2 89:6,13 situation 33:10 34:8,24 35:10,11 35:23 80:8	situational 73:11 situations 26:24 27:3 30:2,3 31:18 34:7 35:22 six 18:18 size 34:18 skills 24:24 44:5 slow 80:4 98:23 small 44:22 74:1 smaller 45:11 smart 27:25 snatchings 31:24 sneaky 24:17 sniper 18:22 snub 34:20 solo 85:24 87:18 88:5 solutions 105:7 solve 29:16 68:18 70:11 solving 70:8 somebody 33:19 33:25 39:2 44:16 54:3,8,9 69:19,22 69:23 74:2 75:2,8 76:20 78:6 84:11 86:21 90:15,16 99:22 somebody's 53:6 someplace 43:16 43:25 54:2 75:7 84:10 sorry 26:7 39:14 61:22 63:2 85:21 101:10 sort 16:2 26:19 27:14,23 41:13 51:3 55:21 58:10 62:15 64:14 71:8 77:11 85:1 91:2,4 98:11 99:20
--	--	---	--

[sounds - susceptible]

<p>sounds 27:11</p> <p>sources 100:20</p> <p>south 49:3</p> <p>space 65:10</p> <p>speak 8:5 10:4,20 25:12 92:25</p> <p>speaking 42:14 65:5 97:21</p> <p>speaks 76:13</p> <p>specialist 17:4</p> <p>specialties 44:4</p> <p>specific 14:8 19:23 44:13 56:2 70:17 74:21 88:13,15 90:20 94:17</p> <p>specifically 82:11 90:4 94:13 100:17</p> <p>speculation 60:21</p> <p>speech 95:11</p> <p>speeding 44:18,19 69:22</p> <p>spell 7:15</p> <p>split 67:15 68:13 68:23 71:24 72:10 72:23</p> <p>spoke 12:6 60:2</p> <p>spontaneously 62:18 63:12</p> <p>spot 62:5</p> <p>spray 19:7 23:12 25:2 29:23 30:9 30:24 31:3 52:3</p> <p>springsteen 60:2</p> <p>squad 17:8 18:22</p> <p>square 86:14</p> <p>stabber 78:9</p> <p>stabbing 78:25</p> <p>stability 39:23</p> <p>stacks 99:16</p> <p>staff 21:13</p>	<p>stakeholder 51:6 51:12</p> <p>stalker 25:17</p> <p>standard 69:11,21</p> <p>start 8:10 33:6 75:13 81:25</p> <p>started 17:2 18:16 46:8,22 64:12 66:15</p> <p>starts 82:20</p> <p>state 1:8 2:8 7:14 15:7,14,17,18,18 15:25 19:10 28:1 32:19 33:19 38:9 38:13,14,23 39:9 41:2,6 42:10 43:17 46:3,11,16 47:22 51:2 52:20 60:20 61:22 62:17 63:15,22 65:13,23 73:18 75:16 85:3 89:4 93:2,3 95:11 95:12,14,14 97:3 97:19 99:1 100:9 103:17 104:2 105:9,12</p> <p>stated 28:2 82:18 83:22</p> <p>statement 9:24 11:12 83:10 90:14</p> <p>statements 100:2</p> <p>states 1:1 2:1 53:18 64:16 67:10 87:5 89:19 93:3,3 93:4,15 94:5 95:8 95:16 98:9 100:6</p> <p>stating 56:6</p> <p>statistic 58:19</p> <p>statistical 64:11 92:2</p>	<p>statistically 58:11 58:16 90:10 97:21 98:6</p> <p>statistician 92:8 92:12 93:24</p> <p>statistics 58:22 59:1,7 66:13 89:20 93:25 97:25 99:15</p> <p>stats 58:7 64:16</p> <p>stay 55:9,20 99:3</p> <p>steps 27:6 30:15 30:18,23,25</p> <p>stimulus 79:5 80:11</p> <p>stipulation 105:20</p> <p>stolen 43:6,9,12 44:9,15</p> <p>stop 35:15 69:23 70:14,21 71:22 76:4,5,19,20</p> <p>stopped 44:19</p> <p>stops 71:4 86:23</p> <p>storage 44:25</p> <p>store 43:20,21</p> <p>strategos 16:20</p> <p>street 3:17 24:10 31:23 34:17 37:13 37:15,16,16 41:22 54:14 59:25 77:23 90:13 99:5</p> <p>stress 36:14</p> <p>strict 47:12</p> <p>strictly 45:10</p> <p>stuck 44:23</p> <p>studied 45:19 83:11</p> <p>studies 89:15 90:5 91:21,22 92:5,6,17 92:21,23</p>	<p>study 87:5</p> <p>stuff 50:23,24 53:23 55:12 66:15</p> <p>stunt 74:22</p> <p>subdivision 74:1</p> <p>subject 30:11 81:1 88:13</p> <p>submissions 91:7</p> <p>subscribed 104:20</p> <p>subway 34:15</p> <p>success 88:6</p> <p>successful 87:16 87:17,23,23,24 88:1,10</p> <p>successfully 86:23</p> <p>suffer 58:18</p> <p>suffered 83:7</p> <p>suffering 74:15</p> <p>sufficient 30:3</p> <p>suit 81:16</p> <p>suite 3:8,18</p> <p>sunny 54:11</p> <p>supervising 19:3</p> <p>support 13:17,21 55:15,22 92:22</p> <p>supports 87:7 100:16,25</p> <p>suppose 27:25</p> <p>supposed 38:21 43:19,21</p> <p>sure 8:6 13:13 30:23 32:13 35:20 38:17 39:16 41:14 58:14 60:5 61:9 62:6 63:4 73:13 78:20 88:21 91:11 94:19 100:1 102:17</p> <p>surprise 24:16</p> <p>susceptible 28:22</p>
--	---	--	--

[suspect - tool]

suspect 37:1,25 56:25 72:18 80:11 80:13 suspects 85:5,19 swat 18:20 80:5 81:20 84:15 swimmer 31:20 switched 100:9 swords 78:11 sworn 22:13 104:7 sympathy 29:1 system 41:6 47:13 47:14	93:8 95:16 98:24 101:20 talks 62:23 targeted 66:9 taser 19:6 52:4 55:8 taught 29:23 teach 78:21 teaching 44:6 55:3 team 18:20,23 85:9,11,17 86:1,8 87:19,23 88:2 teams 80:5 86:11 technicality 21:19 tell 10:17 14:2 17:6 54:5 71:2 84:1 tells 98:3 tend 37:18 98:12 100:13 tends 88:10 tennessee 95:10 tense 79:18 80:25 term 17:5 51:23 62:13 78:2,15 86:20 terminal 52:2 terms 36:3 89:16 93:15 terrific 13:1 territory 90:23 terry 76:5,13,20 testified 7:6 15:1 55:25 testifying 7:18,19 9:12 96:18 104:7 testimony 31:2 92:9 103:14 104:11 texas 48:2 53:20	thank 59:9 88:19 88:24 101:22 102:22 thanks 36:6 101:18 that'd 100:23 thing 8:13 14:22 16:2 20:13 26:19 27:19 28:21 45:10 50:3 51:4 54:25 55:20,21 57:23 58:10 64:14 71:8 73:11 74:11,11,24 75:10 77:11 85:1 91:2,4 97:12 98:11 99:2,21 things 14:3,4,6 15:18 16:1,10,11 18:7 19:6,8 20:9 22:24 23:8 24:21 27:1,25 31:24,25 37:20,20 39:17,22 41:8 42:24 43:2 44:1,20,25 45:12 45:18,19 46:4,6,14 46:15,18,24 50:2 50:17 51:8,9 52:6 54:7,20,22,23 55:4 58:1,8,9 59:11 61:17 62:10 64:13 64:17 65:3,9,18 66:11 70:1,5 72:4 72:6,8,9,25 74:25 77:6 79:22 80:2,3 80:5,6 87:17 90:23,25 94:7 95:9 98:10,11,18 99:6,8,13 think 11:12 17:12 27:5,22 31:19 34:4 39:1,17	40:13 50:2 51:15 51:23 58:16 60:14 63:1 70:7 73:15 79:3,13,23 83:17 86:9 91:8 100:15 thinking 9:11 36:9 thirty 77:20 thought 29:13 57:22 74:2 thoughts 12:7,9 threat 20:19 43:3 75:19 76:25 threatening 24:11 three 19:14 29:12 34:17,19 37:25,25 38:2,2,2 49:5,5 85:16 93:14 throat 26:13 throwing 79:3,21 ties 81:17 time 8:5,12 22:2,9 22:13 29:4,23 31:7 44:6 46:9,22 47:5 54:13 58:13 64:9,24 75:13 77:5,13 84:16 86:1,15 88:2 93:18 104:5 105:10,18,24 106:7 timeframe 48:18 timely 86:4 times 14:15,25 29:9,25 90:9 titles 88:12 100:21 today 9:4,10 10:23 45:24 today's 9:14 toddler 44:3,12 tool 26:23,25 27:3 30:1,11
t			
t 24:19 107:3,3 tactfully 32:13 tactic 19:17 tactical 16:21 45:9 57:17 tactics 19:7 52:4,5 69:25 70:4 78:21 83:6 85:18 take 8:12,15 21:22 27:7 30:14 31:15 37:2 38:17 51:9 71:15 77:9 85:13 87:4 90:24 97:24 101:11 102:10 taken 2:17 7:25 21:11 44:7 104:4 takes 87:24 88:10 talk 10:11 24:13 34:2 36:2 43:14 53:25 77:25 78:4 90:13 talked 13:23 45:10 talking 24:1 26:12 36:2,5 37:13 38:4 59:2 60:7 73:14 73:16 76:14 82:9 84:5 87:12,13			

[tools - utah]

tools 29:15 top 55:9,20 93:14 topeka 1:16 2:17 7:1 16:16 18:14 21:15 22:5 48:19 49:4 50:7,15 64:18 79:19 topics 45:4 totality 52:11 76:21 totally 67:1 touched 16:7 22:17 touching 37:21 tough 38:5 town 54:3 75:7 traffic 70:14,21 71:22 tragedies 20:14 tragic 69:14 trail 46:6 train 17:18,24 23:25 30:14 43:5 69:13 trained 18:8 81:11 81:22 83:3 trainer 16:18 18:25 21:3 53:16 53:18 57:19 trainers 21:4 training 10:21 13:7 14:20 16:11 16:19 19:2,3,4,11 19:11,13,16,20 20:12,18,22 21:5 21:11 22:3,25 23:1,16,18,19,20 23:21 24:4 25:1 25:24,25 26:1 27:12,14,23 28:5 29:21 30:24 31:17	32:16,20 33:2 37:11 41:1,10,12 41:13 49:9 52:1 52:11 53:20,20 56:7,13,20 57:5,9 57:11,22 63:24 65:14,16,19 80:1,7 81:24 83:5,6,6 85:11 trainings 23:22 transcribed 104:9 transcript 9:3,5 103:12 104:10,13 104:15 105:6,8,10 105:13,13,21 106:2,2 transition 79:23 transitioned 80:8 transports 43:1,2 travel 48:5 93:3 travelling 53:18 travels 45:20 trend 85:8 trends 55:9,18,18 trial 14:20 trials 14:24 tried 47:4,19 tries 68:8 trolley 86:14 trouble 36:9 truck 17:20 71:6 82:6 true 93:18 97:5 103:15 104:10 truth 75:21 truthfully 9:12 11:9 try 8:4,7,9,24 11:14 13:16 23:3 32:3 33:24 55:9 71:15 80:12	trying 55:20 60:8 71:13 74:9 84:8,9 84:24 92:5 98:25 99:2 tuesday 1:17 2:19 7:1 turn 51:19 65:5 74:9 88:22 turned 14:23 55:6 74:20 91:16 turning 34:23 35:17 two 10:13 21:9 23:11,12 29:3,11 30:12 33:14 88:1 97:11 100:10 type 21:11 23:4 24:2,11,21,21 42:10,14 44:20 45:8,10,17 74:10 74:22 80:9 97:12 typically 85:11	understand 7:18 8:23,25 61:5,11,17 62:2 63:10 68:3 68:11,19 understanding 10:22 35:20 60:5 94:18 96:14 unfortunately 41:2 uniform 82:3 uniformed 20:9,16 36:3 unit 17:11 18:25 48:16 60:1 united 1:1 2:1 64:16 87:5 95:8 95:16 98:8 university 15:7,15 15:17,19,25 16:1 23:10 unknown 24:8 unlawfully 98:18 unsecured 44:16 update 23:12,12 upgraded 18:5,6 upper 62:23 ups 54:23 uptick 64:23 65:2 usage 78:3 use 14:17 16:12 19:5,12,18 30:3,4 35:1 40:5,22 41:17 42:5 50:17 51:8,12,25,25 52:3 58:17 83:5 86:20 95:8 99:9,13 uses 33:1,9 36:13 36:17 38:8 39:8 40:1 utah 53:21 86:14
		u	
		u 24:8 u.s. 93:13,19,21 94:2 ugly 33:18 uh 14:12 56:5 92:11 ultimately 60:25 unarmed 56:9 58:2 59:13 uncommon 68:4 68:12 unconcealed 47:23 unconstitutional 47:2 undercover 40:21 82:2 undersigned 104:1	

[utility - works]

utility 26:24	virtually 28:20	ways 32:3 67:3	92:14 94:15,19,23
utilize 58:11 70:3	29:6 98:8	we've 14:1 45:24	95:18 96:3,20
71:17 78:3 80:5	visible 54:4 72:13	65:15 78:10	97:1,6,17 101:13
88:3 89:20	73:23,24	101:20	101:17,22 102:1,6
utilized 52:5 83:15	volume 1:18 2:16	weapon 19:8	102:12,17,20,22
utilizing 18:25	4:3	23:12 44:5 70:3,3	witness 4:1 10:20
39:19 45:11	volunteered 11:10	71:17	11:23 14:13,17,21
v	vs 1:6 2:6 105:4	weapons 71:9	26:12 27:11 28:14
v 7:14 56:17,19	107:1	wearing 71:7	28:17 30:20 31:5
76:13 95:9	vulnerable 28:24	73:23 81:16,18,20	33:13 34:12 36:9
vacation 21:24	w	week 31:13,14	36:24 38:12 40:9
valid 56:20	wait 85:16 86:1,5	weeks 9:25	40:25 41:21 42:9
variety 20:7 94:7	waited 20:3	weigh 15:10	51:23 56:1 58:5
vast 37:7,9,19,23	waiting 87:18	weight 34:3	59:16 69:8 71:1
50:23 88:2	waived 105:23,23	weirdly 46:20	72:3 73:9,15 77:3
vehicle 17:7	waiving 105:20	went 47:6,12 64:2	79:17 80:24 81:10
verbal 16:13 24:24	walk 34:16 54:1,8	78:19 86:2	89:1,12 90:2
24:24 33:24 34:22	walked 71:4	whack 90:22	91:13 95:6,25
35:14	walking 73:24	wheel 28:6	97:10 101:19
veritext 102:9	75:5,23	whereof 104:19	102:7 104:19
105:7,9,11	wallet 60:2	wide 20:6 77:3	105:13,16 106:2,5
vermont 100:7,8	walmart 54:2 75:8	wider 19:1	107:24
version 12:19	want 20:14 23:11	win 34:18	witnesses 104:6
versus 56:21 72:13	25:20,24 26:1	window 71:5	word 17:5 25:3
82:19 86:24 87:18	27:17 28:4,5,21	wire 45:9	32:13 33:18 51:12
94:5 95:9,12,14	35:25 43:24 44:10	wise 3:15 4:6 7:9	79:17
vicinity 83:25	50:10 59:1 60:5	7:12 11:18,19,24	wording 67:3
victim 26:17 37:22	62:13 64:20 71:16	13:1,2 26:22 28:8	words 62:7
58:17	78:4,14 80:4	29:17 30:22 32:9	work 11:5 12:21
victimized 38:24	83:22 98:14,14	34:6 35:9 36:5,11	18:13 21:16 50:11
39:6,11	102:5	38:6,16 39:13	50:13 68:4,12
victims 55:17 58:6	wanted 10:17	40:19 41:15 42:1	70:12 77:23 88:16
84:25	20:24	42:15 43:11 52:8	99:5 100:23
video 72:19 74:22	washington 15:17	56:3 58:21 60:4	worked 25:13
81:18	waste 60:24,25	67:7,23,24 69:9	44:21 50:25 51:5
view 37:1 89:15	watershed 19:25	70:19,20 71:21	51:16
views 45:25	21:7	73:1,13 75:11	working 19:19
violating 99:20	way 33:7,14 46:9	77:15,18 80:14	21:15 22:9 31:13
violence 64:13	47:4 58:10 61:10	81:2 82:4,14	41:9 48:17
violent 26:17 89:9	67:2 73:5 99:2	88:24 89:2,14	works 21:22 27:21
91:25		91:5,17,19 92:4,11	

[world - zuchel]

<p>world 54:22 56:18 57:8,22 64:2,6,6 64:13 69:12 93:13 93:20,21 94:2 worried 71:10,11 71:19 worrisome 72:9 72:25 worry 32:21 71:3 wrap 101:16 write 54:23 writing 50:18 102:14 written 45:7,9 50:1,4,17 69:16 wrong 57:15 63:17 wrote 12:7 85:24 wyatt 46:4 wyoming 53:21</p>	<p>z</p>
	<p>zuchel 56:17</p>
<p>x</p>	
<p>x 106:1</p>	
<p>y</p>	
<p>yards 37:25 38:2 yeah 12:24 23:15 33:3,3 36:5 45:12 60:10 62:25 67:23 84:2 88:15 100:23 101:10 year 10:12 22:4 37:8 39:21 49:14 53:19 55:1 58:8,8 58:20 yearly 17:19 years 18:18,21 19:14 41:22 49:1 49:1 55:19 66:17 77:20 93:9 99:5 yep 9:1 york 3:9 20:15 42:11,21,23</p>	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT 3

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

--o0o--

MARK BAIRD and RICHARD
GALLARDO,

Plaintiffs,

vs.

No. 2:19-cv-00617-KJM-AC

ROB BONTA, in his official
capacity as Attorney General
of the State of California,
and DOES 1-10,
Defendants.

/

VIDEOCONFERENCE DEPOSITION OF RICHARD GALLARDO
August 31, 2021

Stenographically Reported by:
Janice L. Belcher, CSR No. 12342
Job No. 4782562
Pages 1 - 45

1
2
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4
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I N D E X

	PAGE
EXAMINATION BY MR. WISE	4

E X H I B I T S

		PAGE
EXHIBIT 1	9/17/19 Letter	16
EXHIBIT 2	12/20/17 Special Alert Bulletin	18
EXHIBIT 3	9/2/19 Letter	20
EXHIBIT 4	11/19/19 Letter	25
EXHIBIT 5	12/11/18 Letter	32
EXHIBIT 6	2/3/19 Email	34
EXHIBIT 7	3/13/19 Email	35

1 VIDEOCONFERENCE DEPOSITION OF RICHARD GALLARDO

2
3 BE IT REMEMBERED, that pursuant to Notice, and on
4 the 31st day of August, 2021, commencing at the hour of
5 10:04 a.m., Pacific Standard Time, via videoconference
6 before me, JANICE L. BELCHER, a Certified Shorthand
7 Reporter, appeared RICHARD GALLARDO, produced as a
8 witness in said action, and being by me first duly
9 sworn, was thereupon examined as a witness in said
10 cause.

11 ---o0o---

12
13 APPEARANCES VIA VIDEOCONFERENCE:

14 For Plaintiffs:

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24 Also Present:

25 MARK BAIRD

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RICHARD GALLARDO,
sworn as a witness,
testified as follows:

EXAMINATION

BY MR. WISE:

Q Good morning. My name is Matthew Wise, and I represent the California Attorney General in this case, which is Baird vs. Bonta.

Would you state your full name and spell your last name for the record.

A Richard Jason Gallardo; last name G-A-L-L-A-R-D-O.

Q Do you understand that you're testifying here today under the same oath that you would take if you were testifying in a courtroom?

A Yes.

Q Have you ever had your deposition taken?

A I've had it done a couple of times, yes.

Q Are you familiar with the rules of taking a deposition?

A Vaguely. It's been a while.

Q When was the last time you were deposed, approximately?

A Oh wow. It's been so long ago, I don't

1 remember. Probably 10-plus years. I don't think we've
2 had a deposition in this case yet, but I could be --
3 it's been a while, I can't recall.

4 Q The court reporter is recording everything we
5 say, so we need to try to have only one person speak at
6 a time. I'll try to let you finish your answer before I
7 ask another question, and I just ask that you let me ask
8 my question before you start to give your answer.

9 A Okay.

10 Q If you need to take a break at any time, just
11 let me know. I would just ask that you finish your
12 answer to the pending question before we take our break.

13 A Okay. And just excuse my allergies, the fire
14 smoke up here is really bad.

15 Q After I ask a question, it's possible that your
16 attorney may have an objection. You should still answer
17 the question that I've asked, unless your attorney
18 advises you not to answer the question.

19 Do you understand?

20 A I do.

21 Q If you don't understand a question, just let me
22 know and I'll try to rephrase that question.

23 A Okay.

24 Q You will have an opportunity to -- after the
25 deposition to receive and review the transcript that was

1 made here today by the court reporter. You will be able
2 to make any corrections to that transcript, but you
3 should know that there will be a record of the
4 corrections that were made, and I'll be allowed to
5 comment on any corrections that you make.

6 Do you understand?

7 A I do.

8 Q Is there anything affecting you today that
9 would prevent you from thinking clearly and testifying
10 truthfully?

11 A No.

12 Q How did you prepare for today's deposition?

13 A I reviewed some of my documents, not all, just
14 the ones that I believe -- issues that I might need to
15 be better prepared for. So just a little bit of
16 document review, but not everything.

17 Q And when you said you reviewed your documents,
18 what did you mean by your documents?

19 A I reviewed my concealed weapons file. That's
20 it.

21 Q Okay. And I don't want you to get into the
22 private conversation you had with your attorney, but did
23 you speak with anyone about the deposition?

24 A Your audio was cut off like the first five or
25 six words, something about speaking with anybody.

1 Q Let me ask that question again then so
2 everybody can hear it clearly.

3 I'm not asking you to respond with anything you
4 discussed with your attorney, but I am interested in
5 whether you spoke with anybody before your deposition
6 about -- about the deposition?

7 A No.

8 Q What is your current job?

9 A I work for a local propane company.

10 Q How long have you had that job?

11 A Oh, a little over three years.

12 Q Are you eligible to possess a firearm in the
13 state of California?

14 A All I heard was "state of California"; the
15 first part was cut off.

16 Q Are you eligible to possess a firearm in
17 California?

18 A Yes, I am.

19 Q Have you ever been informed by anyone that you
20 were not eligible to possess a firearm in California?

21 A I have not.

22 Q Have you ever applied for a license to carry a
23 firearm and been denied?

24 A No.

25 Q Have you ever been convicted of a felony?

1 A No.

2 Q Have you ever been convicted of a misdemeanor
3 that would prohibit you from legally owning a firearm?

4 A No.

5 Q Are there any other grounds that you're aware
6 of such as being involuntarily committed to a mental
7 health facility that would prevent you from legally
8 owning a firearm?

9 A No.

10 Q Have you received training on how to use a
11 firearm?

12 A Yes.

13 Q Would you describe what kind of training that
14 you have received?

15 A 21 years in the military, 19 of that training
16 carrying firearms, long guns, et cetera. And then I'm
17 also -- I -- I'm also an NRA pistol instructor, so I had
18 to have training and qualifications to gain that
19 instructor certification, so that's the generic of it
20 all.

21 Q Approximately when was the last time that you
22 received training?

23 A My last class was about a year or two ago, one
24 to two years ago, formal training.

25 Q What was the nature of that training, that

1 class?

2 A My last class?

3 Q Yes.

4 A It was an advanced concealed weapons class
5 given by one of our local private companies that
6 certified through the sheriff's department to give such
7 classes.

8 Q When was the last time that you fired a
9 firearm?

10 A A couple of months.

11 Q What county do you live in?

12 A County is Shasta.

13 Q Approximately when did you move to Shasta
14 County?

15 A I moved here about 1985. I was in the middle
16 of high school.

17 Q And you've lived in Shasta County ever since?

18 A Barring my military service, yes.

19 Q Are you familiar with Shasta County's policy on
20 carrying firearms?

21 A I am.

22 Q Would you tell us what your understanding is of
23 that policy?

24 A It's what I've read right off of the sheriff's
25 website with regards to -- your question was about

1 carrying firearms, so I don't want to make an
2 assumption. Can I ask you if your question refers to
3 carrying outside of your home?

4 Q Sure. That's fine. Let me rephrase my
5 question, so: What is your understanding of Shasta
6 County's policy on carrying firearms as opposed to just
7 possessing firearms?

8 A Well, the policy is relating to carrying
9 outside the home, and that would be via the concealed
10 weapons permit process, the application process. It's
11 all spelled out on their website, so I'm not going to go
12 over it here. We can all read that later, if you have
13 not already.

14 So their process is very detailed on how to
15 apply and be granted that permit.

16 Q Does Shasta County, specifically the Shasta
17 County sheriff, issue licenses to carry a firearm
18 concealed?

19 A Yes, they have a concealed weapons permit
20 process.

21 Q As far as you understand, is the Shasta County
22 sheriff permitted by state law to issue licenses to
23 carry firearms openly?

24 A As far as I'm aware, there is a Penal Code
25 section that allows the issuance of an open carry permit

1 if the county has under 200,000 population. That's my
2 understanding of that Penal Code.

3 Q As you understand it, does Shasta County
4 qualify for that provision based on its population size?

5 A Your audio cut out before "qualified." Can you
6 repeat.

7 Q Of course. Does Shasta County have less than
8 200,000 people?

9 A Yes. Approximately 180,000.

10 Q So would that Penal Code provision that you
11 just mentioned apply in Shasta County allowing the
12 county to issue open carry licenses?

13 A That's my understanding. We meet that, that
14 section of that law.

15 Q As far as you know, does the Shasta County
16 sheriff issue open carry licenses?

17 A As far as I know, I don't believe he does. I
18 personally was denied such a request.

19 Q Do you know why the Shasta County sheriff does
20 not issue open carry licenses?

21 A I don't. I do not know why. We would have to
22 ask the sheriff at the time. We have a different
23 sheriff now. We would have to ask the sheriff at the
24 time why they did not do that.

25 Q Let's just get into that for a moment. So when

1 you're saying the sheriff at the time, which sheriff is
2 that that you are referring to?

3 A That was Sheriff Bosenko.

4 Q Okay. And so what is your understanding of
5 Sheriff Bosenko's policy as to open carry licenses?

6 A I have it in writing, and my attorney has it,
7 hopefully it's in the record, the answer to my question
8 of regarding open carry request, their answer, I'll
9 paraphrase, was: We do not issue those permits.

10 That was the only reasoning I was given.

11 Q And I think you were just saying that there's a
12 new sheriff in Shasta County?

13 A We have gone through two sheriffs now since
14 Bosenko, Magrini and now we have a new sheriff as of
15 about three weeks ago, Johnson. I don't remember his
16 first name. He's a brand new sheriff, just appointed.

17 Q Did either of those two new sheriffs have a
18 different policy on open carry as far as you understand
19 it?

20 A Let me unplug my external speaker, because the
21 first half of your question was cut off. Let me see if
22 it fixes it.

23 Q Okay.

24 A And then can you repeat also.

25 Q Of course.

1 A Okay. One more time if you don't mind. I've
2 got everything unplugged. I'm on computer speakers now.

3 Q Great. Did either of the new two most recent
4 Shasta County sheriffs, the current one, Johnson, and
5 the last one, Magrini, have a different policy on open
6 carry licenses from Sheriff Bosenko?

7 A That I don't know.

8 Q Did you ever try to determine that?

9 A I did not.

10 Q Okay. Did you ever contact Shasta County to
11 determine whether Shasta County has ever issued an open
12 carry license?

13 A I have not asked that question of Shasta
14 County.

15 Q Did you ask that question of any other county
16 in the state of California?

17 A I don't believe I did.

18 Q Have you ever applied in a county other than
19 Shasta County for a permit to carry a concealed firearm?

20 A It's not a permit. I currently possess a Law
21 Enforcement Officers Safety Act credential. It's not a
22 permit, but it basically acts the same manner where I
23 have a federal credential to carry concealed, so I did
24 apply for that a few years ago, and I still maintain
25 that.

1 Q Approximately when did you apply for that?

2 A Approximately four years, maybe five.

3 Q Have you ever applied to the Shasta County
4 sheriff for a permit to carry a concealed firearm?

5 A Yes.

6 Q How many times?

7 A Well, I applied once. The way it works, you do
8 the application, and then you do renewals every, about
9 two years.

10 Q Do you know approximately when you did that
11 first application?

12 A I would be guessing. I have to go back to my
13 notes which would take a couple minutes. But I probably
14 first applied approximately six, seven years ago. Maybe
15 eight.

16 Q Do you know approximately when you last got
17 that license renewed?

18 A I would have to go back to my notes, which
19 would take me about probably a couple of minutes to
20 answer that question, so I did apply originally. I did
21 renewals after that. I can't answer your questions
22 specifically right at the moment without referring to
23 notes.

24 Q That's fine. What was the result of your
25 application to carry a concealed firearm?

1 A It was approved for the sheriff. I'm assuming
2 we're still talking about Shasta County, it was
3 approved.

4 Q Yes, that's correct. Why did you apply for
5 that license?

6 A At the time, the LEOSA credential was still in
7 flux, so I did not have that LEOSA at the time. So I
8 wanted the ability to carry a concealed away from my
9 home for my personal protection and my family
10 protection.

11 Q And when you say "LEOSA," just to be clear for
12 the record, you're referring to L-E-O-S-A; and what does
13 that mean, just so we're clear?

14 A Federal law passed in 2003, Law Enforcement
15 Officer Safety Act. It's basically a nationwide
16 concealed carry permit. It's not a permit though, it's
17 called a credential, but that's what LEOSA is.

18 Q Some when you were applying for a license in
19 Shasta County, did you need to give a reason for wanting
20 to carry a firearm?

21 A I did.

22 Q What was that reason?

23 A Personal protection.

24 Q Can you elaborate on why you would need a
25 firearm for personal protection?

1 MR. BELLANTONI: Objection.

2 You can answer.

3 THE WITNESS: At the time that was the only
4 reason that Mr. Bosenko was asking for. He was very
5 liberal in that portion of the application. People
6 could put Second Amendment down if they wanted to, and
7 he was granting them at times, so I just put personal
8 protection. I did not elaborate any further.

9 BY MR. WISE:

10 Q What is the reason that you would like to be
11 able to carry a firearm concealed?

12 A Well, and again, I am carrying concealed under
13 LEOSA, so I carry concealed for personal protection.
14 Protection of my family is utmost.

15 Q Do you still have a valid concealed carry
16 permit in Shasta County?

17 A I do not.

18 MR. WISE: Okay. Let's look at Exhibit 1.

19 (Exhibit 1 marked for identification.)

20 BY MR. WISE:

21 Q Mr. Gallardo, are you able to see Exhibit 1?

22 A Let me go full screen here.

23 Yes. I can see it.

24 Q Thank you. Do you recognize this document?

25 A Yes.

1 Q What is it?

2 A I'm sorry, your question?

3 Q What is this document?

4 A This is a document where Sheriff Bosenko
5 revoked my concealed carry permit. That's what that
6 document is.

7 Q What is the date of the letter?

8 A September of 2019.

9 Q Did Sheriff Bosenko sign this letter?

10 A It appears so. I don't know what his original
11 signature looks like, but it looks like his signature
12 there.

13 Q Let's look at the first paragraph of the
14 letter. It states that you were terminated from
15 CAL FIRE for bringing a firearm onto state property. Is
16 it true that you were terminated from CAL FIRE?

17 A I was, yes.

18 Q Was bringing a firearm onto state property the
19 reason that CAL FIRE gave for terminating you?

20 A Yes.

21 Q Let's look at the second paragraph of the
22 letter. It begins by stating that CAL FIRE issued a
23 special alert bulletin as a result of statements that
24 you made; is that right?

25 A Yeah, we can read this, this document together,

1 but I think we can all see it. So if you want me to
2 stipulate that this is the document, I will stipulate to
3 the entire contents of this document, save us all some
4 time.

5 But there are a couple issues in here that need
6 to be put on the record regarding this document.

7 Q We'll get there.

8 MR. WISE: Let's look at Exhibit 2.

9 (Exhibit 2 marked for identification.)

10 BY MR. WISE:

11 Q Can you see Exhibit 2?

12 A I can.

13 Q Do you recognize this document?

14 A I'm sorry, one more time, your question?

15 Q Of course. Do you recognize this document?

16 A I do.

17 Q What is it?

18 A It looks like the special alert bulletin put
19 out by CAL FIRE CDF.

20 Q Is this the special alert bulletin referenced
21 in Sheriff Bosenko's letter?

22 A I'm not sure if it -- I'm just summarizing what
23 I'm reading here on this document, it just says that I
24 brought a firearm on -- on state property, displayed it
25 in a nonthreatening manner. I mean, we can all read

1 this, so I want to save us some time. So did you have
2 any other specific questions on this document?

3 Q Yeah. I was just wondering if you understand
4 this to be the alert bulletin that Sheriff Bosenko was
5 referencing in Sheriff Bosenko's letter?

6 A I believe it is. It's the only special alert
7 bulletin I know that was put out on me.

8 Q What's the date of the bulletin?

9 A At the top it looks like December 20 of 2017.

10 Q The bulletin states that you believe that
11 CAL FIRE violated your Second Amendment rights by
12 disciplining you for bringing a firearm for the
13 workplace. Is that your belief?

14 A Absolutely that's my belief.

15 Q Could you elaborate on that belief?

16 A I will. So I was explicitly following state
17 law when I had my firearm on the CAL FIRE property,
18 California Penal Code 171, little letter B, parentheses
19 B, parentheses 3, and that law explicitly allowed me to
20 have my concealed weapon on CAL FIRE property with the
21 concealed weapons permit that I had at the time. So I
22 was explicitly following state law when I had my firearm
23 on that property in my vehicle, and so that's where I
24 believe my Second Amendment rights, as extended, the
25 Second Amendment extended via the permit process, I

1 believe my rights were violated, yep.

2 Q The bulletin states that you said, quote: I
3 did not issue threats. I fight for what is right, just,
4 moral and lawful. I am a staunch believer that an
5 individual has an inherent God-given right to
6 self-defense, unquote.

7 Did you make that statement?

8 A Yes.

9 Q Is that your belief?

10 A Absolutely, yes.

11 Q Could you elaborate on that?

12 A No. I think that's pretty self-explanatory.

13 Q Okay let's go back to Exhibit 1. The second
14 paragraph of Sheriff Bosenko's letter continues by
15 stating that you sent a letter dated September 2nd,
16 2019, to CAL FIRE employees and others; is that right?

17 A Correct.

18 MR. WISE: Let's look at Exhibit 3.

19 (Exhibit 3 marked for identification.)

20 BY MR. WISE:

21 Q Do you recognize this document?

22 A Yes.

23 Q Is this the letter that Sheriff Bosenko is
24 referencing?

25 A I believe it is.

1 Q Your letter is dated September 2nd, 2019,
2 correct?

3 A Yes.

4 Q Is that when you wrote that letter?

5 A That's likely the date that I sent it out so
6 that it would have a current date.

7 Q Did you send this letter out to CAL FIRE
8 employees and others?

9 A Yes, I did.

10 Q And I guess the others would be the -- those
11 referenced in the "to" line of this letter; is that
12 right?

13 A Correct.

14 Q Why did you write this letter?

15 A In short, it's because there's a lot of
16 corruption in CAL FIRE, and 18 years I worked for that
17 department. And I saw personally a lot of corruption in
18 that department, and I fought that corruption for many
19 years through the union. And they blacklisted me, and
20 they basically were able to use my incident of having my
21 firearm on state property as a reason to get rid of me.
22 And so I felt the absolute compulsion to expose all that
23 corruption, and that is the reason for this letter.

24 Q And this letter is approximately 13 pages; do
25 you recall that?

1 A Approximately, sure.

2 Q Okay. Let's go to page 7 of 13. We'll just
3 focus on just one area of this letter.

4 Okay. I'm focusing on the paragraph that
5 starts: There is nothing. "Nothing" is all capital
6 letters.

7 Would you read that paragraph?

8 A You want me to read the entire paragraph that
9 starts: There is nothing?

10 Q Sure.

11 A There is nothing in place that prevents current
12 or former CF employee or a crazed maniac from taking any
13 type of weapon to a fire station and slaughtering
14 everyone there. Only you can be dependent upon to
15 provide for your own self-defense. CF policy severely
16 restricts to provide for your own self-defense while at
17 work.

18 Q By "CF," were you talking about CAL FIRE?

19 A Yes.

20 Q Okay. Does that paragraph accurately summarize
21 the reason that you brought a firearm onto state
22 property?

23 A No. No, it does not. No.

24 Q What is the reason you brought a firearm onto
25 state property?

1 A For self- -- to have it with me, anybody that
2 carries a firearm for self-defense, they would prefer to
3 have that firearm with them or accessible to them at as
4 many times possible throughout the day. And I was also
5 explicitly following that state law I referenced
6 earlier.

7 Q So what did you mean by that paragraph, what
8 were you trying to convey to the reader?

9 A I was trying to convey only the words that I
10 put on paper, nothing more.

11 Q Let's look back at Exhibit 1. Sheriff
12 Bosenko's letter states that he received information
13 that you were being investigated as a result of your
14 September 2nd, 2019 letter. Are you aware that you were
15 being investigated?

16 A No. And to this day, several years later, I
17 have never been contacted by CAL FIRE or any law
18 enforcement or any government entity regarding that said
19 reference to investigation. It is my personal opinion
20 that that is a false statement that they never did start
21 an investigation. Years later I have never been
22 contacted regarding that letter, ever.

23 Q Other than not being contacted, is there any
24 other reason that you don't believe that that
25 investigation occurred?

1 A Is there any other reason? The reason is as a
2 retired military police officer, if somebody is subject
3 of an investigation, eventually they're going to be
4 contacted, interviewed, whether it be by consent,
5 doesn't matter. A letter, certified letter. I have
6 received nothing, no contact, no letters, zero. So I
7 believe that's a false statement that there was
8 investigation. I have never been contacted.

9 Q In the last sentence of the second paragraph,
10 of that paragraph we've been reading, Sheriff Bosenko
11 states that he was briefed by the CHP about an
12 August 2nd, 2019 incident involving a traffic citation.

13 Do you know what incident he's referring to?

14 A Yes, I do.

15 Q Can you describe what happened in that
16 incident?

17 A I can describe it. I was pulled over for an
18 infraction, traffic violation. I disagreed with what
19 the officer did, and I verbally stated my disagreement
20 on the side of the road there with the officer. And
21 then he filled out the citation, I signed it, and then I
22 left -- and I left.

23 Q Why do you think that Sheriff Bosenko mentioned
24 that incident in the letter?

25 A Interesting question. I believe Sheriff

1 Bosenko just used that as fodder to further justify my
2 revocation of my license; that's why I think he
3 mentioned that.

4 Q Sheriff Bosenko concludes by stating that a
5 concealed carry weapons permit can only be granted to a
6 person of good moral character who obeys all laws. And
7 then he states that he's revoking your concealed carry
8 permit; is that correct?

9 A That's what the letter reads, yes.

10 MR. WISE: Can we just go off the record for
11 just a moment?

12 MR. BELLANTONI: Sorry, yes.

13 (Discussion of the record.)

14 BY MR. WISE:

15 Q Okay. We're back on the record.

16 Mr. Gallardo, did you respond to Sheriff
17 Bosenko's letter?

18 A I believe I did send him a written response.

19 MR. WISE: Okay. Let's look at Exhibit 4.

20 (Exhibit 4 marked for identification.)

21 BY MR. WISE:

22 Q What is this document?

23 A Yeah, it looks like a document I created.

24 Q What's the date of the letter?

25 A November 19 of 2019.

1 Q Is this a letter that you wrote?

2 A Yes.

3 Q Why did you write this letter?

4 A To gain public documents and to gain other
5 records.

6 Q And why did you want public documents?

7 A I believe the government should be as
8 transparent as legally allowed and required, no matter
9 what the situation is. I do records acq requests all
10 the time, up to and including this week, other matters
11 not related here. So the fact that I asked for these
12 public documents in '19 is nothing out of the ordinary
13 for me.

14 Q Was this a request in response to Sheriff
15 Bosenko's letter, Exhibit 1, that we just reviewed?

16 A Well, once I was revoked then, yes, I wanted
17 the documents that they had in their possession; that's
18 why I wrote this letter.

19 Q Did Sheriff Bosenko respond to your letter?

20 A Yes.

21 Q What was Sheriff Bosenko's response?

22 A I got my entire concealed weapons file.

23 Q Did anyone in the Shasta County sheriff's
24 department send you any response, or was it Sheriff
25 Bosenko? Who was it who responded?

1 A Well, typically, Sean Pasley is the employee
2 at, or was the employee, I don't know if he's still
3 there, Sean Pasley was the employee at the time that
4 normally took care of all the correspondence for
5 Mr. Bosenko regarding these matters. That's why you see
6 Sean Pasley's name is there.

7 Q As of today, does your concealed carry permit
8 in Shasta County remain revoked?

9 A Yes.

10 Q Are you legally permitted to carry a firearm
11 concealed?

12 A I am through the LEOSA credential I mentioned
13 earlier.

14 Q Okay. Without sharing private conversations
15 with your attorney, would you tell me how you became a
16 plaintiff in this case?

17 A I don't remember how I heard about the case. I
18 do listen to Mark Baird quite a bit, he's on our local
19 radio shows quite a bit regarding a lot of patriotic
20 matters. I may have heard it through him. I may have
21 seen a social media post, so I can't exactly say how I
22 heard about it. But once I heard of the case I thought,
23 you know, this is kind of down my alley. And I
24 discussed it with Mark, and from there, and then I have
25 been at it as a co-plaintiff.

1 Q Do you know or did you know Mr. Baird
2 personally before this lawsuit was filed?

3 A Yes, I did.

4 Q And when you're saying that he's on the radio
5 about patriotic matters, could you just describe what
6 you're talking about?

7 A No. That's something you need to ask Mr. Baird
8 about. I don't want to speak for him or about him. I
9 would rather you ask him about that.

10 Q I wasn't looking for Mr. Baird's
11 characterization, only what you -- you had used the
12 word, and so I was just trying to understand what you
13 were -- what your understanding is of, of that?

14 A Well, similar to this lawsuit, sorry to
15 interrupt, similar to this lawsuit, he's fighting for
16 patriotic manners, and that's exactly what this lawsuit
17 is about, and he talks about very similar manners.

18 Q Can you elaborate on that when you're saying
19 "what this lawsuit is about," what is this lawsuit
20 about?

21 A I believe it's about the right to carry openly
22 without government permission using the Second Amendment
23 as originally written to keep and bear arms, that's what
24 I believe this lawsuit is about.

25 Q What are you hoping to achieve through this

1 lawsuit?

2 A I hope to achieve the ability to open carry
3 without government permission; that's what I hope to
4 achieve.

5 Q Are you seeking the right to carry a firearm
6 openly in public without any limitations?

7 A There's always going to be limitations, so the
8 question I think -- so the answer to that is going to be
9 no, because there's always going to be limitations,
10 whether they be legal or societal or civil limitations.

11 Q Would there be any places where you think it
12 would be okay to you not to be able to openly carry a
13 firearm?

14 A Possibly. Possibly maybe a courthouse, but
15 there's already armed bailiffs there. There's security
16 measures usually in courthouses. They're fair.
17 Certainly not entirely adequate, but they're fair. So
18 maybe that's an example.

19 Q Anywhere else that comes to mind?

20 A Not off the top of my head now, no.

21 Q Would it be okay to you not to be able to
22 openly carry a firearm when visiting an elementary
23 school?

24 A So you're asking for my opinion?

25 Q Yes.

1 A I believe anybody lawfully carrying should be
2 able to carry on public school grounds.

3 Q Are you seeking the right to carry a firearm
4 openly in public even if the Shasta County sheriff were
5 to determine that you did not have good moral character?

6 A I'm always seeking for the ability to carry a
7 firearm in any manner without any individual determining
8 what my moral character is. That's not for them to --
9 not for any individual to do that.

10 Q So the answer to my question is yes?

11 A Can you repeat the question?

12 Q Sure. Are you seeking the right to carry a
13 firearm openly in public, even if the Shasta County
14 sheriff were to determine that you did not have good
15 moral character?

16 A Yes, I am seeking that.

17 Q Are you seeking the right to carry a firearm
18 openly in public even if the Shasta County sheriff were
19 to determine that you did not have cause to do so?

20 A Yes, I am.

21 Q Are you seeking the right to carry a firearm
22 openly in public outside Shasta County?

23 A Yes, absolutely.

24 Q So if you happen to visit the City of
25 Sacramento, would you be seeking the right to carry a

1 firearm openly in that city?

2 A Yes.

3 Q Why do you want to carry a firearm openly?

4 A I would like the option to carry openly. There
5 are times when open carry is a sound manner of carry,
6 specifically for deterrence. And that's why law
7 enforcement officers carry openly; that's one of the
8 reasons they carry openly is deterrence.

9 Q So if you have a valid concealed carry permit,
10 would you need to be able to carry openly?

11 A Well, the question. You had the word "need" in
12 there. So I want the option to carry concealed or
13 openly at my discretion, nobody else's discretion.

14 Q If it were legal to carry a firearm concealed
15 throughout California, would you still be seeking the
16 right to carry openly throughout California?

17 A Yes, absolutely.

18 Q Why?

19 A Same reasons that we have already covered.

20 Q That you would like the option to do so?

21 A Like the option? It's a deterrence and I would
22 like that choice.

23 Q Have you applied in Shasta County for a permit
24 to carry firearms openly?

25 A I have applied via -- the answer is yes. I

1 sent the letter to Sheriff Bosenko at the time asking
2 for such a permit.

3 MR. WISE: Okay. Let's look at Exhibit 5.

4 (Exhibit 5 marked for identification.)

5 BY MR. WISE:

6 Q Do you recognize this document?

7 A Yes.

8 Q What is it?

9 A That's my request for two different types of
10 permits. One is a retired federal five-year concealed
11 permit, and the other one is a request for an open carry
12 permit.

13 Q And this is a request to Sheriff Bosenko?

14 A Correct.

15 Q What is the date of the letter?

16 A December 11th, 2018.

17 Q And I think you maybe just told me, but what
18 was the purpose of the letter? Why did you write the
19 letter?

20 A Correct. Two purposes, one was for a retired
21 law enforcement five-year concealed permit, and the
22 second was for an open carry permit.

23 Q Let me just dig into that a little bit. So why
24 did you want those permits?

25 A The retired federal permit, No. 1 -- excuse me

1 yes, 25650 permit, it's a five-year permit as opposed to
2 a two-year. Then also you will see in that very same
3 letter, there's an exception to the gun-free school
4 zones that allows somebody with that particular permit
5 being retired law enforcement, to carry on school
6 property.

7 Q And why would you want to be able to carry on
8 school property?

9 A To protect myself and my son, who goes to
10 public school.

11 Q And then the -- let's see here.

12 Then as you're saying, you also requested a
13 license to open carry a firearm in Shasta County; is
14 that right?

15 A Yes.

16 Q Okay. And why were you seeking that open carry
17 license?

18 A The same reasons we have already covered in
19 some of your earlier questions. I mean, I can repeat
20 the answers if you need me to.

21 Q Sure, go ahead.

22 A For personal protection, to have the option for
23 deterrence purposes, those are the generic reasons.

24 Q Did you receive a response from Sheriff Bosenko
25 to your letter?

1 A I did receive a response; yes, I did.

2 MR. WISE: Okay. Let's go to Exhibit 6.

3 (Exhibit 6 marked for identification.)

4 BY MR. WISE:

5 Q Do you recognize this document?

6 A Yes. That looks like -- yes, I do.

7 Q What is it?

8 A It's basically the similar -- this is the email
9 version of the letter we just went over just prior.

10 Q And what's the date on this email?

11 A Oh, this is in February, I actually had -- let
12 me get ahead of you, so the -- all right, it's
13 February 3rd of '19. I have multiple requests into
14 Sheriff Bosenko for open carry. That's why you're
15 seeing different letters with different dates.

16 Q And so just so I understand this, was this a
17 follow-up email to the letter that you had sent
18 Sheriff Bosenko?

19 A My first open carry request was December of
20 '18. My second open carry request was February of '19;
21 that would be this one.

22 Q Did you receive a response?

23 A I eventually did get a response to my open
24 carry request.

25 MR. WISE: Okay. Let's go to Exhibit 7.

1 (Exhibit 7 marked for identification.)

2 BY MR. WISE:

3 Q Do you recognize this document?

4 A Yes, I do.

5 Q What is it?

6 A It looks like it's the response to my LEOSA or
7 my federal and my open carry request.

8 Q And what is the date of this email?

9 A Looks like March 11 of 2019.

10 Q Who sent it to you?

11 A That came from Sean Pasley; he's one of the
12 sheriff's department employees.

13 Q That's the sheriff's department employee you
14 were referencing earlier that often responds to
15 requests, records requests for the County of Shasta?

16 A Mr. Pasley is, was at the time, one of the main
17 processors of anything having to do with firearms
18 permits in Shasta County at the time.

19 Q And Mr. Pasley states that Shasta County does
20 not offer a permit to carry a firearm openly; is that
21 right?

22 A That was his response to me, yes.

23 Q And he has a couple of explanations here,
24 right? He says an open carry license would only allow
25 you to carry openly in Shasta County; is that correct?

1 A That's what I'm reading also, yes.

2 Q And then he further explains that Shasta County
3 was not inclined to extend the option to carry openly to
4 all permit holders?

5 A Well, literally it says we would have to extend
6 this option to all permit holders, so --

7 Q How did you understand that statement?

8 A I understand this statement as not being a
9 valid reason to deny my open carry request. That's how
10 I understand it.

11 Q Did you follow up with the sheriff's department
12 to indicate that you disagreed with the basis for
13 denying you an open carry license?

14 A I don't believe I did.

15 Q Why not?

16 A Well, they have already denied me knowing I was
17 retired military police, and at the time I had a current
18 concealed weapons permit through their office, so if
19 they didn't think that I was qualified and eligible to
20 carry at that point, I don't think I was going to be
21 able to change their mind, so I doubt I followed up with
22 it.

23 Q Did you make any further attempts to obtain an
24 open carry permit in Shasta County?

25 A No, I have not.

1 Q Have you applied in counties other than Shasta
2 County for a permit to carry a firearm openly?

3 A No.

4 Q Why not?

5 A Again, I was denied here, and then once I
6 became a co-plaintiff in this case, I'm hoping we can
7 get some good results out of this case, so I'm kind of
8 waiting.

9 Q Have you taken any other actions to try to
10 obtain an open carry license in a county other than
11 Shasta County?

12 A No, I have not reapplied for open carry in any
13 other county.

14 MR. WISE: Those are all the questions that I
15 have.

16 MR. BELLANTONI: I just have a couple of
17 questions for Mr. Gallardo to follow up on some of your
18 earlier points.

19 THE WITNESS: Okay.

20 EXAMINATION

21 BY MR. BELLANTONI:

22 Q Mr. Gallardo, did you ever bring a firearm into
23 your job at CAL FIRE?

24 A I never brought it into any of the residents'
25 halls, the sleeping quarters, the kitchen area, if

1 that's -- if that's what your question is referring to.

2 Q And where was your handgun stored while you
3 were at work on the particular date that was referenced
4 by Mr. Wise earlier?

5 A In my locked car in the parking lot.

6 Q And under what circumstances was your handgun,
7 quote, displayed, as referenced in the letter from
8 Sheriff Bosenko?

9 A Well, up here in Shasta County at the time,
10 probably half to two-thirds of the CAL FIRE employees
11 had concealed weapons permits, so we talked a lot about
12 Second Amendment issues, what kind of firearms people
13 owned, carried, all the accessories, what's, you know,
14 what's bad as far as, you know, gear, what's called
15 carry gear. We talked about Second Amendment and
16 firearms issues all the time. Working at CAL FIRE, we
17 were there anywhere from three days a week to two to
18 three weeks in a row. And so, you know, lunchtime or
19 evening hours or whenever we were not on the formal
20 clock, what's called hard time, we're allowed to talk
21 about that kind of stuff, so we talked about it often.
22 And one of my fellow employees at the time was thinking
23 about getting his concealed weapons permit, and he asked
24 me what kind of gun I carried, and so I showed it to
25 him.

1 Q Can you describe what your position was at
2 CAL FIRE or, for the record, what CAL FIRE is?

3 A So my position was a fire apparatus engineer,
4 and then can you repeat the second half?

5 Q Yes. What is CAL FIRE?

6 A It's basically the State's fire department for
7 the State of California, and then a lot of counties
8 within the state also contract for fire protection with
9 CAL FIRE.

10 Q And bringing your handgun onto the property and
11 keeping it locked in your car at CAL FIRE, what, if any,
12 statute or law were you violating?

13 A I was not violating any -- any law or
14 regulation. And earlier in this call, I described the
15 Penal Code section that explicitly allowed me to do
16 that.

17 Q So what did CAL FIRE -- I'm sorry, what did CAL
18 FIRE allege that you had broken when it terminated you
19 for having your handgun in the parking lot in your car?

20 A A policy.

21 Q A handbook policy?

22 A Yes.

23 Q Have you ever been accused of threatening the
24 use of your firearm?

25 A No, absolutely not. And, in fact, in that one

1 bulletin that we looked at earlier today, it even says I
2 displayed my weapon in a nonthreatening manner, so
3 that's never been an issue with me and firearms ever.

4 Q And you understand that phrase that you
5 displayed your handgun in a nonthreatening manner to be
6 the point in time where you were showing your coworker
7 what type of firearm you carry?

8 A Correct, yes.

9 MR. BELLANTONI: I have nothing further.

10 MR. WISE: I don't have any additional
11 questions.

12 MS. BELLANTONI: And, Mr. Wise, I would ask
13 also for a copy of Mr. Gallardo's deposition under the
14 federal rules so he has an opportunity to take a look at
15 it and make any corrections, if necessary.

16 MR. WISE: Okay. That's all.

17 (Off the record at 10:59 a.m.)

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SIGNATURE OF DEPONENT

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I, the undersigned, RICHARD GALLARDO, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE
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RICHARD GALLARDO, Date

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REPORTER'S CERTIFICATE

I, JANICE L. BELCHER, do hereby certify:

That RICHARD GALLARDO, in the foregoing deposition named, was present and by me sworn as a witness in the above-entitled action at the time therein specified;

That said deposition was taken before me at said time, and was taken down in shorthand by me, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings that took place;

That before completion of the proceedings, review of the transcript was requested.

IN WITNESS WHEREOF, I have hereunder subscribed my hand this 22nd day of September, 2021.



JANICE L. BELCHER, CSR No. 12342
State of California

1 AMY BELLANTONI

2 info@bellantoni-law.com

3 SEPTEMBER 22, 2021

4 RE: MARK BAIRD v. ROB BONTA

5 AUGUST 31, 2021, RICHARD GALLARDO, JOB NO. 4782562

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of
21 Counsel - Original transcript to be released for signature
22 as determined at the deposition.

23 ___ Signature Waived - Reading & Signature was waived at the
24 time of the deposition.

25

Page 43

1 _X_Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

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1 MARK BAIRD v. ROB BONTA

2 RICHARD GALLARDO, JOB NO. 4782562

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

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24 WITNESS

Date

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&	2017 19:9	6	advanced 9:4
& 43:23 44:9	2018 32:16	6 2:17 34:2,3	advises 5:18
0	2019 17:8 20:16 21:1 23:14 24:12	7	ago 4:25 8:23,24 12:15 13:24 14:14
00617 1:6	25:25 35:9	7 2:18 22:2 34:25 35:1	ahead 33:21 34:12
1	2021 1:15 3:4 42:17 43:3,5	9	alert 2:13 17:23 18:18,20 19:4,6
1 1:25 2:12 16:18 16:19,21 20:13 23:11 26:15 32:25 44:1	2025.520 43:9,12	9/17/19 2:12	allege 39:18
1-10 1:9	21 8:15	9/2/19 2:14	allergies 5:13
10 5:1	210-6046 3:22	914 3:17	alley 27:23
10583 3:16	22 43:3	916 3:22	allow 35:24
10:04 3:5	22nd 42:17	94244 3:22	allowed 6:4 19:19 26:8 38:20 39:15
10:59 40:17	25 2:15	944255 3:21	allowing 11:11
11 35:9	25650 33:1	a	allows 10:25 33:4
11/19/19 2:15	2:19 1:6	a.m. 3:5 40:17	amendment 16:6 19:11,24,25 28:22 38:12,15
11th 32:16	2nd 20:15 21:1 23:14 24:12	ability 15:8 29:2 30:6	amy 3:15 43:1
12/11/18 2:16	3	able 6:1 16:11,21 21:20 29:12,21 30:2 31:10 33:7 36:21	answer 5:6,8,12 5:16,18 12:7,8 14:20,21 16:2 29:8 30:10 31:25
12/20/17 2:13	3 2:14 19:19 20:18 20:19	absolute 21:22	answers 33:20
12163 42:21	3/13/19 2:18	absolutely 19:14 20:10 30:23 31:17 39:25	anybody 6:25 7:5 23:1 30:1
12342 1:23 42:22	30 44:1	ac 1:6	apparatus 39:3
125 3:21	31 1:15 43:5	accessible 23:3	appearances 3:13
13 21:24 22:2	31st 3:4	accessories 38:13	appeared 3:7
1300 3:21	32 2:16	accurate 41:5	appearing 43:18 44:7
16 2:12	34 2:17	accurately 22:20	appears 17:10
171 19:18	35 2:18	accused 39:23	application 10:10 14:8,11,25 16:5
18 2:13 21:16 34:20	367-0090 3:17	achieve 28:25 29:2 29:4	applied 7:22 13:18 14:3,7,14 31:23,25 37:1
180,000 11:9	3rd 34:13	acq 26:9	apply 10:15 11:11 13:24 14:1,20 15:4
19 8:15 25:25 26:12 34:13,20	4	act 13:21 15:15	
1985 9:15	4 2:3,15 25:19,20	action 3:8 42:6	
2	400 3:16	actions 37:9	
2 2:13 3:16 18:8,9 18:11	45 1:25	acts 13:22	
2/3/19 2:17	4782562 1:24 43:5 45:2	additional 40:10	
20 2:14 19:9	5	adequate 29:17	
200,000 11:1,8	5 2:16 32:3,4		
2003 15:14			

[applying - class]

<p>applying 15:18 appointed 12:16 approved 15:1,3 approximately 4:24 8:21 9:13 11:9 14:1,2,10,14 14:16 21:24 22:1 area 22:3 37:25 armed 29:15 arms 28:23 asked 5:17 13:13 26:11 38:23 asking 7:3 16:4 29:24 32:1 assuming 15:1 assumption 10:2 attempts 36:23 attorney 1:8 3:19 3:20 4:8 5:16,17 6:22 7:4 12:6 27:15 audio 6:24 11:5 august 1:15 3:4 24:12 43:5 aware 8:5 10:24 23:14</p>	<p>39:6 basis 36:12 bear 28:23 begins 17:22 belcher 1:23 3:6 42:3,22 belief 19:13,14,15 20:9 believe 6:14 11:17 13:17 19:6,10,24 20:1,25 23:24 24:7,25 25:18 26:7 28:21,24 30:1 36:14 believer 20:4 bellantoni 3:15,15 3:17 16:1 25:12 37:16,21 40:9,12 43:1,2 better 6:15 bit 6:15 27:18,19 32:23 blacklisted 21:19 bonta 1:7 3:19 4:9 43:4 45:1 bosenko 12:3,14 13:6 16:4 17:4,9 19:4 20:23 24:10 24:23 25:1,4 26:19,25 27:5 32:1,13 33:24 34:14,18 38:8 bosenko's 12:5 18:21 19:5 20:14 23:12 25:17 26:15 26:21 box 3:21 brand 12:16 break 5:10,12 briefed 24:11</p>	<p>bring 37:22 bringing 17:15,18 19:12 39:10 broken 39:18 brought 18:24 22:21,24 37:24 bulletin 2:13 17:23 18:18,20 19:4,7,8,10 20:2 40:1</p>	<p>30:25 31:3,4,5,5,7 31:8,9,10,12,14,16 31:24 32:11,22 33:5,7,13,16 34:14 34:19,20,24 35:7 35:20,24,25 36:3,9 36:13,20,24 37:2 37:10,12 38:15 40:7 carrying 8:16 9:20 10:1,3,6,8 16:12 30:1 case 4:8 5:2 27:16 27:17,22 37:6,7 cause 3:10 30:19 ccp 43:9,12 cdf 18:19 certainly 29:17 certificate 42:1 certification 8:19 certified 3:6 9:6 24:5 42:9 certify 41:4 42:3 cetera 8:16 cf 22:12,15,18 change 36:21 41:7 45:4,7,10,13,16,19 character 25:6 30:5,8,15 characterization 28:11 choice 31:22 chp 24:11 circumstances 38:6 citation 24:12,21 city 30:24 31:1 civil 29:10 43:19 43:20 class 8:23 9:1,2,4</p>
b		c	
<p>b 2:10 19:18,19 44:1 back 14:12,18 20:13 23:11 25:15 bad 5:14 38:14 bailiffs 29:15 baird 1:4 3:25 4:9 27:18 28:1,7 43:4 45:1 baird's 28:10 barring 9:18 based 11:4 basically 13:22 15:15 21:20 34:8</p>		<p>ca 43:9,12,20 cal 17:15,16,19,22 18:19 19:11,17,20 20:16 21:7,16 22:18 23:17 37:23 38:10,16 39:2,2,5 39:9,11,17,17 california 1:2,8 3:22 4:8 7:13,14 7:17,20 13:16 19:18 31:15,16 39:7 42:9,22 call 39:14 called 15:17 38:14 38:20 capacity 1:8 capital 22:5 car 38:5 39:11,19 care 27:4 caries 23:2 carried 38:13,24 carry 7:22 10:17 10:23,25 11:12,16 11:20 12:5,8,18 13:6,12,19,23 14:4 14:25 15:8,16,20 16:11,13,15 17:5 25:5,7 27:7,10 28:21 29:2,5,12,22 30:2,3,6,12,17,21</p>	

[classes - district]

<p>classes 9:7 clear 15:11,13 clearly 6:9 7:2 clock 38:20 code 10:24 11:2,10 19:18 39:15 43:9 43:12,19,20 comes 29:19 commencing 3:4 comment 6:5 committed 8:6 companies 9:5 company 7:9 completed 43:7,17 44:6 completion 42:14 44:10 compulsion 21:22 computer 13:2 concealed 6:19 9:4 10:9,18,19 13:19 13:23 14:4,25 15:8,16 16:11,12 16:13,15 17:5 19:20,21 25:5,7 26:22 27:7,11 31:9,12,14 32:10 32:21 36:18 38:11 38:23 concludes 25:4 consent 24:4 constitutes 42:11 contact 13:10 24:6 43:9 contacted 23:17 23:22,23 24:4,8 contents 18:3 continues 20:14 contract 39:8 conversation 6:22</p>	<p>conversations 27:14 convey 23:8,9 convicted 7:25 8:2 copy 40:13 correct 15:4 20:17 21:2,13 25:8 32:14,20 35:25 40:8 42:12 corrections 6:2,4,5 40:15 41:6 43:14 43:15 44:3,4 correspondence 27:4 corruption 21:16 21:17,18,23 counsel 43:18,21 44:7 counties 37:1 39:7 county 9:11,12,14 9:17 10:16,17,21 11:1,3,7,11,12,15 11:19 12:12 13:4 13:10,11,14,15,18 13:19 14:3 15:2 15:19 16:16 26:23 27:8 30:4,13,18,22 31:23 33:13 35:15 35:18,19,25 36:2 36:24 37:2,10,11 37:13 38:9 county's 9:19 10:6 couple 4:19 9:10 14:13,19 18:5 35:23 37:16 course 11:7 12:25 18:15 court 1:1 5:4 6:1 courthouse 29:14 courthouses 29:16</p>	<p>courtroom 4:16 covered 31:19 33:18 coworker 40:6 crazed 22:12 created 25:23 credential 13:21 13:23 15:6,17 27:12 csr 1:23 42:22 current 7:8 13:4 21:6 22:11 36:17 currently 13:20 cut 6:24 7:15 11:5 12:21 cv 1:6</p> <hr/> <p style="text-align: center;">d</p> <hr/> <p>d 2:1 4:13 date 17:7 19:8 21:5,6 25:24 32:15 34:10 35:8 38:3 41:25 43:16 44:5 45:24 dated 20:15 21:1 dates 34:15 day 3:4 23:4,16 42:17 days 38:17 december 19:9 32:16 34:19 defendant 3:19 defendants 1:10 defense 20:6 22:15 22:16 23:2 denied 7:23 11:18 36:16 37:5 deny 36:9 denying 36:13 department 9:6 21:17,18 26:24 35:12,13 36:11</p>	<p>39:6 dependent 22:14 deponent 41:1 deposed 4:23 deposition 1:14 3:1 4:18,21 5:2,25 6:12,23 7:5,6 40:13 41:4 42:4,7 42:12 43:19,22,24 44:8,10 deputy 3:20 describe 8:13 24:15,17 28:5 39:1 described 39:14 detailed 10:14 determine 13:8,11 30:5,14,19 determined 43:18 43:22 44:7 determining 30:7 deterrence 31:6,8 31:21 33:23 different 11:22 12:18 13:5 32:9 34:15,15 dig 32:23 disagreed 24:18 36:12 disagreement 24:19 disciplining 19:12 discretion 31:13 31:13 discussed 7:4 27:24 discussion 25:13 displayed 18:24 38:7 40:2,5 district 1:1,2</p>
---	---	---	--

[document - gallardo]

<p>document 6:16 16:24 17:3,4,6,25 18:2,3,6,13,15,23 19:2 20:21 25:22 25:23 32:6 34:5 35:3</p> <p>documents 6:13 6:17,18 26:4,6,12 26:17</p> <p>doj.ca.gov 3:23</p> <p>doubt 36:21</p> <p>duly 3:8</p>	<p>entire 18:3 22:8 26:22</p> <p>entirely 29:17</p> <p>entitled 42:6</p> <p>entity 23:18</p> <p>errata 43:14,16 44:3,5</p> <p>et 8:16</p> <p>evening 38:19</p> <p>eventually 24:3 34:23</p> <p>everybody 7:2</p> <p>exactly 27:21 28:16</p> <p>examination 2:3 4:5 37:20</p> <p>examined 3:9</p> <p>example 29:18</p> <p>exception 33:3</p> <p>excuse 5:13 32:25</p> <p>exhibit 2:12,13,14 2:15,16,17,18 16:18,19,21 18:8,9 18:11 20:13,18,19 23:11 25:19,20 26:15 32:3,4 34:2 34:3,25 35:1</p> <p>explains 36:2</p> <p>explanations 35:23</p> <p>explanatory 20:12</p> <p>explicitly 19:16,19 19:22 23:5 39:15</p> <p>expose 21:22</p> <p>extend 36:3,5</p> <p>extended 19:24,25</p> <p>external 12:20</p>	<p>fair 29:16,17</p> <p>false 23:20 24:7</p> <p>familiar 4:20 9:19</p> <p>family 15:9 16:14</p> <p>far 10:21,24 11:15 11:17 12:18 38:14</p> <p>february 34:11,13 34:20</p> <p>federal 13:23 15:14 32:10,25 35:7 40:14 44:1,8 44:9</p> <p>fellow 38:22</p> <p>felony 7:25</p> <p>felt 21:22</p> <p>fight 20:3</p> <p>fighting 28:15</p> <p>file 6:19 26:22</p> <p>filed 28:2</p> <p>filled 24:21</p> <p>find 41:5</p> <p>fine 10:4 14:24</p> <p>finish 5:6,11</p> <p>fire 5:13 17:15,16 17:19,22 18:19 19:11,17,20 20:16 21:7,16 22:13,18 23:17 37:23 38:10 38:16 39:2,2,3,5,6 39:8,9,11,17,18</p> <p>firearm 7:12,16,20 7:23 8:3,8,11 9:9 10:17 13:19 14:4 14:25 15:20,25 16:11 17:15,18 18:24 19:12,17,22 21:21 22:21,24 23:2,3 27:10 29:5 29:13,22 30:3,7,13 30:17,21 31:1,3,14 33:13 35:20 37:2</p>	<p>37:22 39:24 40:7</p> <p>firearms 8:16 9:20 10:1,6,7,23 31:24 35:17 38:12,16 40:3</p> <p>fired 9:8</p> <p>firm 3:15</p> <p>first 3:8 6:24 7:15 12:16,21 14:11,14 17:13 34:19</p> <p>five 6:24 14:2 32:10,21 33:1</p> <p>fixes 12:22</p> <p>flux 15:7</p> <p>focus 22:3</p> <p>focusing 22:4</p> <p>fodder 25:1</p> <p>follow 34:17 36:11 37:17</p> <p>followed 36:21</p> <p>following 19:16,22 23:5 41:6</p> <p>follows 4:3 43:8</p> <p>foregoing 41:4 42:4,11</p> <p>formal 8:24 38:19</p> <p>former 22:12</p> <p>fought 21:18</p> <p>four 14:2</p> <p>frcp 44:1</p> <p>free 33:3</p> <p>full 4:10 16:22 42:11</p> <p>further 16:8 25:1 36:2,23 40:9</p>
e			
<p>e 2:1,10 15:12 43:9 43:12 44:1 45:3,3 45:3</p> <p>earlier 23:6 27:13 33:19 35:14 37:18 38:4 39:14 40:1</p> <p>eastern 1:2</p> <p>eight 14:15</p> <p>either 12:17 13:3</p> <p>elaborate 15:24 16:8 19:15 20:11 28:18</p> <p>elementary 29:22</p> <p>eligible 7:12,16,20 36:19</p> <p>else's 31:13</p> <p>email 2:17,18 34:8 34:10,17 35:8</p> <p>employee 22:12 27:1,2,3 35:13</p> <p>employees 20:16 21:8 35:12 38:10 38:22</p> <p>enforcement 13:21 15:14 23:18 31:7 32:21 33:5</p> <p>engineer 39:3</p>	<p style="text-align: center;">f</p> <p>facility 8:7</p> <p>fact 26:11 39:25</p>		
			g
			<p>g 4:13</p> <p>gain 8:18 26:4,4</p> <p>gallardo 1:4,14 3:1,7 4:1,12 16:21 25:16 37:17,22</p>

[gallardo - license]

41:3,25 42:4 43:5 45:2 gallardo's 40:13 gear 38:14,15 general 1:8 3:19 3:20 4:8 generic 8:19 33:23 getting 38:23 give 5:8 9:6 15:19 given 9:5 12:10 20:5 go 10:11 14:12,18 16:22 20:13 22:2 25:10 33:21 34:2 34:25 god 20:5 goes 33:9 going 10:11 24:3 29:7,8,9 36:20 good 4:7 25:6 30:5 30:14 37:7 government 23:18 26:7 28:22 29:3 granted 10:15 25:5 granting 16:7 great 13:3 grounds 8:5 30:2 guess 21:10 guessing 14:12 gun 33:3 38:24 guns 8:16	handled 43:8 happen 30:24 happened 24:15 hard 38:20 head 29:20 health 8:7 hear 7:2 heard 7:14 27:17 27:20,22,22 hereunder 42:16 high 9:16 holders 36:4,6 home 10:3,9 15:9 hope 29:2,3 hopefully 12:7 hoping 28:25 37:6 hour 3:4 hours 38:19	interrupt 28:15 interviewed 24:4 investigated 23:13 23:15 investigation 23:19,21,25 24:3,8 involuntarily 8:6 involving 24:12 issuance 10:25 issue 10:17,22 11:12,16,20 12:9 20:3 40:3 issued 13:11 17:22 issues 6:14 18:5 38:12,16	i I 1:23 3:6 4:13,13 15:12 42:3,22 law 3:15 10:22 11:14 13:20 15:14 15:14 19:17,19,22 23:5,17 31:6 32:21 33:5 39:12 39:13 law.com 3:17 43:2 lawful 20:4 lawfully 30:1 laws 25:6 lawsuit 28:2,14,15 28:16,19,19,24 29:1 left 24:22,22 legal 29:10 31:14 43:7 legally 8:3,7 26:8 27:10 leosa 15:6,7,11,17 16:13 27:12 35:6 letter 2:12,14,15 2:16 17:7,9,14,22 18:21 19:5,18 20:14,15,23 21:1,4 21:7,11,14,23,24 22:3 23:12,14,22 24:5,5,24 25:9,17 25:24 26:1,3,15,18 26:19 32:1,15,18 32:19 33:3,25 34:9,17 38:7 letters 22:6 24:6 34:15 liberal 16:5 license 7:22 13:12 14:17 15:5,18 25:2 33:13,17 35:24 36:13 37:10
h	i identification 16:19 18:9 20:19 25:20 32:4 34:3 35:1 incident 21:20 24:12,13,16,24 inclined 36:3 included 43:14 44:3 including 26:10 indicate 36:12 individual 20:5 30:7,9 info 3:17 43:2 information 23:12 informed 7:19 infraction 24:18 inherent 20:5 instructor 8:17,19 interested 7:4 interesting 24:25	j janice 1:23 3:6 42:3,22 jason 4:12 job 1:24 7:8,10 37:23 43:5 45:2 johnson 12:15 13:4 justify 25:1	
	k	keep 28:23 keeping 39:11 kind 8:13 27:23 37:7 38:12,21,24 kitchen 37:25 kjm 1:6 know 5:11,22 6:3 11:15,17,19,21 13:7 14:10,16 17:10 19:7 24:13 27:2,23 28:1,1 38:13,14,18 knowing 36:16	

[licenses - originally]

<p>licenses 10:17,22 11:12,16,20 12:5 13:6 limitations 29:6,7 29:9,10 line 21:11 41:7 43:15 44:4 45:4,7 45:10,13,16,19 listen 27:18 literally 36:5 little 6:15 7:11 19:18 32:23 live 9:11 lived 9:17 local 7:9 9:5 27:18 locked 38:5 39:11 43:12 44:1 long 4:25 7:10 8:16 look 16:18 17:13 17:21 18:8 20:18 23:11 25:19 32:3 40:14 looked 40:1 looking 28:10 looks 17:11,11 18:18 19:9 25:23 34:6 35:6,9 lot 21:15,17 27:19 38:5,11 39:7,19 lunchtime 38:18</p>	<p>manners 28:16,17 march 35:9 mark 1:4 3:25 27:18,24 43:4 45:1 marked 16:19 18:9 20:19 25:20 32:4 34:3 35:1 matter 24:5 26:8 matters 26:10 27:5,20 28:5 matthew 3:20 4:7 matthew.wise 3:23 mean 6:18 15:13 18:25 23:7 33:19 measures 29:16 media 27:21 meet 11:13 mental 8:6 mentioned 11:11 24:23 25:3 27:12 middle 9:15 military 8:15 9:18 24:2 36:17 mind 13:1 29:19 36:21 minutes 14:13,19 misdemeanor 8:2 moment 11:25 14:22 25:11 months 9:10 moral 20:4 25:6 30:5,8,15 morning 4:7 move 9:13 moved 9:15 multiple 34:13</p>	<p>n</p> <p>n 2:1 name 4:7,10,11,12 12:16 27:6 named 42:5 nationwide 15:15 nature 8:25 necessary 40:15 43:14 44:3 need 5:5,10 6:14 15:19,24 18:5 28:7 31:10,11 33:20 never 23:17,20,21 24:8 37:24 40:3 new 3:16 12:12,14 12:16,17 13:3 nonthreatening 18:25 40:2,5 normally 27:4 notating 43:15 44:4 notes 14:13,18,23 notice 3:3 november 25:25 nra 8:17 number 43:15 44:4</p>	<p>officer 15:15 24:2 24:19,20 officers 13:21 31:7 official 1:7 oh 4:25 7:11 34:11 okay 5:9,13,23 6:21 12:4,23 13:1 13:10 16:18 20:13 22:2,4,20 25:15,19 27:14 29:12,21 32:3 33:16 34:2 34:25 37:19 40:16 once 14:7 26:16 27:22 37:5 ones 6:14 open 10:25 11:12 11:16,20 12:5,8,18 13:5,11 29:2 31:5 32:11,22 33:13,16 34:14,19,20,23 35:7,24 36:9,13,24 37:10,12 openly 10:23 28:21 29:6,12,22 30:4,13,18,22 31:1 31:3,4,7,8,10,13 31:16,24 35:20,25 36:3 37:2 opinion 23:19 29:24 opportunity 5:24 40:14 opposed 10:6 33:1 option 31:4,12,20 31:21 33:22 36:3 36:6 ordinary 26:12 original 17:10 43:10,21 originally 14:20 28:23</p>
<p>m</p> <p>magrini 12:14 13:5 main 35:16 maintain 13:24 maniac 22:12 manner 13:22 18:25 30:7 31:5 40:2,5</p>		<p>o</p> <p>o 4:13 15:12 ooo 1:3 3:11 40:18 oath 4:15 obeys 25:6 objection 5:16 16:1 obtain 36:23 37:10 occurred 23:25 offer 35:20 office 36:18 43:11</p>	

[outside - read]

<p>outside 10:3,9 30:22</p> <p>overhill 3:16</p> <p>owned 38:13</p> <p>owning 8:3,8</p>	<p>period 43:18 44:7</p> <p>perjury 43:17 44:6</p> <p>permission 28:22 29:3</p> <p>permit 10:10,15 10:19,25 13:19,20 13:22 14:4 15:16 15:16 16:16 17:5 19:21,25 25:5,8 27:7 31:9,23 32:2 32:11,12,21,22,25 33:1,1,4 35:20 36:4,6,18,24 37:2 38:23</p> <p>permits 12:9 32:10,24 35:18 38:11</p> <p>permitted 10:22 27:10</p> <p>person 5:5 25:6</p> <p>personal 15:9,23 15:25 16:7,13 23:19 33:22</p> <p>personally 11:18 21:17 28:2</p> <p>phrase 40:4</p> <p>pistol 8:17</p> <p>place 22:11 42:13</p> <p>places 29:11</p> <p>plaintiff 27:16,25 37:6</p> <p>plaintiffs 1:5 3:14</p> <p>plus 5:1</p> <p>point 36:20 40:6</p> <p>points 37:18</p> <p>police 24:2 36:17</p> <p>policy 9:19,23 10:6,8 12:5,18 13:5 22:15 39:20 39:21</p>	<p>population 11:1,4</p> <p>portion 16:5</p> <p>position 39:1,3</p> <p>possess 7:12,16,20 13:20</p> <p>possessing 10:7</p> <p>possession 26:17</p> <p>possible 5:15 23:4</p> <p>possibly 29:14,14</p> <p>post 27:21</p> <p>prefer 23:2</p> <p>prepare 6:12</p> <p>prepared 6:15</p> <p>present 3:24 42:5</p> <p>pretty 20:12</p> <p>prevent 6:9 8:7</p> <p>prevents 22:11</p> <p>prior 34:9</p> <p>private 6:22 9:5 27:14</p> <p>probably 5:1 14:13,19 38:10</p> <p>procedure 43:19 43:20</p> <p>proceedings 42:13 42:14</p> <p>process 10:10,10 10:14,20 19:25</p> <p>processors 35:17</p> <p>produced 3:7</p> <p>prohibit 8:3</p> <p>propane 7:9</p> <p>property 17:15,18 18:24 19:17,20,23 21:21 22:22,25 33:6,8 39:10</p> <p>protect 33:9</p> <p>protection 15:9,10 15:23,25 16:8,13 16:14 33:22 39:8</p>	<p>provide 22:15,16</p> <p>provided 43:19 44:8</p> <p>provision 11:4,10</p> <p>public 26:4,6,12 29:6 30:2,4,13,18 30:22 33:10</p> <p>pulled 24:17</p> <p>purpose 32:18</p> <p>purposes 32:20 33:23</p> <p>pursuant 3:3</p> <p>put 16:6,7 18:6,18 19:7 23:10</p> <p style="text-align: center;">q</p> <p>qualifications 8:18</p> <p>qualified 11:5 36:19</p> <p>qualify 11:4</p> <p>quarters 37:25</p> <p>question 5:7,8,12 5:15,17,18,21,22 7:1 9:25 10:2,5 12:7,21 13:13,15 14:20 17:2 18:14 24:25 29:8 30:10 30:11 31:11 38:1</p> <p>questions 14:21 19:2 33:19 37:14 37:17 40:11</p> <p>quite 27:18,19</p> <p>quote 20:2 38:7</p> <p style="text-align: center;">r</p> <p>r 3:20 4:13 45:3,3</p> <p>r&s 44:1,9</p> <p>radio 27:19 28:4</p> <p>read 9:24 10:12 17:25 18:25 22:7 22:8 41:4</p>
---	---	--	--

[reader - service]

reader 23:8 reading 18:23 24:10 36:1 43:23 44:9 reads 25:9 really 5:14 reapplied 37:12 reason 15:19,22 16:4,10 17:19 21:21,23 22:21,24 23:24 24:1,1 36:9 45:6,9,12,15,18,21 reasoning 12:10 reasons 31:8,19 33:18,23 recall 5:3 21:25 receive 5:25 33:24 34:1,22 received 8:10,14 8:22 23:12 24:6 recognize 16:24 18:13,15 20:21 32:6 34:5 35:3 record 4:11 6:3 12:7 15:12 18:6 25:10,13,15 39:2 40:17 recording 5:4 records 26:5,9 35:15 reference 23:19 referenced 18:20 21:11 23:5 38:3,7 43:6 referencing 19:5 20:24 35:14 referring 12:2 14:22 15:12 24:13 38:1 refers 10:2	regarding 12:8 18:6 23:18,22 27:5,19 regards 9:25 regulation 39:14 related 26:11 relating 10:8 released 43:21 remain 27:8 remember 5:1 12:15 27:17 remembered 3:3 renewals 14:8,21 renewed 14:17 repeat 11:6 12:24 30:11 33:19 39:4 rephrase 5:22 10:4 report 42:12 reported 1:22 reporter 3:7 5:4 6:1 42:9 reporter's 42:1 represent 4:8 request 11:18 12:8 26:14 32:9,11,13 34:19,20,24 35:7 36:9 requested 33:12 42:15 44:1,9,10 requests 26:9 34:13 35:15,15 required 26:8 residents 37:24 respond 7:3 25:16 26:19 responded 26:25 responds 35:14 response 25:18 26:14,21,24 33:24 34:1,22,23 35:6,22	restricts 22:16 result 14:24 17:23 23:13 results 37:7 retired 24:2 32:10 32:20,25 33:5 36:17 return 43:17 44:6 review 5:25 6:16 42:14 43:8,10,13 44:2 reviewed 6:13,17 6:19 26:15 revocation 25:2 revoked 17:5 26:16 27:8 revoking 25:7 richard 1:4,14 3:1 3:7 4:1,12 41:3,25 42:4 43:5 45:2 rid 21:21 right 9:24 14:22 17:24 20:3,5,16 21:12 28:21 29:5 30:3,12,17,21,25 31:16 33:14 34:12 35:21,24 rights 19:11,24 20:1 road 3:16 24:20 rob 1:7 3:19 43:4 45:1 row 38:18 rules 4:20 40:14 44:8	save 18:3 19:1 saw 21:17 saying 12:1,11 28:4,18 33:12 says 18:23 35:24 36:5 40:1 scarsdale 3:16 schedule 43:10 school 9:16 29:23 30:2 33:3,5,8,10 screen 16:22 sean 27:1,3,6 35:11 second 16:6 17:21 19:11,24,25 20:13 24:9 28:22 32:22 34:20 38:12,15 39:4 section 10:25 11:14 39:15 security 29:15 see 12:21 16:21,23 18:1,11 27:5 33:2 33:11 seeing 34:15 seeking 29:5 30:3 30:6,12,16,17,21 30:25 31:15 33:16 seen 27:21 self 20:6,12 22:15 22:16 23:1,2 send 21:7 25:18 26:24 sent 20:15 21:5 32:1 34:17 35:10 sentence 24:9 september 17:8 20:15 21:1 23:14 42:17 43:3 service 9:18
		s	
		s 2:10 15:12 45:3 sacramento 3:22 30:25 safety 13:21 15:15	

[seven - today's]

seven 14:14 severely 22:15 sharing 27:14 shasta 9:12,13,17 9:19 10:5,16,16,21 11:3,7,11,15,19 12:12 13:4,10,11 13:13,19 14:3 15:2,19 16:16 26:23 27:8 30:4 30:13,18,22 31:23 33:13 35:15,18,19 35:25 36:2,24 37:1,11 38:9 sheriff 10:17,22 11:16,19,22,23,23 12:1,1,3,5,12,14 12:16 13:6 14:4 15:1 17:4,9 18:21 19:4,5 20:14,23 23:11 24:10,23,25 25:4,16 26:14,19 26:21,24 30:4,14 30:18 32:1,13 33:24 34:14,18 38:8 sheriff's 9:6,24 26:23 35:12,13 36:11 sheriffs 12:13,17 13:4 short 21:15 shorthand 3:6 42:8,9 showed 38:24 showing 40:6 shows 27:19 side 24:20 sign 17:9 43:16 44:5	signature 17:11,11 41:1 42:21 43:21 43:23,23 44:9 signed 24:21 similar 28:14,15 28:17 34:8 situation 26:9 six 6:25 14:14 size 11:4 slaughtering 22:13 sleeping 37:25 smoke 5:14 social 27:21 societal 29:10 solutions 43:7 somebody 24:2 33:4 son 33:9 sorry 17:2 18:14 25:12 28:14 39:17 sound 31:5 speak 5:5 6:23 28:8 speaker 12:20 speakers 13:2 speaking 6:25 special 2:13 17:23 18:18,20 19:6 specific 19:2 specifically 10:16 14:22 31:6 specified 42:6 spell 4:10 spelled 10:11 spoke 7:5 standard 3:5 start 5:8 23:20 starts 22:5,9 state 1:8 4:10 7:13 7:14 10:22 13:16	17:15,18 18:24 19:16,22 21:21 22:21,25 23:5 39:7,8 42:9,22 43:9,12 state's 39:6 stated 24:19 statement 20:7 23:20 24:7 36:7,8 statements 17:23 states 1:1 17:14 19:10 20:2 23:12 24:11 25:7 35:19 stating 17:22 20:15 25:4 station 22:13 statute 39:12 staunch 20:4 stenographically 1:22 stipulate 18:2,2 stipulation 43:20 stored 38:2 street 3:21 stuff 38:21 subject 24:2 subscribed 42:16 suite 3:16,21 summarize 22:20 summarizing 18:22 sure 10:4 18:22 22:1,10 30:12 33:21 sworn 3:9 4:2 42:5	talk 38:20 talked 38:11,15,21 talking 15:2 22:18 28:6 talks 28:17 tell 9:22 27:15 terminated 17:14 17:16 39:18 terminating 17:19 testified 4:3 testifying 4:14,16 6:9 testimony 41:6 thank 16:24 think 5:1 12:11 18:1 20:12 24:23 25:2 29:8,11 32:17 36:19,20 thinking 6:9 38:22 thirds 38:10 thought 27:22 threatening 39:23 threats 20:3 three 7:11 12:15 38:17,18 time 3:5 4:23 5:6 5:10 8:21 9:8 11:22,24 12:1 13:1 15:6,7 16:3 18:4,14 19:1,21 26:10 27:3 32:1 35:16,18 36:17 38:9,16,20,22 40:6 42:6,8 43:10,18,24 44:7 times 4:19 14:6 16:7 23:4 31:5 today 4:15 6:1,8 27:7 40:1 today's 6:12
			t
		t 2:10 45:3,3 take 4:15 5:10,12 14:13,19 40:14 taken 4:18 37:9 42:7,8	

[told - zones]

told 32:17 top 19:9 29:20 traffic 24:12,18 training 8:10,13 8:15,18,22,24,25 transcribed 42:10 transcript 5:25 6:2 42:11,15 43:6 43:8,10,13,13,21 44:2,2 transcription 41:5 transparent 26:8 true 17:16 41:5 42:11 truthfully 6:10 try 5:5,6,22 13:8 37:9 trying 23:8,9 28:12 two 8:23,24 12:13 12:17 13:3 14:9 32:9,20 33:2 38:10,17 type 22:13 40:7 types 32:9 typewriting 42:10 typically 27:1	unplugged 13:2 unquote 20:6 use 8:10 21:20 39:24 usually 29:16 utmost 16:14	weapons 6:19 9:4 10:10,19 19:21 25:5 26:22 36:18 38:11,23 website 9:25 10:11 week 26:10 38:17 weeks 12:15 38:18 went 34:9 whereof 42:16 wise 2:3 3:20 4:6,7 16:9,18,20 18:8,10 20:18,20 25:10,14 25:19,21 32:3,5 34:2,4,25 35:2 37:14 38:4 40:10 40:12,16 witness 3:8,9 4:2 16:3 37:19 42:5 42:16 43:13,16 44:2,5 45:24 wondering 19:3 word 28:12 31:11 words 6:25 23:9 work 7:9 22:17 38:3 worked 21:16 working 38:16 workplace 19:13 works 14:7 wow 4:25 write 21:14 26:3 32:18 writing 12:6 written 25:18 28:23 wrote 21:4 26:1,18	y yeah 17:25 19:3 25:23 year 8:23 32:10,21 33:1,2 years 5:1 7:11 8:15,24 13:24 14:2,9,14 21:16,19 23:16,21 yep 20:1 york 3:16
	v v 43:4 45:1 vaguely 4:22 valid 16:15 31:9 36:9 vehicle 19:23 verbally 24:19 veritext 43:7,9,11 version 34:9 videoconference 1:14 3:1,5,13 violated 19:11 20:1 violating 39:12,13 violation 24:18 visit 30:24 visiting 29:22 vs 1:6 4:9		
	w waiting 37:8 waived 43:23,23 waiving 43:20 want 6:21 10:1 18:1 19:1 22:8 26:6 28:8 31:3,12 32:24 33:7 wanted 15:8 16:6 26:16 wanting 15:19 way 14:7 we've 5:1 24:10 weapon 19:20 22:13 40:2		
	u undersigned 41:3 understand 4:14 5:19,21 6:6 10:21 11:3 12:18 19:3 28:12 34:16 36:7 36:8,10 40:4 understanding 9:22 10:5 11:2,13 12:4 28:13 union 21:19 united 1:1 unplug 12:20		
		x x 2:1,10 44:1	
			z zero 24:6 zones 33:4

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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