

MARK SELWYN (CA Bar No. 244180)
mark.selwyn@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
2600 El Camino Road
Palo Alto, California 94306
Telephone: (650) 858-6031
Facsimile: (650) 858-6100

*Attorneys for Defendants Los Angeles County
Sheriff's Department and Sheriff Robert Luna*

(additional counsel listed below)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED;
THE SECOND AMENDMENT
FOUNDATION; GUN OWNERS OF
AMERICA, INC.; GUN OWNERS
FOUNDATION; GUN OWNERS OF
CALIFORNIA, INC.; ERICK
VELASQUEZ, an individual; CHARLES
MESSEL, an individual; BRIAN
WEIMER, an individual; CLARENCE
RIGALI, an individual; KEITH REEVES,
an individual; CYNTHIA GABALDON,
an individual; and STEPHEN HOOVER,
an individual,

Plaintiffs,

v.

LOS ANGELES COUNTY SHERIFF'S
DEPARTMENT; SHERIFF ROBERT
LUNA, in his official capacity; LA
VERNE POLICE DEPARTMENT; LA
VERNE CHIEF OF POLICE COLLEEN
FLORES, in her official capacity;
ROBERT BONTA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendants.

Case No. 2:23-cv-10169-SPG-ADS

**DEFENDANTS LOS ANGELES
COUNTY SHERIFF'S
DEPARTMENT AND SHERIFF
ROBERT LUNA'S RESPONSE TO
PLAINTIFFS' EVIDENTIARY
OBJECTIONS TO DEFENDANTS
LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT AND
SHERIFF ROBERT LUNA'S
SURVEY OF HISTORICAL
LICENSE REQUIREMENTS AND
MOTION TO STRIKE OR DENY
JUDICIAL NOTICE OF SAME**

[ECF No. 32-11]

Judge: Hon. Sherilyn Peace
Garnett
Hearing Date: April 10, 2024
Hearing Time: 1:30 p.m.
Courtroom: 5C

1 ALAN SCHOENFELD (*pro hac vice* forthcoming)

alan.schoenfeld@wilmerhale.com

2 NOAH LEVINE (*pro hac vice* forthcoming)

3 noah.levine@wilmerhale.com

4 RYAN CHABOT (*pro hac vice*)

ryan.chabot@wilmerhale.com

5 WILMER CUTLER PICKERING

HALE AND DORR LLP

6 7 World Trade Center

7 250 Greenwich Street

New York, NY 10007

8 Telephone: (212) 937-7294

9 Facsimile: (212) 230-8888

10 *Attorneys for Defendants Los Angeles County*

11 *Sheriff's Department and Sheriff Robert Luna*

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 With their reply in support of their motion for preliminary injunction,
2 Plaintiffs filed “evidentiary objections and motion to strike or deny judicial notice
3 of” a document that Defendants Los Angeles County Sheriff’s Department and
4 Sheriff Robert Luna (together, LASD) submitted with their opposition to Plaintiffs’
5 preliminary injunction motion. *See* ECF No. 32-11. The document Plaintiffs
6 challenge—ECF No. 27-9—catalogues for the Court’s convenience 60 historical
7 licensing laws that LASD separately submitted to the Court through primary
8 source reprintings for judicial notice (ECF No. 27-10). The Court should reject
9 Plaintiffs’ objections and deny their motion to strike, for at least three reasons.

10 *First*, Plaintiffs’ objections and motion are non-substantive. Plaintiffs agree
11 that the primary source reprintings of the historical licensing laws (ECF No. 27-10)
12 are proper candidates for judicial notice. *See* ECF No. 32-11 (Pls’ Evidentiary
13 Obj.) at 3 n.3 (“Reprintings or copies of the laws themselves are properly the
14 subject of judicial notice under FRE 201.”). These primary source reprintings are
15 all that LASD asked this Court to judicially notice. *See* ECF No. 27-8. What
16 Plaintiffs object to, and move to strike, is only the non-substantive chart that
17 catalogues those same historical licensing laws for the Court’s convenience. *See*
18 ECF No. 27-9. But LASD is not asking the Court to judicially notice this
19 compilation. Plaintiffs’ objections to this separate demonstrative document
20 therefore have no substantive force behind them—the Court could simply take
21 unopposed judicial notice of the historical licensing laws themselves and deny
22 Plaintiffs’ objections and motion as moot.

23 *Second*, the Court can likewise summarily overrule Plaintiffs’ objections to
24 the compilation under Federal Rules of Evidence 401, 601, 602, 701, 702, and 704.
25 LASD submitted this compilation purely for the Court’s convenience, much as it
26 would a table of contents. LASD is not arguing that the compilation should be
27
28

1 entered into the record as evidence, only the public records of the enacted
2 legislation. Indeed, LASD does not cite the compilation anywhere in its briefing.

3 *Third*, even taken on its merits, Plaintiffs’ motion to strike should be denied.
4 Apart from the evidentiary objections, the only argument for striking the
5 compilation that Plaintiffs make is that it allegedly contains attorney argument
6 beyond the Court’s page limitations. Mot. at 5. On that front, Plaintiffs’ very
7 narrow objection is to the single-sentence summaries of the historical laws
8 included in the chart. But those summaries are not argument; they are objective,
9 short descriptions of the laws offered, again, for the Court’s convenience when
10 using the document.

11 As their only example, Plaintiffs characterize as argumentative the
12 description of an 1876 Sacramento law, accusing LASD of “improperly
13 expand[ing]” its ambit in the summary of it. Mot. at 4. The description that LASD
14 provided states: “Allowing police to issue a license to carry a concealed weapon to
15 a ‘peaceable person, whose profession or occupation may require him to be out at
16 late hours of the night, to carry concealed deadly weapons for his protection.’”
17 ECF No. 27-9 at 10. The complete text of Section 3 of the law—the section
18 authorizing the issuance of a license—provides: “The Police Commissioner of the
19 City of Sacramento may grant written permission to any peaceable person, whose
20 profession or occupation may require him to be out at late hours of the night, to
21 carry concealed deadly weapons for his protection.” ECF No. 27-10 at 147.
22 Plaintiffs complain that LASD did not also summarize Section 1 of the law, which
23 imposes the threshold prohibition on concealed carry,¹ but LASD was not citing

24
25 ¹ Section 1 provides: “It shall be unlawful for any person, not being a public office
26 or traveler, or not having a permit from the Police Commissioners of the City of
27 Sacramento, to wear or carry, concealed, any pistol, dirk, or other dangerous or
28 deadly weapon.” ECF No. 27-10 at 147.

1 the law to show a history of prohibiting concealed carry—LASD was citing it to
2 show a history of licensing regimes. LASD cited, and summarized accurately,
3 fully, and objectively, the section of the law concerning licensing. Plaintiffs’
4 complaint about improper legal argument is meritless.

5 If anything, it is Plaintiffs, not LASD, who are subject to that criticism. In
6 response to LASD’s short, objective summaries, Plaintiffs have engaged their
7 purported expert Clayton Cramer to offer interpretations of five of the 60
8 regulation descriptions in LASD’s overview. *See* ECF No. 32-5 at 6-8. The Court
9 should disregard Mr. Cramer’s opinions. The Court does not need help
10 interpreting statutes, even historical ones—especially not from Mr. Cramer, who
11 “has written of his hope to win ‘the battle’ for gun rights” by offering opinions in
12 Second Amendment cases that have been found to be “poorly reasoned and
13 suggesting a lack of true expertise.” *Baird v. Bonta*, 2023 WL 9050959, at *16,
14 *40 (E.D. Cal. Dec. 29, 2023); *cf. United States ex rel. Miller v. ManPow, LLC*,
15 2023 WL 9005796, at *9 (C.D. Cal. Nov. 22, 2023) (holding that an expert opinion
16 that is “rife with impermissible statutory and regulatory interpretations ... clearly is
17 excludable as improper expert testimony on the meaning of statutes or
18 regulations”).

19 For these reasons, Plaintiffs’ evidentiary objections to LASD’s overview of
20 historical license requirements (ECF No. 27-9) should be overruled, and the
21 motion to strike or deny judicial notice should be denied.

22
23 Dated: March 20, 2024

Respectfully submitted,

24 /s/ Mark Selwyn

25 MARK SELWYN (CA Bar No. 244180)

26 mark.selwyn@wilmerhale.com

27 WILMER CUTLER PICKERING

28 HALE AND DORR LLP

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
26
27
28

2600 El Camino Road
Palo Alto, California 94306
Telephone: (650) 858-6031
Facsimile: (650) 858-6100

ALAN SCHOENFELD (*pro hac vice*
forthcoming)
alan.schoenfeld@wilmerhale.com
NOAH LEVINE (*pro hac vice* forthcoming)
noah.levine@wilmerhale.com
RYAN CHABOT (*pro hac vice*)
ryan.chabot@wilmerhale.com
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
Telephone: (212) 937-7294
Facsimile: (212) 230-8888

*Attorneys for Defendants Los Angeles County
Sheriff's Department and Sheriff Robert Luna*

LOCAL RULE 11-6.2 CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants, certifies that this brief does not exceed 25 pages in length using Times New Roman 14-point font, which complies with this Court’s Standing Order of October 24, 2023.

Dated: March 20, 2024

/s/ Mark Selwyn
Mark Selwyn