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March 5, 2025

VIA U.S. CERTIFIED MAIL & EMAIL

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Re: Pre-litigation Demand – Excessive CCW Permit Wait Times

Dear Chief McDonnell, City Attorney Feldstein Soto, and Members of the City Council:

Our firm represents the California Rifle & Pistol Association (CRPA). Founded in 1875, CRPA has been working to uphold Californians' right to keep and bear arms for 150 years. CRPA has tens of thousands of members, many of whom are located in your city. We also represent Gun Owners of California (GOC), which is dedicated to the unequivocal defense of the Second Amendment and America's extraordinary heritage of firearm ownership and likewise has many members in Los Angeles.

We write today concerning the lengthy wait times Los Angeles residents face when attempting to get a permit to carry concealed a firearm in public (CCW), a constitutional right affirmed by the Supreme Court in *New York State Rifle & Pistol Association Inc. v. Bruen*. Based on information from CRPA and GOC members, applicants are being told to expect wait times of well over a year, and sometimes closer to two years. A recent applicant was told by the Los Angeles Police Department's (LAPD) CCW processing unit in an email:

You have been placed on the CCW waitlist. **Please be advised that due to high demand and backlog, the current wait time is 18-22 months.** When we reach your place on the list, you will be contacted to arrange scheduling. We appreciate

your patience as we work vigorously to process the thousands of requests for CCW interviews.

A wait of over 18 months is completely unacceptable when it comes to the exercise of fundamental constitutional rights. This excessive time not only unequivocally violates the Second Amendment but also violates a bright-line California law requiring permits to be processed within four months. The City must immediately devote whatever resources it reasonably takes to clear the CCW permit application backlog. We are preparing a federal civil rights lawsuit against the City and plan to file it soon should the LAPD refuse to make firm commitments to expeditiously resolve its CCW permit application backlog. After we prevail, we will seek reimbursement of attorney's fees under 42 U.S.C. § 1988, as our office has successfully done against the City before.¹ This letter constitutes our attempt to resolve this dispute without protracted litigation, as well as a good faith effort to avoid the high likelihood of CRPA and GOC recovering a significant attorney's fee award from the City if litigation is necessary.

Analysis

As you know, Los Angeles has a history of rarely issuing CCW permits. Before 2022, there were only *four* active permits issued by the LAPD in Los Angeles, despite the city having a large population of 3.8 million people.² Following the *Bruen* decision, that finally had to change. In that landmark case, the Supreme Court confirmed that while shall-issue CCW permitting systems are acceptable, "because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, **lengthy wait times** in processing license applications or exorbitant fees deny ordinary citizens their right to public carry." *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 39 n.9 (2022) (bold added).

Separate from *Bruen*, California law also sets a definitive time limit for CCW permit processing of **120 days** from when the licensing authority receives the application. *See* Cal. Penal Code § 26205(a). While CRPA and GOC believe that even four months is excessive for exercising a constitutional right, this California law is at least a definable outward bound of minimally legal conduct by issuing authorities such as the LAPD. By LAPD exceeding this required deadline by a factor of five, the legal indefensibility of LAPD's policy and wait times cannot be questioned. For the purposes of CRPA's and GOC's imminent enforcement litigation, it will be content with LAPD meeting that state-mandated timeline for issuance of permits. But given the outrageous 18-to-22-month wait currently being quoted to CCW applicants, it is

¹ *See* Evan Symon, *Los Angeles Ordered To Pay NRA \$150,000 Over First Amendment Ordinance Violation*, California Globe, Oct. 2, 2020, <https://californiaglobe.com/fl/los-angeles-ordered-to-pay-nra-150000-over-first-amendment-ordinance-violation/> (last visited March 3, 2025).

² *See* Lexis-Olivier Ray, *Concealed Carry Firearm Permits Soar More Than 42,000% in Los Angeles*, L.A. Taco, June 5, 2024, available at <https://lataco.com/concealed-carry-firearm-permit-los-angeles> (last visited March 3, 2025).

wholly unclear how LAPD can even comply with state law in order to avoid costly litigation it will certainly lose.

If LAPD is sued over this issue, CRPA and GOC do not believe LAPD will be given the benefit by a court of the state's 120-day period, and will instead order LAPD to devote additional resources to ensuring permits are issued in a much quicker time period than four months to be constitutionally compliant. While the Supreme Court has not defined what constitutes a "lengthy wait time," in other contexts, it has held the Constitution forecloses conditioning the exercise of rights on lengthy waiting periods. *See, e.g., Memorial Hospital v. Maricopa County*, 415 U.S. 250, 263-64 (1974) (an Arizona statute imposing a one-year waiting period for new residents to become eligible for state medical assistance impermissibly interfered with the constitutional right to freedom of interstate immigration). And since *Bruen*, courts have tolerated varying delays in permit processing time (days, or—at the lengthiest—a couple of months), but few come even close to the exorbitant delays seen with LAPD's 18-to-22 month waiting time policy. When the wait is more than a few months long, courts have taken issue.³

That includes the United States District Court for the Central District of California, where our lawsuit against the County of Los Angeles Sheriff's Department (LASD) is proceeding. Like LAPD, LASD also took over 18 months to process County residents' CCW permit applications. CRPA and GOC won a preliminary injunction on behalf of our clients in that case, with the Court ruling that we were likely to succeed in our challenge because LASD failed to point to any historical tradition allowing for long wait times before an individual could exercise the right to carry, and that we had "established not only that [the Plaintiffs] are likely to succeed on the merits of their Second Amendment claim, insofar as it challenges LASD 18-month delays as applied to Individual Plaintiff. . .but also that the facts and law are clearly in their favor as to this challenge." *California Rifle & Pistol Ass'n, Inc. v. Los Angeles Cnty. Sheriff's Dep't*, 745 F. Supp. 3d 1037, 1057 (C.D. Cal. 2024). We are confident we will achieve the same result against LAPD.

To be sure, CRPA and GOC were understanding of "growing pains" when it came to police and sheriff's departments that generally did not previously issue CCW permits suddenly being obligated by a Supreme Court ruling to do so. That's why CRPA and GOC did not pursue legal action against LASD until over a year after *Bruen* was decided, and why they have tolerated LAPD's lengthy wait times until now. But the situation has not improved; CRPA's and GOC's understanding from the feedback from their members is that the wait times with LAPD

³ *See, e.g., Antonyuk v. Chiumento*, 89 F.4th 271, 315 n.24 (2d Cir. 2023) (30-day review period for firearm purchase is reasonable); *Maryland Shall Issue, Inc. v. Moore*, 116 F.4th 211, 227 (4th Cir. 2024), *cert. denied sub nom. Maryland Shall Issue v. Moore*, No. 24-373, 2025 WL 76446 (U.S. Jan. 13, 2025) (acknowledging that 30 days may be too long of a wait time to purchase a handgun, but noting that in practice it took less than two weeks); *Rogers v. Hacker*, 2023 WL 5529812, at *8 (S.D. Ill. Aug. 28, 2023) (finding a waiting period of five months to issue a firearm owners ID card constituted a concrete injury); *People v. Gunn*, 2023 IL App. (1st) 221032, ¶ 28 (90-day wait time for a CCW permit is reasonable); *In re D.B.*, 2023 IL App. (1st) 231146-U, n.1 (51-day wait for a firearm owner's ID card is not unconstitutional).

have only gotten *worse* since *Bruen*. This signals to CRPA and GOC that the City is not devoting sufficient resources to CCW permit processing despite now having years to assess its budgetary and staffing needs to fulfill *Bruen*'s mandate.

Arguments that the LAPD still needs more time to determine the resources necessary to promptly and lawfully process permit applications will not be an availing defense. No doubt, the LAPD has many priorities and will argue that it is processing applications as fast as it can, but a court has already held that such considerations are not relevant to the constitutional inquiry. What matters is not the resources of the government; it is whether the wait times "deny ordinary citizens their right to public carry." *Bruen*, 597 U.S. at 39 n.9. That is clearly happening here. LASD made similar arguments in the lawsuit CRPA and GOC filed against it, and the court rejected these arguments notwithstanding that LASD had had less time post-*Bruen* to assess its staffing and resource needs when CRPA and GOC sued it. Because LASD ignored our clients' pre-litigation warnings, and forced them to file a lawsuit to vindicate their members' carry rights, LASD's permit application process is partially subject to a federal injunction and the control of a court. And it faces even more litigation and an expensive attorney's fee bill from CRPA and GOC as a result.

If the LAPD is struggling to process applications promptly due to the requirements of California law, then it should lobby the politicians in Sacramento to change those laws and streamline the CCW permit process. That said, we note that most issuing authorities in the State manage to issue permits in much less time, notwithstanding California's onerous process, with most of them able to comply with the 120-day time limit. For example, the Riverside County Sheriff's Department often issues permits in less than a month.

We suspect the City would never consider wait times of over a year acceptable for any other constitutional right. If voter registration took over 18 months, the City Council would be the first to demand answers from the California Secretary of State about such an untenable delay. It is likely due to the City's long-established and well-documented contempt for its residents' Second Amendment rights that it has done nothing to ameliorate ever-increasing CCW application wait times. But the Second Amendment is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees that we have held to be incorporated into the Due Process Clause." *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 780 (2010). If the City wants to remain in control of its permitting process and decide on its own the resources it should devote to fulfilling its obligations to process permits, now is the time for you to address this constitutionally repugnant situation. Once litigation is filed and our clients win an injunction, the City will no longer have a significant role in deciding these issues.

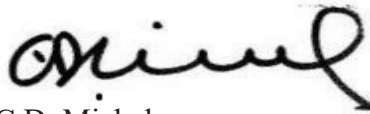
Conclusion

CRPA's and GOC's experience is that they will have to vindicate their members' rights through litigation because the City will be unwilling to work informally with them to resolve the unconstitutionally long CCW permit wait times. Nevertheless, we hope the City both proves our clients wrong and belies its tortured litigation history on carry permit issuance by smartly recognizing its need to address this issue while it still can control the process. The City can start

by proposing a concrete plan to reduce processing times so that it will quickly come into compliance with the Second Amendment and California law.

If we do not hear back from you within 30 days with a proposal for such a plan, we will advise our clients to proceed with their lawsuit. We are hopeful, though, that we will be having fruitful discussions with the City about why litigation won't be necessary before that deadline elapses.

Sincerely,
Michel & Associates, P.C.



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Chief McDonnell, City Attorney Feldstein Soto, and Members of the City Council

March 5, 2025

Page 6 of 6

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