

1 JONATHAN W. BIRDT – SBN 183908
 2 18252 Bermuda Street
 3 Porter Ranch, CA 91326
 4 Telephone: (818) 400-4485
 5 Facsimile: (818) 428-1384
 6 jon@jonbirdt.com
 7 Plaintiff

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

10 JONATHAN BIRDT,
 11 Plaintiff,

12 v.

13 CHARLIE BECK, LEE BACA, THE
 14 LOS ANGELES POLICE
 15 DEPARTMENT and THE LOS
 16 ANGELES COUNTY SHERIFF'S
 17 DEPARTMENT, and DOES 1 through
 18 50,
 19 Defendants.

CASE NO. CV 10-08377 RGK (JEMx)

**PLAINTIFF'S RESPONSE TO
 DEFENDANTS LOS ANGELES
 COUNTY SHERIFF'S
 DEPARTMENT & LEE BACA'S
 AMENDED SEPARATE
 STATEMENT OF UNDISPUTED
 FACTS**

MSJ Date: **May 16, 2011**
 Time: 9:00 a.m.
 Dept. 850

Action Filed: November 4, 2010
Trial Date: October 4, 2011

20 **PLAINTIFF'S RESPONSE TO LASD UNDISPUTED FACTS AND**
 21 **EVIDENCE**

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
22 23 1. Larry L. Waldie is the 24 Undersheriff for Los Angeles County. 25 As part of his responsibilities as 26 Undersheriff he has been designated to 27 act as the Sheriff's sole authorized 28	1. Undisputed for purposes of this motion.

1 <u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>2 representative for reviewing 3 applications for (CCW) licenses for the 4 county of Los Angeles. In that role, he 5 and members of his staff, evaluate CCW 6 applications. While members of his 7 staff make recommendations regarding 8 applications, he is the final decision- 9 maker.</p>	
<p>10 2. As part of his evaluation of CCW 11 applications, he will review the entire 12 application packet and any and all 13 supporting documentation. He has been 14 involved in these decisions since he 15 became Undersheriff in 2005. 16</p>	<p>2. Undisputed for purposes of this motion.</p>
<p>17 3. In Los Angeles County, there are 18 four distinct categories of CCW 19 licenses: Employment, Standard, 20 Judges, and Reserve Police Officers. 21 The Employment CCW license is issued 22 only to a person who spends a 23 substantial period of time in his or her 24 principal place of employment or 25 business in Los Angeles County. The 26 Standard CCW license is issued to 27 residents of Los Angeles County or to 28</p>	<p>3. Disputed, the only category is law abiding citizen, who has passed a background check, received proper training, and been the victim of a crime. (Deposition of Larry Waldie at Page 22).</p>

1 <u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>2 residents of a particular city within Los 3 Angeles County. The Judge CCW 4 license is issued to California judges, 5 full-time commissioners, and to federal 6 judges and magistrates of the federal 7 courts. The Reserve Police Officer 8 CCW license may be issued to reserve 9 police officers appointed pursuant to 10 California Penal Code § 830.6.</p>	
<p>11 4. If an applicant resides in an 12 incorporated city not policed by the 13 LASD, the applicant must apply to the 14 chief of police of their city of residence 15 for a concealed weapons license and 16 have such application acted upon. 17 Within 60 days after a denial of such 18 application, such city resident may file a 19 separate application with the LASD, 20 attaching a copy of the application 21 denied by the chief of police. The 22 LASD will exercise independent 23 discretion in granting or denying 24 licenses to such person but may review, 25 consider, and give weight to the grounds 26 upon which such denial was made. 27 28</p>	<p>4. LASD does not exercise discretion, LASD has a policy of requiring all permit holders to be victims of a crime as a matter of policy and no permit will issue unless the applicant has been the victim of a crime. (Deposition of Larry Waldie at page 22).</p>

1 <u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>2 5. California Penal Code sections 3 12050-12054 set forth the general 4 criteria that CCW applicants must meet. 5 Applicants must be of good moral 6 character, be a resident of, or spend 7 substantial time in the County they 8 apply in, take a firearms course, and 9 demonstrate good cause for the license.</p>	<p>5. Undisputed for purposes of this motion.</p>
<p>10 6. The issuance of licenses enabling 11 a private citizen to carry a CCW is of 12 great concern to the LASD. The 13 LASD's overriding policy is that no 14 CCW license should be granted merely 15 for the personal convenience of the 16 applicant. No position or job 17 application in itself shall constitute good 18 cause for the issuance, or for the denial, 19 of a CCW license.</p>	<p>6. Disputed, LASD is not familiar with any current case law and has not reviewed their policy in the past 7 years to reflect changes in the law. (Deposition of Larry Waldie at Page 4).</p>
<p>20 7. The LASD defines "good cause" 21 under California Penal Code section 22 12050 as requiring convincing evidence 23 of a clear and present danger to life or of 24 great bodily harm to the applicant, his 25 spouse or dependent child, which cannot 26 be adequately dealt with by existing law 27 enforcement resources and which 28</p>	<p>7. LASD requires as an element of "good cause" that the applicant be a victim of a crime as a matter of policy and no permit will issue unless the applicant has been the victim of a crime. (Deposition of Larry Waldie at Page 22).</p>

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>1 danger cannot be reasonably avoided by 2 applicant's carrying of a concealed 3 firearm. 4</p>	
<p>5 8. Each application is individually 6 reviewed for cause. The LASD's 7 definition of good cause has been in 8 existence since Undersheriff Waldie 9 began reviewing CCW applications in 10 2005. It is the Undersheriff's 11 understanding that this definition of 12 good cause, or one similar to it, is 13 utilized by many other counties within 14 California, including San Diego.</p>	<p>8. Disputed. Sacramento accepts "self- defense" San Diego requires only an articulable need, but LASD requires that the applicant be a victim of a crime. (Deposition of Larry Waldie at Page 22).</p>
<p>15 9. In evaluating whether an 16 applicant has presented "convincing 17 evidence of a clear and present danger 18 to life or of great bodily harm to the 19 applicant, his spouse or dependent child, 20 which cannot be adequately dealt with 21 by existing law enforcement resources 22 and which danger cannot be reasonably 23 avoided by applicant's carrying of a 24 concealed firearm," an applicant's stated 25 reason of self-defense is not enough.</p>	<p>9. LASD requires as an element of "good cause" that the applicant be a victim of a crime as a matter of policy and no permit will issue unless the applicant has been the victim of a crime. (Deposition of Larry Waldie at Page 4).</p>
<p>26 10. The applicant must demonstrate a 27 credible threat of violence which would 28</p>	<p>10. Undisputed for purposes of this motion.</p>

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>1 justify the need to possess a concealed 2 weapon. If an applicant claims that he 3 or she has been threatened, the LASD 4 looks for documentation of that threat, 5 such as police reports or other evidence. 6</p>	
<p>7 11. One of the purposes for the 8 LASD's policy is to protect against gun 9 violence to the community at large, as 10 well as to protect officers conducting 11 law enforcement operations on the 12 streets.</p>	<p>11. Undisputed as to the purpose, but disputed that there is any relationship between the policy and the goal.</p>
<p>13 12. Gun violence is a problem 14 throughout the State of California and 15 Los Angeles County is no exception. 16 The vast majority of homicides in Los 17 Angeles County are committed with the 18 use of guns. Handguns are of particular 19 concern because they are much more 20 likely to be used than shotguns and 21 rifles. Because handguns are small, 22 easy to conceal, and deadly at short 23 range, they are of paramount concern 24 and danger. Further, most of the violent 25 acts committed in this County involving 26 the use of guns are by gang members. 27 28</p>	<p>12. Plaintiff objects to this fact as irrelevant since it has nothing to do with CCW holders.</p>

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>13. The presence of more guns on the streets of Los Angeles County creates many problems for law enforcement officers. Officers are often charged with monitoring public gatherings as well as with breaking up public nuisances. Officers must act quickly whenever a disturbance occurs. Often times, this involves isolating one or two problem individuals. However, if multiple persons within a crowd are carrying concealed weapons, this creates an increased likelihood that guns will be brandished or used. Thus, the increased presence of guns creates not only increased safety problems for officers but also for members of the community at large.</p>	<p>13. Plaintiff objects to this fact as irrelevant since it has nothing to do with CCW holders.</p>
<p>14. It is the LASD's position that increasing the numbers of concealed weapons in the community increases the threat of gun violence to the community at large, to those who use the streets and go to public accommodations, and to law enforcement officers patrolling the streets. Further, the increased presence</p>	<p>14. Plaintiff objects as this is not a fact, but an opinion that is speculative and lacks any foundation.</p>

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
1 of concealed handguns make law 2 enforcement operations more difficult 3 thus taking away valuable resources 4 which would be better used conducting 5 law enforcement operations. 6	
7 15. Los Angeles County's "good 8 cause" requirement is intended to 9 drastically restrict the number of 10 persons who are secretly armed in the 11 County.	15. Undisputed for purposes of this motion.
12 16. At present, there are 13 approximately 400 concealed weapons 14 permits that were issued by the LASD. 15 The Undersheriff is informed and 16 believe that the County's Chief 17 Executive Office has estimated that the 18 population of Los Angeles County as of 19 January 2010 was 10,441,080 people.	16. Undisputed for purposes of this motion.
20 17. The LASD reviewed Mr. Birdt's 21 first application and determined that he 22 failed to show good cause as required 23 by LASD policy, and as defined above. 24 LASD has not yet responded to Mr. 25 Birdt's second application as of the date 26 of the Undersheriff's Declaration. 27 28	17. Undisputed for purposes of this motion.

1 <u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
2 18. In his initial application to the 3 LASD, Plaintiff states as justification: 4 <u>Details of Reason for Applicant</u> 5 <u>Desiring a CCW License: Volunteer LA</u> 6 Superior Court Judge. Frequent Las 7 Vegas Travel with large sums of cash. 8 Unprotected/Unsecured office with 9 threat against employer. Representation 10 of victims of violence, abuse + murder.	18. Undisputed, though incomplete.
11 19. Birdt never spoke with anyone 12 from the LAPD to report threats against 13 him and to his knowledge, no report was 14 ever generated.	19. Undisputed for purposes of this motion.
15 20. Birdt was never threatened in his 16 capacity as a volunteer judge. 17 18 19 20 21	20. Plaintiff was never “expressly” threatened. As a Judge, Advocate, GAL and High Profile litigation attorney, is exposed to a greater risk of harm. (Declaration of Jonathan Birdt attached hereto at Paragraph 2).
22 21. Birdt was never specifically 23 threatened as a result of his position on 24 the juvenile dependency court panel. 25 26 27 28	21. Plaintiff was never “expressly” threatened. As a Judge, Advocate, GAL and High Profile litigation attorney, is exposed to a greater risk of harm. (Declaration of Jonathan Birdt attached hereto at Paragraph 2).

<u>LASD Defendants' Undisputed Facts</u>	<u>Plaintiff's Response</u>
<p>22. Birdt himself has never been expressly threatened with harm at all.</p>	<p>22. Disputed, see Plaintiff's deposition. As a Judge, Advocate, GAL and High Profile litigation attorney, is exposed to a greater risk of harm. (Declaration of Jonathan Birdt attached hereto at Paragraph 2).</p>
<p>23. In 2009, there were 126,352 adults arrested by the LASD, and 46,329 felony arrests.</p>	<p>23. Plaintiff objects to this fact as irrelevant since it has nothing to do with CCW holders.</p>
<p>24. In that same year, 23,001 LASD arrests involved those with prior felony convictions.</p>	<p>24. Plaintiff objects to this fact as irrelevant since it has nothing to do with CCW holders.</p>

DATED: April 25, 2011

Respectfully submitted,

By /s/
 JONATHAN W. BIRDT

DECLARATION OF JOANTHAN W. BIRDT

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

I, JONATHAN W. BIRDT, declare as follows:

1. I am an attorney at law, duly licensed to practice law in all of the Courts of the State of California. I have personal knowledge of the facts set forth below and if called as a witness, I could and would testify thereto.

2. As a Judge, Advocate, GAL and High Profile litigation attorney, is exposed to a greater risk of harm. (Declaration of Jonathan Birdt attached hereto at Paragraph 2).

3. Attached hereto as Exhibit A is the Deposition of Larry L. Waldie.

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

Executed this 25th day of April, 2011 in Los Angeles, California.

/S/
JONATHAN W. BIRDT

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

Exhibit A

copy Larry Waldie

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

*** ROUGH DRAFT ONLY ***

NOTE NOTE NOTE NOTE NOTE NOTE NOTE NOTE NOTE NOTE

CCP SECTION 2025 (R)(2) STATE:

"WHEN PREPARED AS A ROUGH DRAFT TRANSCRIPT, THE TRANSCRIPT OF THE DEPOSITION MAY NOT BE CERTIFIED AND MAY NOT BE USED, CITED, OR TRANSCRIBED AS THE CERTIFIED TRANSCRIPT OF THE DEPOSITION PROCEEDINGS. THE ROUGH DRAFT TRANSCRIPT MAY NOT BE CITED OR USED IN ANY WAY OR AT ANY TIME TO REBUT OR CONTRADICT THE CERTIFIED TRANSCRIPT OF DEPOSITION PROCEEDINGS AS PROVIDED BY THE DEPOSITION OFFICER.

THE STENOGRAPH NOTES TAKEN IN THE PROCEEDING ARE BEING TRANSLATED INSTANTANEOUSLY INTO THEIR ENGLISH EQUIVALENT THROUGH AN AUTOMATED PROCESS CALLED REALTIME TRANSLATION.

THIS REALTIME TRANSLATION IS BEING PROVIDED TO COUNSEL AT A RATE IN ADDITION TO A NORMAL PAGE RATE. PLEASE ASK THE REPORTER AND/OR THE REPORTING AGENCY FOR THIS RATE.

THE REALTIME DRAFT IS UNEDITED AND UNCERTIFIED AND MAY CONTAIN UNTRANSLATED STENOGRAPHIC SYMBOLS, OCCASIONAL REPORTER'S NOTE, MISSPELLED PROPER NAMES, AND/OR NONSENSICAL WORD COMBINATIONS. ALL SUCH ENTRIES WILL BE CORRECTED ON THE FINAL CERTIFIED TRANSCRIPT.

ALSO BE AWARE THAT THE PAGE NUMBERS WILL NOT CORRESPOND TO THE FINAL CERTIFIED TRANSCRIPT, WHICH WE WILL DELIVER TO YOU IN ACCORDANCE WITH OUR STANDARD DELIVERY TERMS OR ON AN EXPEDITED BASIS SHOULD YOU DESIRE FASTER DELIVERY.

PLEASE DO NOT MAKE ANY DECISIONS BASED ON THE INFORMATION CONTAINED IN THE ROUGH DRAFT TRANSCRIPT. THE ROUGH DRAFT IS FOR THE PURPOSE OF AUGMENTING COUNSEL'S NOTES ONLY AND NOT TO USE OR CITE IN ANY COURT PROCEEDING OR TO DISTRIBUTE TO ANY OTHER PARTIES.

ROUGH DRAFT FOR LARRY WALDIE APRIL 19, 2011 1
(800)640-1949

♀

copy Larry Waldie

1 *****

2 *** ROUGH DRAFT ONLY ***

3 DUE TO THE NEED TO HAVE THE REPORTER
4 CORRECT ENTRIES PRIOR TO CERTIFICATION, I AGREE TO USE
5 THE REALTIME DRAFT ONLY FOR THE PURPOSE OF AUGMENTING
6 COUNSEL'S NOTES AND NOT TO USE OR CITE IT IN ANY COURT
7 PROCEEDING OR TO DISTRIBUTE IT TO ANY OTHER PARTIES.

8 I HAVE READ THE ABOVE TERMS AND CONDITIONS
9 FOR THE USE OF THE ROUGH DRAFT REALTIME TRANSLATION. I
10 UNDERSTAND AND AGREE TO THEM. THIS CONSTITUTES MY
11 ORDER FOR A CERTIFIED COPY OF THE TRANSCRIPT OF THE
12 DEPOSITION OF LARRY WALDIE, APRIL 19, 2011.

13 *****

14

15 BY MR. BIRDT:

16 Q Mr. Waldie, would you state your name and
17 occupation?

18 A My name is Larry L. Waldie, and I'm the under
19 sheriff for Los Angeles County.

20 Q Okay. And we're here for your deposition
21 today to basically talk about good cause and the CCW P
22 process with the Sheriff's Department.

23 Do you understand that?

24 A Yes.

25 Q Okay. And you understand your testimony today
is under oath and carries the penalty of perjury?

A Yes.

Q And nothing I ask is meant to trick, deceive,
mislead in any way. So if there's anything you are

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 2

(800)640-1949

♀

1 uncertain about what I've asked, please let me know.

2 I'm happy to rephrase any question I ask. Okay?

3 A Certainl y. copy Larry wal die

4 Q The corollary that comes with that is you
5 answer a question I ask you, we being the judge, the
6 jury, the parties, all have a right to assume you
7 understood exactly I asked you.

8 A Yes.

9 Q Okay. And off the record, your attorney and I
10 and you had a discussi on in the hallway where I
11 disclosed a prior relationship you and I of an
12 attorney-client nature only for the purpose of making
13 sure it didn't cause you any concern in term of my
14 ability to take your depositi on today.

15 I'm not going to go into anything more about
16 it, but you recalled the representati on, and you're
17 comfortable with me taking your depositi on today on
18 these matters.

19 A Yes.

20 Q Okay. And you've had an opportuni ty to
21 discuss any concerns you may have with your attorney
22 and you're okay wi th proceedi ng?

23 A Yes.

24 Q Okay. Now, I just want to ask a number of
25 foundati onal questi on s in terms of your understandi ng

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 3
(800)640-1949

♀

1 and how you go about analyzi ng the issues that relate
2 to concealed weapons in Cal i forni a.

3 And first of all, are you aware that
4 Cal i forni a does not have a consti tuti onal right to

5 keepi ng bear arms? copy Larry wal die

6 A Correct.

7 Q All right.

8 MS. LEHMAN: Are you asking him a legal
9 conclusi on?

10 MR. BIRDT: No. Just hi s general ly
11 understandi ng as he filters and performs hi s job
12 duties. Okay.

13 THE WITNESS: I think that comes under the
14 Federal Consti tution, the right to bear arms, not the
15 State.

16 BY MR. BIRDT:

17 Q Correct. And, in fact, that didn't occur
18 until recently in the Hellard and McDonald -- well, let
19 me step back.

20 Are you fami liar with the Hellard --

21 A No.

22 Q -- and McDonal d opi ni ons, general ly speaki ng?

23 A No.

24 Q Okay. Are you aware of any recent change in
25 law by the United States Supreme Court as it would

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 4
(800)640-1949

♀

1 relate to a citizen's right to keepi ng bear arms?

2 A No.

3 Q Did the sheri ff's department undertake any
4 reviews of its policies regarding good cause in light
5 of any change or rul i ng by the United States Supreme
6 Court in the last five years?

7 MS. LEHMAN: ^{copy Larry Waldie} I'm going to object based on the
8 official information, privileged, and attorney-client
9 privilege.

10 BY MR. BIRDT:

11 Q You can answer.

12 MS. LEHMAN: Actually, no. He's not going to
13 answer.

14 BY MR. BIRDT:

15 Q Did you as the under sheriff take any review
16 of your good cause policy in light of any change in the
17 legal environment in the last five years?

18 MS. LEHMAN: Same objections.

19 If you can answer the question without as to
20 anything you might have done without any consultation
21 with the attorneys, then he is entitled to that. But
22 anything involving discussions between you and
23 attorneys, he is not entitled to.

24 THE WITNESS: I can answer that I have not
25 discussed that with my attorneys.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 5
(800)640-1949

♀

1 BY MR. BIRDT:

2 Q Have you discussed it with anybody else?

3 A No.

4 Q Okay. Has there been any change in policy at
5 the sheriff's department in light of any change in the
6 legal environment in the last five years with respect
7 to the good cause policy?

8 A No.

9 copy Larry Waldie
Q Has there been any discussion or consideration
10 of making any changes in light of any change in the
11 legal environment in the last five years?

12 MS. LEHMAN: Same objections.

13 THE WITNESS: Okay.

14 MS. LEHMAN: To the extent you can answer
15 without any discussion or --

16 THE WITNESS: Well --

17 MS. LEHMAN: -- without revealing any
18 discussions with your attorney, you can answer.

19 THE WITNESS: I tried to recall if they
20 brought up any information to me, and I don't recall.
21 That's -- so I -- I just -- I will not answer that yet.
22 I don't know.

23 BY MR. BIRDT:

24 Q Are you aware of any as you sit here today?

25 MS. LEHMAN: Same objections.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 6
(800)640-1949

♀

1 And again --

2 THE WITNESS: Yes.

3 MS. LEHMAN: -- if there's anything outside of
4 attorney-client privilege, I mean, he is entitled to
5 that. But anything that may have been discussed
6 between you and your attorneys --

7 THE WITNESS: I -- I really -- I can't recall
8 if I discussed it with the attorneys. So I -- I really
9 can't answer that.

10 BY MR. BIRDT:

11 copy Larry Waldie
12 Q I don't want to know what you discussed with
13 the attorneys. I want to know what you, as the under
14 sheriff with the Los Angeles County have discussed with
15 anybody other than an attorney, regarding possibly
16 changing the good cause policy in light of any change
17 in the legal environment in the last five years.

18 MS. LEHMAN: Same objections.

19 THE WITNESS: Yeah.

20 MS. LEHMAN: Go ahead.

21 THE WITNESS: I have not discussed it outside
22 the attorneys with anybody.

23 BY MR. BIRD: T:

24 Q Okay. Now, in terms of your understanding of
25 California law, the only way a resident under normal
26 circumstances, not somebody who's being chased down the

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 7
(800)640-1949

♀

1 street by an armed gunman, but just -- let me start
2 over.

3 I live across the street from a school. The
4 Gun-Free School Zone Act would preclude me from
5 stepping off my property with a weapon that isn't in a
6 locked container under normal circumstances; true?

7 MS. LEHMAN: Objection. Calls for a legal
8 conclusion. Speculation.

9 If you can answer.

10 THE WITNESS: I can't answer. I don't -- I
11 couldn't answer with specifically what the law would be
12 with that help.

copy Larry Waldie

13 BY MR. BIRDT:

14 Q Okay. Are you aware that the Gun-Free School
15 Zone Act prohibits anybody from possessing an exposed
16 firearm within 1500 feet of a school?

17 MS. LEHMAN: Same objection.

18 THE WITNESS: As I said, I have not read
19 specifically that law. So I know generally about a
20 gun-free zone. But I -- I've never been in the field
21 dealing with that for a long time, so I don't know.

22 BY MR. BIRDT:

23 Q Okay. Generally speaking, what's your
24 understanding of the Gun-Free School Zone Act?

25 A Well, basically, generally, as I do, you can't

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 8
(800)640-1949

♀

1 be within, as I understand it, in the school grounds
2 and each student, and outside the school grounds,
3 anyone with a weapon.

4 Now what that distance is, what time that
5 frame is, who that is, I don't know.

6 Q Okay. Generally speaking, what's your
7 understanding of when a citizen and resident of Los
8 Angeles County can possess a loaded firearm outside of
9 the home?

10 MS. LEHMAN: Same objections.

11 THE WITNESS: Well, now, you're talking about
12 12025 of the penal code? What are you talking about, a
13 specific penal code here?

14 BY MR. BIRDT:

copy Larry Waldie
15 Q I'm just talking about, in general, if there
16 isn't some sort of an emergency situation, under normal
17 circumstances, when can a citizen or resident of Los
18 Angeles County possess a loaded firearm outside of
19 their home?

20 MS. LEHMAN: Same objections. Calls for a
21 legal conclusion. Speculation. Assumes facts not in
22 evidence.

23 THE WITNESS: They all speak as a police
24 officer on the street, if someone comes up that's on
25 the street with a loaded firearm, concealed, is a

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 9
(800)640-1949

†

1 violation of law.

2 BY MR. BIRDT:

3 Q Okay.

4 A Okay. It would be probably 12031 or 12025,
5 one of the two, if it's loaded or unloaded. Yes.

6 BY MR. BIRDT:

7 Q What about if it's not concealed?

8 A Well, if it's no --

9 MS. LEHMAN: Same objections.

10 THE WITNESS: If it's not concealed and not
11 loaded?

12 BY MR. BIRDT:

13 Q Loaded.

14 A Loaded and concealed and opened? I believe
15 the law permits that.

16 Q Loaded, exposed firearm?

17 A Not loaded. A concealed -- a firearm not
18 concealed, unloaded, is permitted by law.

19 Q Okay. I'm not asking about paper weights,
20 though. What I'm asking about is a functional firearm
21 that's loaded.

22 A Loaded.

23 Q Can a citizen possess that exposed, under
24 normal circumstances?

25 A No.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 10
(800)640-1949

♀

1 MS. LEHMAN: Objection. Same objection.

2 THE WITNESS: Yeah.

3 No. That would be a violation of 12031 of the
4 penal code, I believe.

5 BY MR. BIRDT:

6 Q Okay. So under the California Statutory
7 "sleeve," generally speaking, under normal
8 circumstances, the only way a citizen or resident of
9 Los Angeles County can possess a loaded handgun is with
10 a concealed with a weapon's permit; true?

11 MS. LEHMAN: Objection. Same -- well, same
12 objection.

13 THE WITNESS: Well --

14 BY MR. BIRDT:

15 Q Outside of the home.

16 A No. I don't think that's true. You can have
17 a -- you can carry a weapon in your car, unload it,
18 concealed, and to and from firing ranges. You can

19 carry the weapon, yes. copy Larry Waldie

20 BY MR. BIRDT:

21 Q Understood. But what I'm asking you about is
22 a functional loaded firearm possessed by a citizen or a
23 resident.

24 MS. LEHMAN: Same objection.

25

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 11
(800)640-1949

♀

1 BY MR. BIRDT:

2 Q So let's start over, just so we're clear.

3 A Yeah.

4 Q To avoid any objection here.

5 Under normal circumstances -- a citizen who
6 just wants to walk out of their house and walk their
7 dog -- the only way that person can carry a loaded
8 firearm, legally, is if they have a concealed weapons
9 permit; true?

10 MS. LEHMAN: Same objection.

11 THE WITNESS: I would think that would be
12 true.

13 BY MR. BIRDT:

14 Q Are you aware of any evidence that issuance of
15 concealed carried permits would increase shooting
16 crimes?

17 MS. LEHMAN: Can you read that black, please.
18 (Record read.)

19 THE WITNESS: Well, I'd have to say I'd have
20 to do the research for that. I think you're not

21 couching it in that frame. With people carrying many
22 gun on the streets, I think there would be an increased
23 violence and increased possibility of death with those
24 guns on the street.
25

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 12
(800)640-1949

†

1 BY MR. BIRDT:

2 Q Okay.

3 A Whether or not there's specifically because of
4 concealed weapon or not. But it's a mere fact that
5 guns on the street does create and foster crime,
6 greater crime, and greater death. I believe, yes.

7 BY MR. BIRDT:

8 Q I understand your speculation. But what I'm
9 asking is is that based upon any scientific or
10 statistical information you can point at.

11 A Guns on the street, causing more crime or more
12 death? I'm sure I can find that.

13 Q Okay. Generally speaking, in the last 30
14 years in the United States, the prevalence of the
15 availability of concealed weapons permit is greatly
16 increased; true?

17 A I don't know.

18 Q You're not aware of that?

19 A No.

20 Q Okay. Do you know how many states 30 years
21 ago were shall issue CCW permit.

22 A No.

23 copy Larry Waldie
Q Do you know currently how many states are
24 shall issue CCW permits?
25 A 38.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 13
(800)640-1949

♀

1 Q 43. But okay.
2 A Okay.
3 Q Do you know if that number has increased over
4 the last 30 years, or was that the same 30 years ago?
5 A I don't know.
6 Q Okay. Do you know if -- strike that.
7 Assuming over the last 30 years the number of
8 state that are shall issue has increased.
9 A I don't know.
10 Q All right. What has happened with the rate of
11 violent crime in the United States in the last
12 30 years?
13 MS. LEHMAN: Objection. Speculation.
14 THE WITNESS: I can't tell you that.
15 BY MR. BIRD: T:
16 Q You're not familiar with the FBI crime
17 statistics?
18 A I am.
19 Q And haven't those FBI crime statistics
20 demonstrated a drop in the overall rate of violent
21 crime over the last 30 years?
22 MS. LEHMAN: Objection. Speculation.
23 THE WITNESS: I'd have go look at the reports,
24 again, to see what it say.

copy Larry Waldie

25

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 14
(800)640-1949

♀

1 BY MR. BIRDT:

2 Q Okay. You don't know that one way or the
3 other?

4 A Yeah. I think it's suggests that the crime of
5 violence has gone down, yes.

6 Q So if the prevalence of CCW permits has gone
7 up and the rate of violent crime has gone down,
8 wouldn't that suggest to you that there isn't a
9 increase in violent crime caused by the availability of
10 CCW permits.

11 MS. LEHMAN: Misstates the testimony.

12 THE WITNESS: I -- I'd take it it's a non --

13 MS. LEHMAN: Objection. Speculation.

14 Go ahead.

15 THE WITNESS: Yeah. It's a non sequitur. I
16 think that follows. I don't think that rationale
17 follows.

18 BY MR. BIRDT:

19 Q Okay. In the states that are shall issue, do
20 you know the percentage of the population that's
21 actually sought permits --

22 MS. LEHMAN: Objection. Speculation.

23 BY MS. LEHMAN:

24 Q -- generally speaking?

25 A No.

copy Larry Waldie
ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 15
(800)640-1949

♀

1 Q Okay. Have you ever tried to look into that?

2 A No.

3 Q The county has suggested a fear that if all
4 7 million residents who are eligible sought permits,
5 you'd have 7 million guns on the street.

6 Do you know one way or the another how many
7 people are likely to seek permits, if --

8 MS. LEHMAN: Objection. Speculation.

9 BY MR. BIRD: T

10 Q -- permitted?

11 A I couldn't possibly know that.

12 Q Thank you. What are your concerns regarding
13 issuing a CCW permit to me?

14 A I don't think you meet our qualifications for
15 it.

16 Q Under Assenza?

17 A Under what?

18 Q Under the Assenza case?

19 A No. Under our policies that we -- we use.

20 Q Okay. What risk do you believe I present to
21 the public by having a concealed weapons permit?

22 MS. LEHMAN: Objection. Speculation.

23 THE WITNESS: Well, it's not a matter of the
24 risk that you have possession -- have possession of it.
25 It's a matter that if you should have a weapon. It

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 16
(800)640-1949

♀

copy Larry Waldie

1 would be based on threats.

2 BY MR. BIRDT:

3 Q Okay.

4 A It's our main criteria.

5 Q Understood.

6 What risk to public safety is posed by people
7 who have passed a back background test, passed training
8 satisfactory to you, and have established good cause to
9 possess a concealed weapon and have a permit? What
10 risk do they pose to public safety?

11 MS. LEHMAN: Objection. Speculation. Assumes
12 facts not in evidence.

13 MR. BIRDT: Okay.

14 MS. LEHMAN: Incomplete hypothetical. And
15 also what is vague and ambiguous as to what your
16 definition of "cause" is in your hypothetical.

17 MR. BIRDT: I'm just referring to -- we can
18 even do it a different way.

19 Q In order to get a CCW permit, you have to have
20 sufficient training, establish good cause, and pass a
21 background check; correct?

22 A Correct.

23 Q Okay.

24 A Partial, yes.

25 Q Okay. And to get there, then, presumably, you

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 17

(800)640-1949

♀

1 would have a CCW permit; correct?
Page 16

copy Larry Waldie

2 A Not necessarily.

3 Q Okay. Let's assume -- strike that.

4 Of the permit holders, what risk do they
5 present to public safety.

6 A We don't evaluate on the risk to public
7 safety. We evaluate the risk to them as to why they
8 should carry a weapon and have a CCW.

9 Q Okay. But you do not believe that citizens
10 should possess concealed weapons. That's the policy of
11 your department; correct?

12 A No. I issue them. I have over 400 issued
13 out. I give them out. If I didn't believe they should
14 have weapons, I wouldn't give them out.

15 Q Okay. How many do you reject a year?

16 A I don't know I'd have to find that number out.

17 Q How about just a ballpark?

18 A I don't know.

19 Q You can't even tell me generally how many you
20 reject a year?

21 MS. LEHMAN: Asked and answered.

22 BY MR. BIRDT:

23 Q You can answer.

24 A I did.

25 Q Your answer is you cannot even tell me

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 18

(800)640-1949

♀

1 generally how many permits you reject in a given year?

2 A No, because my staff puts them all together
3 and then I don't even see the ones that are rejected --

copy Larry Waldie

4 Q Really?

5 A -- for the most part.

6 Q Who does the rejecting?

7 A I do.

8 When they come in, the final word is -- for
9 example, if someone comes in and has not done the --
10 any -- has not done the background, has not done any of
11 the qualifications necessary to it, there's an
12 automatic reject because he hasn't filled the criteria
13 to do.

14 Those I will not see because they haven't done
15 the criteria. If they've completed all the criteria,
16 then I'll get them to look at and see if they qualify
17 and meet the standard for the CCW.

18 Q Okay. Of those that actually come to you, how
19 many do you reject? Ballpark?

20 A I have no idea.

21 Q How about percentage? How many --

22 A I'd rather not answer that. I'd rather look
23 at the data and give it to you accurately.

24 Q Well, I'm not asking for what the data says.
25 I'm just asking for your general understanding. You're

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 19

(800)640-1949

♀

1 a witness sitting here today under oath --

2 A Uh-huh.

3 Q -- who's responsible for this procedure. I'm
4 just asking generally.

5 How many total applications does the Sheriff's

copy Larry Waldie

6 department receive a year?

7 A I don't know.

8 Q Are we talking about a million? A thousand?

9 A hundred?

10 MS. LEHMAN: Asked and answered.

11 THE WITNESS: I don't know.

12 BY MR. BIRD: T:

13 Q Okay. When issuing a permit to any judicial
14 candidate, are they required to show any sort of
15 threat?

16 A Yes.

17 Q So in addition to being a judge, a judge also
18 has to demonstrate a clear and present danger to his
19 safety?

20 A Yes.

21 Q And what about in terms of somebody who
22 carries valuables or property? Do you have a category
23 there for issuance of a permit?

24 A No.

25 Q And it's the sheriff's department view that

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 20

(800)640-1949

♀

1 open carrying a firearms is a bad idea; true?

2 MS. LEHMAN: Objection. Speculation. Assumes
3 facts not in evidence.

4 THE WITNESS: The violation of the law in the
5 State of California, I would resume we would object to
6 if they carried openly a weapon, yes.

7 BY MR. BIRD: T:

copy Larry Waldie

8 Q What about an unloaded, exposed firearm
9 carried on the person's hip?

10 MS. LEHMAN: Asked and answered.

11 BY MR. BIRDT:

12 Q Is that legal or illegal?

13 MS. LEHMAN: Asked and answered.

14 THE WITNESS: An unloaded firearm fully
15 exposed is legal.

16 BY MR. BIRDT:

17 Q Okay. And that practice is something Sheriff
18 Baca has vocally opposed, even though it's legal; true?

19 A I think you'd have to ask him.

20 Q I'm not asking him. I'm asking you.

21 A I haven't asked him that question. I've never
22 heard him specifically state that.

23 Q Okay. Do you know what the sheriff's
24 department view is on the exposed carrying movement?

25 A We don't have a particular view on that. We

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 21

(800)640-1949

♀

1 would look at the individual based on the
2 circumstances. If we saw someone carrying a weapon on
3 the street, we would check it out to ensure, one, it
4 was unloaded and was properly within the confines of
5 the law and wasn't used in a bad manner.

6 Q What dangers are mitigated by the carrying of a
7 concealed weapon?

8 A What dangers are mitigated?

9 Q Uh-huh.

copy Larry Waldie

10 A It depends on the threat. I have no idea what
11 dangers could be. If there's a particular threat that
12 someone is accosting them, someone is going to accost
13 them, someone has accosted them, someone is following
14 them, there could be innumerable ones.

15 Q In order to establish your good cause, the
16 person has to be a victim of a crime; true?

17 MS. LEHMAN: Misstates the testimony.

18 You can answer.

19 THE WITNESS: He has to be -- have threats to
20 his danger, to his person, to his family, to his home.
21 Those threats have to be real, yes.

22 BY MR. BIRD: T:

23 Q Okay. So unless a person has been a victim of
24 a criminal threat, they will not receive a CCW permit
25 from your department; true?

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 22
(800)640-1949

♀

1 A For the most part, yes.

2 Q What are the exceptions?

3 A Well, We'd have to look at individual case to
4 see the totality of the circumstances as to why. If
5 there was not an actual crime, why that a person needed
6 a CCW and if it met with the rest of our criteria and
7 if there were insinuating circumstances to have that to
8 occur.

9 Q Okay.

10 A But fore the most, for those, they're very
11 rare, very difficult to evaluate.

copy Larry Waldie

12 Q Okay. Do any current permits come to mind
13 that have met that criteria?

14 A No.

15 Q Okay. In your declaration you referred to
16 officers killed in the line of duty; correct?

17 A Uh-huh.

18 Q Yes?

19 A Yes.

20 Q Thank you.

21 Sorry. "Uh-huh" and "huh-uh" don't --

22 A Yes. Yes. I forget sometimes.

23 Q Okay. Were any of those officers anywhere in
24 the country killed by a person with a concealed weapons
25 permit who was outside of their home at the time the

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 23

(800)640-1949

♀

1 officer was killed?

2 A I have no idea.

3 Q So what relationship do the officers killed in
4 the line of duty have to do with good cause for a CCW
5 permit?

6 A The fact that more guns are on the street, and
7 the more gun that are issued on the street, even,
8 probably legally, most of the guns we find on the
9 suspects are stolen from those people that have guns
10 legally. And those guns are used to kill officers and
11 other citizens.

12 Q So --

13 A It happens all the time.

copy Larry Waldie

14 Q So one of your concerns is that a CCW permit
15 holder would have their weapon stolen while their
16 carrying it and then use that weapon to commit
17 violence?

18 A It has happened. People that have had legally
19 weapons in their home or on their person, they have
20 been stolen. I don't know if at the time they had it
21 on their person, but -- and those guns were used in
22 crimes.

23 Q I agree.

24 And, in fact, that's happened with your
25 department, hasn't it?

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 24
(800)640-1949

‡

1 A Yes.

2 Q Okay. I understand your concern about keeping
3 guns out of gang members hands. But -- strike that.

4 Have you reviewed any studies, seen any
5 evidence, done any investigation to determine the risk
6 of guns being stolen from CCW holders outside of their
7 home in terms of how it would impact public safety?

8 A No.

9 Q Okay. Can you point to any study or
10 correlation between increased issuance of CCW permit
11 and gun violence?

12 A No.

13 Q Can you provide any support for how your
14 policy of drastically restricting the issuance of CCW
15 permits prevents violence?

copy Larry Waldie

16 A I -- I think just the -- putting more guns on
17 the street, I think could clearly create much more
18 violence in the County of Los Angeles, and I think we
19 need to restrict the number of weapons that are
20 available on the streets legally.

21 Q Last year, how many weapons were stolen from
22 permit holders outside of their home?

23 MS. LEHMAN: Speculation.

24 Go ahead.

25 THE WITNESS: I don't know.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 25

(800)640-1949

♀

1 BY MR. BIRDT:

2 Q Last year how many weapons were stolen from
3 sheriffs deputies?

4 MS. LEHMAN: Objection. Speculation.

5 You can answer if you know.

6 THE WITNESS: We've had a couple of stolen
7 from sheriffs deputies, but I don't recall the exact
8 number.

9 BY MR. BIRDT:

10 Q Last year --

11 A From the trunks of their car, yes.

12 Q Last how many weapons issued by the Los
13 Angeles County Sheriff's department were unaccounted
14 for by audit?

15 MS. LEHMAN: Objection. Speculation.

16 You can answer if you know.

17 THE WITNESS: I don't think they have ever
Page 24

copy Larry Waldie

18 done an audit on that. Quite frankly, it's reported
19 they lose the weapon, and they, in fact, since they're
20 all registered, even their off-duty weapons and their
21 personal weapons, so we don't do an audit to find out,
22 you know, which ones were.

23 BY MR. BIRDT:

24 Q Okay. So last year, as far as you recall
25 sitting here. Sheriffs deputies released more guns to

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 26
(800)640-1949

♀

1 gang members than CCW permit holders did?

2 MS. LEHMAN: Wait. Wait. Wait. Wait. Wait.

3 THE WITNESS: What was that? Where we
4 released guns to gang members?

5 MS. LEHMAN: Objection. Argumentative.
6 Misstates the testimony.

7 Why don't you --

8 MR. BIRDT: Let me start over.

9 MS. LEHMAN: Why don't you -- do you want to
10 restate or --

11 BY MR. BIRDT:

12 Q You said your concern was that gang members
13 would steal guns, and you'd have more guns on the
14 street; true?

15 A Yes.

16 Q Okay. You also said you have no recollection,
17 as you sit here today, of any CCW permit holder having
18 a weapon taken from them outside of their home last
19 year; true?

copy Larry Waldie

20 MS. LEHMAN: Objection. Misstates the
21 testimony.

22 I believe he said he did not know.

23 THE WITNESS: Yeah. I do not -- I don't know.

24 BY MR. BIRDT:

25 Q You have no recollection of it happening, as

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 27

(800)640-1949

†

1 you sit here right now; true?

2 MS. LEHMAN: He said he didn't know the
3 number.

4 THE WITNESS: I don't.

5 BY MR. BIRDT:

6 Q Do you have any recollection, as you sit here
7 of any CCW permit holder having their weapon taken from
8 them by a criminal last year? Yes or no?

9 A I believe we've a couple that were stolen from
10 their homes.

11 Q Okay.

12 A I believe.

13 Q From their homes?

14 A Yes.

15 Q Okay.

16 A Not --

17 Q But not outside their home?

18 A Not from their person.

19 Q Okay. But you do have a recollection of
20 sheriffs deputies having their weapons stolen outside
21 of the home last year; true?

copy Larry Waldie

22 A I believe one or two were taken out of
23 vehicles.

24 Q Okay.

25 A And one was taken off his person and tried to

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 28

(800)640-1949

♀

1 use against the deputy.

2 Q Okay. I hope he was sent for remedial
3 training.

4 In any event last year --

5 A Yes.

6 MS. LEHMAN: Question?

7 MR. BIRDT: Yes.

8 Q Last year, Sheriffs deputies put more guns
9 into the hands of criminals than CCW permit holders did
10 outside of the home; true?

11 MS. LEHMAN: Objection. Misstates the
12 testimony. Argumentative. Assumes facts not in
13 evidence.

14 THE WITNESS: Correct.

15 BY MR. BIRDT:

16 Q You can answer.

17 A No. I do not know that at all.

18 Q Okay. Would you agree that open carry creates
19 a potentially dangerous situation?

20 A By whom open carry and where?

21 Q By law abiding citizens anywhere in public?

22 MS. LEHMAN: Objection. Speculation.

23 Incomplete hypothetical. Argumentative.

copy Larry Waldie

24 If you can answer.

25 THE WITNESS: I would be afraid to go out to

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 29

(800)640-1949

♀

1 the street if someone was carrying a weapon, particular
2 with all the drinking and arguments that occur and the
3 mental state of people.

4 All the time we see these people blowing up
5 and shooting people's family with guns. They are
6 access to them. I'd be terrified of people on the
7 street with all these guns.

8 BY MR. BIRDT:

9 Q How many times did sheriffs deputies do that
10 last year?

11 A Do what?

12 MS. LEHMAN: Objection. Speculation.

13 BY MR. BIRDT:

14 Q All right. Let's be specific.

15 How many times last year was a sheriffs
16 deputy, Los Angeles sheriff's deputy, arrested for
17 driving under the influence while in possession of a
18 weapon?

19 MS. LEHMAN: Objection. Speculation.

20 THE WITNESS: I think 63.

21 BY MR. BIRDT:

22 Q Okay. Last year how many sheriff's deputies
23 were involved in an act of domestic violence which also
24 involved a weapon issue to them?

25 MS. LEHMAN: Objection. Speculation.

copy Larry Waldie

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 30

(800)640-1949

♀

1 THE WITNESS: The weapon was used in the
2 domestic violence or the weapon was on the person.

3 BY MR. BIRDT:

4 Q Was indicated as an implement in the incident?

5 A I don't recall any.

6 Q Okay. How about just domestic violence by
7 Sheriff's deputies who were in the possession of a
8 weapon?

9 MS. LEHMAN: Objection. Speculation.

10 THE WITNESS: They were in the 20 to 30, I
11 believe.

12 BY MR. BIRDT:

13 Q How many people were killed last year by
14 permit holders of the Los Angeles Sheriff's Department?

15 MS. LEHMAN: Objection. Speculation.

16 Go ahead and answer.

17 THE WITNESS: Persons issued CCW you mean?

18 BY MR. BIRDT:

19 Q Correct. Yes.

20 Did they kill anybody last year?

21 MS. LEHMAN: Objection. Speculation.

22 THE WITNESS: I have no knowledge of anyone
23 having killed anyone that was issued a CCW.

24 BY MR. BIRDT:

25 Q How many litigation attorneys were shot last

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 31

Page 29

copy Larry Waldie

(800)640-1949

♀

1 year?

2 MS. LEHMAN: Objection. Speculation.

3 THE WITNESS: I have no idea.

4 BY MR. BIRDT:

5 Q Okay. Are you aware of it happening at least
6 on several occasions last year?

7 A No.

8 Q Okay. Were you aware of the shooting of an
9 attorney in Fresno just last month?

10 A Yes.

11 Q Were you aware of the attorney shot in his
12 driveway in Rolling Hills?

13 A Yes.

14 Q Were you aware that the county of Sacramento
15 in the Sacramento sheriffs recently changed their
16 policy on CCW permit issuance to basically to shall
17 issue?

18 A No.

19 Q Were you aware of any change in policy by the
20 Sacramento Sheriffs department regarding CCW's?

21 A No.

22 Q How does your restrictive policy regarding
23 CCW's protect against gun violence in the community at
24 large?

25 MS. LEHMAN: Asked and answered.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 32

(800)640-1949

♀

copy Larry Waldie

1 You can answer.

2 THE WITNESS: Basically, restricting the
3 number of weapons that possibly could get on the street
4 and lead to violent and inappropriate manner.

5 BY MR. BIRDT:

6 Q Okay. And you've already talked about all of
7 the studies, investigation, or research done by you to
8 support that theory?

9 A I said I did not have any.

10 Q Thank you.

11 In the vast majority -- well, I think we've
12 already answered this. You said that last year CCW
13 permit holders did not commit any homicides in the
14 County of Los Angeles; correct?

15 MS. LEHMAN: Misstate the testimony.

16 MR. BIRDT: All right. Let me start over
17 because I thought that was a done deal.

18 MS. LEHMAN: I believe he said he did not know
19 whether any of them had committed any homicide.

20 MR. BIRDT: Okay.

21 Q Last year, are you aware of any CCW permit
22 holders committing a homicide?

23 A Not aware of any.

24 Q Okay. In fact, in the history of your
25 involvement in the CCW program, has a CCW holder ever

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 33
(800)640-1949

♀

1 committed a homicide using the concealed on the permit

2 you issued to them outside of the home?
3

3 MS. LEHMAN: Objection. Speculation.

4 THE WITNESS: I have no idea. I wouldn't on
5 for 44 years.

6 BY MR. BIRDT:

7 Q Short timer.

8 Do gang members ever apply for CCW permits
9 from you?

10 A They may. I do not know.

11 Q Have you ever issued a permit to a gang
12 member?

13 A Not to my awareness.

14 Q Would you?

15 A Well, if he fell within the confines of the
16 law and there was no criminal record.

17 When you say "gang member," obviously he has
18 criminal background and DOJ wouldn't allow us to issue
19 to that person. That would probably not, you know,
20 stop them, but they could certainly apply. And -- but
21 he wouldn't meet the criteria probably, and it would
22 never reach my desk.

23 BY MR. BIRDT:

24 Q Okay.

25 A I'd be kind of prone not to want to do that if

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 34

(800)640-1949

♀

1 they were listed in Cal Gangs as a gang member.

2 Q Have you ever revoked a permit issued to
3 somebody because they impeded a police investigation?

copy Larry Waldie

4 A Yes.

5 Q How many times?

6 A Several times. When they've displayed
7 inappropriate conduct with the weapon and -- yes.

8 Q Was that the instigating event that brought
9 law enforcement to the scene?

10 A No.

11 Q What was the instigating event?

12 A Well, I think, if I recall, one time where he
13 displayed the weapon and brought the officers to the
14 scene, yes.

15 Q Okay.

16 A Yes.

17 Q And the LASD, the Sheriff's department, makes
18 no secret of the fact that you have an overly
19 restrictive good cause policy because of your desire to
20 drastically restrict the number of persons who are
21 armed in the county; correct?

22 MS. LEHMAN: I'll object to the
23 characterization of "overly restrictive."

24 But the rest of it, you can answer.

25 THE WITNESS: No. I don't think that's

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 35

(800)640-1949

♀

1 accurate we're overly restrictive. We follow the
2 guidelines of the law and are very discreet in who we
3 issue them to because we feel that guns create violence
4 in the community and the workplace.

5 BY MR. BIRDT:

6 Q Okay. But as we've discussed, you don't have
7 any of evidence, studies, research, or investigation --

8 A Not sure. They built our policy years ago,
9 they looked at it all completely.

10 Q Who built that policy?

11 A It before my time. The policy of the
12 department for the CCW.

13 Q Do have you the belief that issuing a CCW
14 permit would make violence more likely?

15 A I personally believe that.

16 Q Do you have any support for that other than
17 your personal belief?

18 A Just generally that more guns in the street
19 can foster greater violence, and those guns are used
20 out in the street.

21 Q Okay. Well, we already established, have we
22 not that, violent crimes has gone down over the last
23 30 years, at least according to the FBI; true?

24 MS. LEHMAN: Objection. Misstates testimony.
25 Assumes facts not in evidence. Speculation.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 36

(800)640-1949

‡

1 THE WITNESS: I said I generally believe that
2 the FBI report was done that violence is down.

3 Yes. I did say that.

4 BY MR. BIRDT:

5 Q Are you also aware of what's happened in terms
6 of gun production and sales -- let's just say -- since
7 Obama was elected in the United States?

8 copy Larry Waldie
MS. LEHMAN: Objection. Speculation.
9 THE WITNESS: I have no idea.
10 BY MR. BIRDT:
11 Q You have no idea, one way or another, whether
12 production has gone up a little bit? Down a little
13 bit? Purchases up a little bit? Down a little bit?
14 A No.
15 Q No idea?
16 A No idea.
17 Q Okay. How do high rates of concealed carry --
18 legal concealed carry with a permit endanger police
19 officers?
20 A How could it?
21 Q (No audible response.)
22 A Any time we encounter anybody for any type of
23 crime -- a traffic stop, going to the house of a
24 domestic violence, just a neighborhood dispute --
25 someone carrying a gun or showing it really,

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 37
(800)640-1949

♀

1 potentially, could endanger the deputy very much.
2 For the most times officers are killed on
3 domestic violence issues. And if these people are out
4 on the street with guns and it very much so could put a
5 danger to the officers.
6 Q For people who are lawfully in possession of
7 the CCW permit, what are the requirements placed upon
8 them when they have an encounter with law enforcement
9 and they are carrying a concealed weapon?

10 copy Larry Waldie
A There's no specific criteria when they have
11 it, when they're stopped for traffic ticket.

12 Q Have you attached any conditions to permits
13 that relate to encounters with law enforcement?

14 A No.

15 Q Have you considered doing that?

16 A They -- no, we have not considered that
17 because that would mean -- if someone is stopped by at
18 law enforcement officer and say, "I've got a gun,"
19 that's problematic. That could be problematic.

20 Q Wouldn't it be less problematic to instruct
21 them to simply place their hands outside the window and
22 notify the officer that they are a CCW permit holder
23 and are carrying pursuant to that permit?

24 MS. LEHMAN: Objection. Argumentative.
25 Assumes facts not in evidence. Speculation.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 38

(800)640-1949

♀

1 THE WITNESS: Well, it would be probably the
2 right way to do that, but we don't mandate that.

3 BY MR. BIRD: T:

4 Q I mean several other states do.

5 Have you investigated how they handled the
6 situation?

7 MS. LEHMAN: Same objection.

8 THE WITNESS: We've not encountered any
9 adverse effects except for one or two arrests within
10 rejecting a license with this particular problem.

11 BY MR. BIRD: T:

12 Q Okay. And in terms of the more than
13 90 percent of police officers who are killed by guns,
14 can you tell me if any of those were caused by a person
15 who was lawfully in possession of a CCW permit at the
16 time outside of their home?

17 MS. LEHMAN: Objection. Speculation.

18 THE WITNESS: I have no idea.

19 MS. MITCHELL: Can we take a break pretty
20 soon?

21 MR. BIRDT: Sure. Can you give me five more
22 minutes? And then we'll take a --

23 MS. MITCHELL: Sure.

24 MR. BIRDT: I'm almost done.

25 Why don't we go ahead and let's take five

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 39
(800)640-1949

♀

1 minutes.

2 (Break taken from 10:47 to 10:51.)

3 MR. BIRDT: Okay. Let's go back on the
4 record.

5 THE WITNESS: Yeah.

6 BY MR. BIRDT:

7 Q Just a couple of follow-up questions.

8 In your declaration, you stated that most of
9 the violent acts committed in this county involving the
10 use of guns are by gang members; correct?

11 A Yes.

12 Q And you made it pretty clear that chances are
13 slim a gang member is going to pass a DOJ background

14 check for a CCW permit; correct? copy Larry Waldie

15 A I would think he would not. With a record, he
16 probably wouldn't.

17 Q Okay. And in fact -- strike that.

18 We talked about the State's choice that the
19 only mechanism by which a person can possess a loaded
20 firearm outside the home is with a CCW permit; correct?

21 A Not necessarily.

22 As I said, you can carry it in the trunk of
23 his car going to and from a shooting range or whatever.
24 There are mechanisms to have a weapon.

25 Q I'm sorry.

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 40

(800)640-1949

♀

1 Absent some special exception -- I know
2 there's an exception for an immediate threat of
3 danger --

4 A Yeah.

5 Q -- domestic violence restraining order, and
6 I'm just talking about a normal everyday thing walking
7 the dog. So let me -- with that said -- step back.

8 Under normal everyday circumstances, the
9 California Legislature has chosen as the only mechanism
10 by which a law abiding citizen under normal
11 circumstances can possess a loaded firearm outside of
12 the home is with a CCW permit; true?

13 A Yes.

14 Q Okay. And I'm just asking because one of the
15 things the lawyers have cited in the paper work as a

16 threat to public safety is a person carrying a
17 concealed firearm in his vehicle that he would
18 immediate access to.

19 And we talked about one possible way of
20 mitigating that harm with conditions that can be
21 attached to anybody's CCW permit; true?

22 A I don't understand the question.

23 Q Okay. The lawyers in this case have cited to
24 the judge as one of the reasons why the State restricts
25 CCW permit holders -- strike that?

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 41
(800)640-1949

♀

1 You can attach conditions to any CCW permit
2 you issue; true?

3 A Well, we have regulations that we put in our
4 policy. Yes, we do have restrictions. Yes.

5 Q Okay. And you could change or amend those as
6 necessary to address any public safety concern you may
7 have?

8 A Yes, we could.

9 MR. BIRD: Okay. I don't have anything
10 further.

11 MS. LEHMAN: Nothing.

12 MS. MITCHELL: I've got nothing.

13 MS. LEHMAN: All right. What kind of time
14 frame do you need for his transcript?

15 MR. BIRD: It sounds like he's out on medical
16 leave --

17 MS. LEHMAN: Correct.

18 copy Larry Waldie
18 MR. BIRD: -- for the next 30 days. So maybe
19 we even just waive signing?

20 MS. LEHMAN: No. I want him to look at it.

21 THE WITNESS: I have to come back,
22 unfortunately, for different things.

23 MR. BIRD: Hold on. Let's go off the record
24 for a sec.

25 (Discussion held off the record.)

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 42
(800)640-1949

♀

1 MR. BIRD: Back on the record.
2 We will stipulate to relieve the reporter of
3 her duty under the code by sending the original
4 transcript to Mr. Lehman. Who will notify us within
5 30 days of her receipt thereof of the date of signing
6 and any changes thereto.

7 In the interim, a certified copy shall be
8 admissible for all purposes. And for any reason we're
9 not notified of the date of signing, a certified copy
10 shall be deemed a signed original for all further
11 purposes.

12 MS. LEHMAN: So stipulated.

13 MS. MITCHELL: So stipulated.

14 THE REPORTER: Do any of the counsels need
15 copies?

16 MS. LEHMAN: Yes.

17 MS. MITCHELL: Yes.

18 (Whereupon, the deposition concluded
19 at 10:55 a.m.)

20
21
22
23
24
25

copy Larry Waldie

-- oOo --

ROUGH DRAFT LARRY WALDIE APRIL 19, 2011 43
(800)640-1949