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THE UNITED STATES DISTRICT COURT

IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID K. MEHL; LOK T. LAU;  
FRANK FLORES  
Plaintiffs,

vs.

LOU BLANAS, individually and in his  
official capacity as SHERIFF OF  
COUNTY OF SACRAMENTO;  
COUNTY OF SACRAMENTO,  
SHERIFF'S DEPARTMENT;  
COUNTY OF SACRAMENTO; BILL  
LOCKYER Attorney General, State of  
California; RANDI ROSSI, State  
Firearms Director and Custodian of  
Records.

Defendants

CASE NO.: CIV S 03 2682 MCE/KJM

**PLAINTIFFS' ADDITIONAL  
MATERIAL FACTS IN SUPPORT  
OF OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT AND  
COUNTER MOTION FOR  
SUMMARY JUDGMENT  
PURSUANT TO RULE 78-230(e)**

Date: November 16, 2007

Time: 9:00 a.m.

Ctrm: 3

Judge: Honorable Morrison C. England,  
Jr.

1. The Sacramento County Sheriff's Department's has a standard process for the submission and review of Carry Concealed Weapon ("CCW") permit applications, the issuance or denial of permits, and the process for an applicant to appeal the initial denial of an application.

2. This process, which had been in place for many years, and was in place during the time Plaintiffs Mehl and Lau applied to the department for CCW permits in 2002-2004.

3. The CCW permit application process includes an initial review of the applications submitted to the Special Investigations and Intelligence Bureau ("SIIB") of the Sheriff's Department, by the Detective assigned to SIIB.

4. When an application is received by SIIB, the standard practice of the Sheriff's Department is for the Detective to review the application, run a criminal records check on the applicant, and if additional information is needed to complete the application, to contact the applicant either by telephone call or correspondence to obtain any additional information if necessary.

5. Once an application was complete, the application package is submitted to a three-person committee for review and determination of approval or denial.

1. Disputed. See AMF 1-144 Twomey Decl. ¶1-147; Deposition Exhibits 1, 1a, 2, 3, 4, 5, 6; Plaintiffs' additional Exhibits D through P, and Exhibits Blanas deposition, Blanas Depo. 41:5-14, 43:16-19, 63:14-67:1, 68:10-69:4, 83:2-84:24, 46:7-16, 47:9-48:25, 55:11-18, 50:7-12, 50:24-51:5, 70:17-71:5, 88:6-8, 71:7-12, 88:6-8, 68:10-69:2, 71:12-17, 88:6-9, 72:16, 88:6-8, 83:2-84:24, 89:1-90:11, 74:21-25, 83:2-84:24, 92:3-6, 83:2-84:24, 75:1-2, 76:2-7, 91:1-3, 76:8-14, 76:15-23, 91:22-25, 83:2-84:24, 86:8-14, Blanas Depo. 68:10-69:2, 76:15-23, 77:8-9, 83:2-84:24, 84:21-85:12, 77:13-78:1, 91:2, 77:16-78:1, 91:2, 23:20-25, 24:4-9, 26:19-20, 68:10-69:2, 69:10-13, 69:23-70:4, 83:2-84:24, 86:21-4, 88:2-20, 18:6-14, 21:2-15, 87:19-23, 18:6-14, 21:2-15, 24:4-9, 76:17-23, 18:6-14, 21:2-15, 24:4-9, 23:20-23, 67:9, 70:9-16, 63:14-67:1, 25:17-25, 26:23-25, 18:6-14, 31:9-33:12, 29:14-19.

2. Disputed. See response to **ONE** above, pertaining to unwritten policy and how that policy is implemented, of how CCWs are actually issued whereby campaign contributors have more access to obtaining CCWs than other citizens who do not contribute.

3. Disputed. See response to **ONE** above,

4. Disputed. See response to **ONE** above,

5. Disputed. See response to **ONE** above,

6. Disputed. See response to **ONE** above,

7. Disputed. See response to **ONE** above,

8. Disputed. See response to **ONE**

6. The reviewing committee was comprised of three persons (which at no time included the sitting Sheriff), who reviewed application packages submitted by individuals who wanted to obtain a permit to carry a concealed weapon.

above,

9. Disputed. See response to **ONE** above,

10. Disputed. See response to **ONE** above,

7. Generally the committee is comprised of two Captains and a Chief Deputy.

11. Disputed. See response to **ONE** above,

12. Disputed. See response to **ONE** above,

8. If an application is approved upon committee review, the applicant is notified by mail, and requested to submit fingerprints for a Department of Justice ("DOJ") clearance.

13. Disputed. See response to **ONE** above,

14. Disputed. See response to **ONE** above,

15. Disputed. See response to **ONE** above,

16. Disputed. See response to **ONE** above,

17. Disputed. See response to **ONE** above,

9. Once clearance by the DOJ is received, the applicant is also required to submit proof to SIIB that he has qualified with his weapon(s) at an approved shooting range.

18. Disputed. See response to **ONE** above,

19. Disputed. See response to **ONE** above,

20. Disputed. See response to **ONE** above

20.

21. Disputed. Disputed. See response to **ONE** above

22. Disputed. Disputed. See response to **ONE** above

23. Disputed. Disputed. See response to **ONE** above

24. Disputed. See response to **ONE** above

25. Disputed. See response to **ONE** above

26. Disputed. See response to **ONE** above

27. Disputed. See response to **ONE** above

28. Disputed. See response to **ONE** above

29. Disputed. See response to **ONE** above

30. Disputed. See response to **ONE** above

31. Disputed. See response to **ONE** above

32. Disputed. See response to **ONE** above

33. Disputed. See response to **ONE**

11. If an application is denied by the committee, the applicant is notified by mail of the denial and also informed that the denial may be appealed.

12. Upon appeal, an applicant may submit additional information to the officer handling appeals.

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| <p>1 13. This appeals officer is not a member of<br/> 2 the three-person committee, but an<br/> 3 administrative officer assigned to conduct<br/> 4 these appeals as a part of his duties.</p> <p>5 14. The appeals officer reviews all materials<br/> 6 in the original application as well as any<br/> 7 additional information submitted by the<br/> 8 applicant on appeal.</p> <p>9 15. A personal interview with the applicant<br/> 10 is also conducted by the appeals officer.</p> <p>11 16. After an independent review of all the<br/> 12 information received, the appeals officer<br/> 13 makes a separate determination of whether<br/> 14 to grant or deny a CCW permit to the<br/> 15 applicant.</p> <p>16 17. The applicant is thereafter notified by<br/> 17 mail of the appeals officer's decision.</p> <p>18 18. Neither Sheriff Blanas nor Sheriff Craig<br/> 19 requested any special consideration for the<br/> 20 issuance of a permit to any individual by the<br/> 21 Evaluation Committee, never attended the<br/> 22 meetings during which the permits were<br/> 23 evaluated, nor provided any information to<br/> 24 committee Members or reviewing staff<br/> 25 concerning whether any applicant<br/> 26 underevaluation by the Committee was a<br/> 27 campaign contributor, friend, or business<br/> 28 associate of the Sheriff.</p> <p>19. In reviewing applications for CCW<br/> permits, the only issue the Committee<br/> considered was whether appropriate grounds<br/> existed pursuant to which the Department<br/> would, in its discretion and pursuant to the<br/> California Penal Code, issue a CCW permit<br/> to the applicant.</p> <p>20. Plaintiff David K. Mehl submitted his<br/> CCW permit application in July of 2002.</p> <p>21. His application was reviewed pursuant to<br/> the standard practice of the Department as<br/> described above.</p> <p>22. Mr. Mehl's application was incomplete<br/> as it did not include a statement from him of<br/> his justification for the permit as is required<br/> by the California Penal Code.</p> <p>23. There was no statement from Mr. Mehl<br/> describing the reasons why he felt he needed</p> | <p>above<br/> 34. Disputed. See response to <b>ONE</b><br/> above<br/> 35. Disputed, see AMF 1-144<br/> 36. Disputed, see AMF 1-144<br/> 37. Disputed, see AMF 1-144<br/> 38. Disputed, see AMF 1-144<br/> 39. Disputed, see AMF 1-144<br/> 40. Disputed, see AMF 1-144<br/> 41. Disputed, see AMF 1-144<br/> 42. Disputed, see AMF 1-144<br/> 43. Disputed, see AMF 1-144<br/> 44. Disputed, see AMF 1-144<br/> 45. Disputed, see AMF 1-144<br/> 46. Disputed, see AMF 1-144<br/> 47. Disputed, see AMF 1-144<br/> 48. Disputed, see AMF 1-144<br/> 49. Disputed, see AMF 1-144<br/> 50. Disputed, see AMF 1-144<br/> 51. Disputed, see AMF 1-144<br/> 52. Disputed, see AMF 1-144<br/> 53. Disputed, see AMF 1-144<br/> 54. Disputed, see AMF 1-144<br/> 55. Disputed, see AMF 1-144<br/> 56. Disputed, see AMF 1-144<br/> 57. Disputed, see AMF 1-144<br/> 58. Disputed, see AMF 1-144<br/> 59. Disputed, see AMF 1-144<br/> 60. Disputed, see AMF 1-144<br/> 61. Disputed, see AMF 1-144<br/> 62. Disputed, see AMF 1-144<br/> 63. Disputed, see AMF 1-144<br/> 64. Disputed, see AMF 1-144<br/> 65. Disputed, see AMF 1-144<br/> 66. Disputed, see AMF 1-144<br/> 67. Disputed, see AMF 1-144<br/> 68. Disputed, see AMF 1-144<br/> 69. Disputed, see AMF 1-144<br/> 70. Disputed, see AMF 1-144<br/> 71. Disputed, see AMF 1-144<br/> 72. Disputed, see AMF 1-144<br/> 73. Disputed, see AMF 1-144<br/> 74. Disputed, see AMF 1-144<br/> 75. Disputed, see AMF 1-144<br/> 76. Disputed, see AMF 1-144<br/> 77. Disputed, see AMF 1-144<br/> 78. Disputed, see AMF 1-144<br/> 79. Disputed, see AMF 1-144<br/> 80. Disputed, see AMF 1-144<br/> 81. Disputed, see AMF 1-144<br/> 82. Disputed, see AMF 1-144<br/> 83. Disputed, see AMF 1-144<br/> 84. Disputed, see AMF 1-144<br/> 85. Disputed, see AMF 1-144<br/> 86. Disputed, see AMF 1-144<br/> 87. Disputed, see AMF 1-144</p> |
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1 a permit to carry a concealed weapon.

88. Disputed, see AMF 1-144

2 24. The policy of the Sheriff's Department  
3 consistent with the requirements of the  
4 California Penal Code, is that applicants  
5 provide information explaining why they  
6 feel they need a license to carry a concealed  
7 weapon.

89. Disputed, see AMF 1-144

90. Disputed, see AMF 1-144

91. Disputed, see AMF 1-144

92. Disputed, see AMF 1-144

93. Disputed, see AMF 1-144

94. Disputed, see AMF 1-144

95. Disputed, see AMF 1-144

8 25. Mr. Mehl's application did not have this  
9 information and so it was sent back to him to  
10 complete and return.

11 26. After the application was sent back to  
12 Mr. Mehl, Mr. Mehl still did not provide  
13 information to the Department regarding his  
14 justification for requesting the permit.

15 27. Initially his application was returned to  
16 him with a simple request to complete the  
17 application and return it to the Department.

18 28. Mr. Mehl then sent two letters to the  
19 Department declining to fill out the portion  
20 of the application which calls for the  
21 justification for the permit, as he felt that  
22 was not consistent with the form instructions  
23 that come with the application package.

24 29. Mr. Mehl in his letters explained that he  
25 felt that Part 7 under the caption  
26 of "Investigator's Notes" was to be filled out  
27 by the Department upon interviewing him,  
28 and that he was not required, per the  
29 instructions to fill out that portion of the  
30 application.

31 30. In response to those letters, On August  
32 1, 2002, Chief Denham wrote to Mr. Mehl  
33 asking that he provide his justification for  
34 issuance of the CCW permit, and agreed to  
35 waive the filing fee.

36 31. Chief Denham informed Mr. Mehl that  
37 the Department's practice was to require that  
38 the applicant provide in writing with the  
39 application package, a statement describing  
40 why the individual wanted a CCW permit.

41 32. Chief Denham told Mr. Mehl that if he  
42 would provide that information that the  
43 application would be considered.

44 33. Even after being requested by  
45 correspondence in 2002 to provide his  
46 justification for issuance of the CCW permit,

1 Mr. Mehl never did so.

2 34. No response from Mr. Mehl was  
3 received by the Department following Chief  
Denham's letter of August 1, 2002.

4 35. Mr. Mehl's never completed his  
5 application by providing statements to the  
6 department regarding his justification for the  
7 permit.

8 36. He never provided any evidence or  
9 factual information at all as to whether he  
10 was threatened, needed to carry a gun for  
11 self-defense, or any other information.

12 37. Consequently, no information was  
13 available upon which the Department could  
14 evaluate the application.

15 38. Without proper information the  
16 department had no choice but to deny the  
17 application.

18 39. That was the reason, and the only reason,  
19 the application was denied in 2002.

20 40. Mr. Mehl then re-submitted the same  
21 application to the Department in 2003, again  
22 without any statement of his justification for  
23 the permit.

24 41. Mr. Mehl never conveyed to the  
25 Department or the Evaluation Committee  
26 his reasons for requesting a CCW permit.

27 42. Mr. Mehl's application was therefore  
28 incomplete, and was denied on that basis.

43. Plaintiff Mehl does not believe he was  
denied a CCW License on account of his  
race or national origin.

44. Lok T. Lau submitted his CCW permit  
application to the Sheriff's Department in  
August of 2003.

45. His application was reviewed by  
Detective Stephen Bray pursuant to the  
standard practice of the Department as  
described above.

46. Mr. Lau disclosed in his application and  
attachments that he had a pending lawsuit  
against his former employer, the FBI.

1 47. Mr. Lau also disclosed that he had been  
2 arrested for shoplifting twice, and that he  
3 was currently being treated for Post  
4 Traumatic Stress Disorder and Depression.

5 48. Mr. Lau's application was submitted to  
6 the Evaluation Committee, which at the time  
7 was comprised of Captain Bill Kelly,  
8 Captain James Cooper and Chief David  
9 Lind.

10 49. The Committee was informed by  
11 detective Steve Bray of Mr. Lau's two  
12 arrests, his lawsuit against his employer, and  
13 also the fact that Mr. Lau did not discuss any  
14 specific personal threats to his safety.

15 50. The committee reviewed all the  
16 materials presented by Mr. Lau in support of  
17 his application.

18 51. In addition, the committee reviewed Mr.  
19 Lau's criminal background along with the  
20 entire application file.

21 52. The Committee denied Mr. Lau's  
22 application, and as a result he was sent a  
23 letter on October 28, 2003, informing him of  
24 that denial, as well as informing him of his  
25 option to appeal the Committee's decision.

26 53. A unanimous determination was made to  
27 deny his application based upon the many  
28 issues raised in his application file as  
described above.

54. The reasons included his involuntary  
termination from the FBI, his two  
convictions for shoplifting, as well as his  
ongoing treatment for Post Traumatic Stress  
Disorder and Depression.

55. All three members of the committee  
agreed that it was inappropriate to issue Mr.  
Lau a concealed weapons permit based upon  
the information in his file.

56. In about January of 2004, an appeal was  
filed by Mr. Lau of the initial denial of his  
application by the review committee.

57. Chief C. Scott Harris, Jr., received Lok  
Lau's appeal of the denial of his application  
for a CCW permit.

58. Chief Harris reviewed Mr. Lau's original



1 application and the documents and  
2 correspondence submitted by Mr. Lau along  
with his appeal.

3 59. It was Chief Harris' practice not to  
4 discuss an appeal with the Committee who  
had denied the permit, but to provide an  
5 independent review of the applicant's file.

6 60. In addition, Chief Harris would not  
7 consult with others in the Department  
regarding any appeal which he was  
handling.

8 61. In any review of a denial, there were  
9 times when the individual reviewing the  
appeals would over-rule the committee and  
10 grant the application, and other times when  
they would uphold a denial of an  
11 application.

12 62. After Chief Harris' review of an appeals  
13 file, he would make arrangements to  
personally meet with an appeals applicant,  
and he did so with Mr. Lau.

14 63. Chief Harris met with Mr. Lau in his  
15 office at 711 G Street to discuss his appeal  
in about the end of January or beginning of  
16 February of 2004.

17 64. Mr. Lau presented as unusually nervous,  
18 drowsy, overly suspicious, and he also  
appeared to be somewhat paranoid.

19 65. When individuals who have been  
20 honorably retired or otherwise separated  
from a Federal or State law enforcement  
21 agency, such as the FBI, their employer,  
upon request from the former employee,  
22 provides a letter recommending that the  
former agent be issued a CCW permit.

23 66. Chief Harris asked Mr. Lau in that  
24 meeting why his previous employer, the  
FBI, had not supplied a letter approving his  
25 application for a CCW permit, as is  
customary for former law enforcement  
applicants.

26 67. In this case, the FBI did not provide the  
27 letter, and Mr. Lau had no explanation as to  
why they did not.

28 68. When asked why he felt he needed a  
CCW permit, Mr. Lau replied that he was



1 concerned that there were still people around  
2 from his former days serving undercover for  
the FBI who would do him harm.

3 69. Chief Harris confirmed with Mr. Lau  
4 that he was continuing to be treated for Post  
5 Traumatic Stress Disorder and Depression,  
as he had stated in his application, and that  
6 he was on various medications as a part of  
that treatment.

7 70. As a result of Chief Harris' personal  
8 interview of Mr. Lau and the totality of his  
9 application package, Chief Harris  
determined that although there could have  
10 been factors in years past which may have  
made Mr. Lau vulnerable, there was no  
11 current threat to this safety.

12 71. In addition, within Mr. Lau's application  
13 package, there was a letter from his former  
14 employer, the FBI, which indicated that the  
FBI had no knowledge or information  
15 indicating that Mr. Lau was under any threat  
due to his past employment activities with  
the FBI.

16 72. Based upon the totality of the  
17 circumstances from the review of Mr. Lau's  
18 application package, including his discharge  
19 from the FBI, the absence of a letter from his  
former employer approving the issuance of a  
20 CCW permit, his shoplifting arrests and  
convictions, his lying to his employer  
21 regarding those arrests, the letter from the  
department of Justice/FBI regarding no  
22 threats to the safety of Mr. Lau from his  
previous employment, and Mr. Lau's general  
23 presentation and behavior at our meeting, as  
well as his on-going treatment and  
24 medications for psychiatric disorders, Mr.  
Lau's appeal was denied.

25 73. According to Mr. Lau, at the time he  
26 applied for a CCW permit he was mentally  
27 disabled from depression, post traumatic  
stress disorder, sleep apnea, and was unable  
28 to work.

74. In addition, Mr. Lau testified that at the  
time he applied for a CCW permit he as  
under the care of a doctor for depression,  
posttraumatic stress disorder, and sleep  
apnea, he was prescribed an antidepressant  
and anxiety medication, Fluoxetine.

1 75. Chief Harris sent him a letter informing  
him of the denial on February 4, 2004.

2  
3 76. Chief Harris did not discuss Mr. Lau's  
4 application with anyone in the Sheriff's  
Department, but made an independent  
review.

5 77. Further, in reviewing Mr. Lau's appeal,  
6 Chief Harris did not know whether or not  
7 Mr. Lau had any relationship with Sheriff  
Blanas, as a campaign contributor or  
otherwise.

8 78. In deciding Mr. Lau's appeal, as with  
9 every applicant appeal, an individual  
10 assessment was made as to whether there  
existed appropriate grounds for him to carry  
concealed weapon.

11 79. During Sheriff Blanas' tenure as sheriff  
12 of Sacramento County, he had no knowledge  
of or involvement in the applications for  
13 CCW permits of Plaintiffs Lok T. Lau and  
David Mehl, and first heard of these  
applicants at the time of this lawsuit.

14  
15 80. While Sheriff Blanas was in office from  
16 1999 through July of 2006, and had the  
authority by virtue of California Penal Code  
17 §12050 to issue CCW permits, he was  
approached by many personal friends and  
18 individuals who had contributed to his  
election campaign asking him to issue them  
CCW permits.

19 81. Sheriff Blanas informed the individual  
20 that he would not approve them for a CCW  
permit and/or that they needed to show  
21 justification for the permit and proceed  
through the normal application process  
22 established by the Department for the  
issuance of those permits.

23 82. In addition, during Sheriff Blanas'  
24 tenure, 229 applications for CCW permits  
for individuals who did not contribute to his  
25 campaign, were granted and issued CCW  
permits.

26 83. Election campaign contributions was not  
27 a factor in the determination of the issuance  
of a CCW permit by the Sacramento county  
28 Sheriff's Department or by the sheriff.

84. During the time Lou Blanas was chief

1 Deputy for the Sacramento Sheriff's  
2 Department and served on the evaluations  
3 committee for the issuance of CCW permits,  
4 as well as during the time he was  
5 undersheriff, he never approved the issuance  
6 of, issued, or authorized the issuance of a  
7 CCW permit to any individual based upon  
8 their contribution to his or any other  
9 individual's political campaign, or due to any  
10 personal, financial or familial relationship  
11 with the applicant.

12 85. The process in effect while Lou Blanas  
13 was Sheriff was developed and established  
14 by Sheriff Craig in about 1996 or 1997  
15 through input from a 8-person  
16 Citizen Advisory Committee which  
17 included members from the community as  
18 well as Sheriff's Department Staff.

19 86. The application procedure was designed  
20 to operate with initial review of  
21 the application by a SIIB Detective, followed  
22 by review and approval or denial by a  
23 3-person Sheriff's Department evaluation  
24 committee, which would not include the  
25 Sheriff.

26 87. At the time Mr. Lau applied for his CCW  
27 permit, he was suffering from Post Traumatic  
28 Stress Disorder and major depression which  
affected his judgment.

88. In addition, as a result of his arrests for  
shoplifting, the FBI stripped Mr. Lau of his  
security clearance.

89. As a result of his suffering from  
sleep apnea while employed by the FBI, the  
FBI took away Mr. Lau's gun.

90. At the time he applied for a CCW permit,  
Mr. Lau informed the Sheriff's Department  
that his gun had been taken away from him  
and his security clearance stripped by the  
FBI.

91. Mr. Lau confirmed that neither during his  
application process nor during his appeal did  
he ever speak with Sheriff Blanas.

92. Even though Mr. Mehl was told that his  
application was incomplete and  
was requested by the Sheriff's Department to  
do so, he never provided any  
information justifying a need to carry a

1 concealed weapon.

2 93. Mr. Mehl has no personal  
3 informationthat the denial of his application  
4 for a CCWpermit was because he did not  
5 contribute to aSheriff's political campaign.

6 94. Mr. Mehl also has no  
7 personalinformation or knowledge of the  
8 identity of anyone who received a CCW  
9 license inexchange for a campaign  
10 contribution.

11 95. Each and every permit issued  
12 orauthorized to be issued by Lou Blanas at  
13 anytime, including the time during which he  
14 wasSheriff of the County of Sacramento and  
15 heldthe authority to issue CCW permits,  
16 wasbased upon the establishment of good  
17 causeas set forth in the California Penal  
18 Code and the criteria and policies of the  
19 SacramentoCounty Sheriff's Department.

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DATED: November 2, 2007

Respectfully submitted,  
LAW OFFICES OF GARY W. GORSKI

/s/ Gary W. Gorski  
GARY W. GORSKI,  
Attorney for Plaintiffs