

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ELLA M. SAMUEL vs. JESSICA TRAME

Case No. 15-780-NJR-SCW

DEPOSITION OF JESSICA TRAME

JANUARY 7, 2016



Morris Reporting Company

Certified Shorthand Reporters

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BY: _____



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I N D E X

PAGE

WITNESSES

For Plaintiff:

JESSICA TRAME

Examination by Mr. Maag	5
Examination by Mr. Aziz	52
Examination by Mr. Maag	59
Examination by Mr. Aziz	64
Examination by Mr. Maag	67
Examination by Mr. Aziz	69

EXHIBITS:

Plaintiff's A	Affidavit	9
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1
2
3
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ELLA M. SAMUEL,

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Plaintiff,

)

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vs.

)

No. 15-780-NJR-SCW

)

JESSICA TRAME,

)

)

Defendant.

)

DEPOSITION OF JESSICA TRAME, produced, sworn
and examined on behalf of the Plaintiff on January 7,
2016, at Illinois State Police Headquarters, 801 South
7th Street, Springfield, Illinois, before RUTH S.
MORRIS, an Illinois Certified Shorthand Reporter.

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APPEARANCES:

FOR THE PLAINTIFF:

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By: Jennifer Grady-Paswater
(217) 557-0678

1 IT IS HEREBY STIPULATED AND AGREED by and
2 between Counsel for the Plaintiff and Counsel for the
3 Defendant that this deposition may be taken in
4 shorthand by RUTH S. MORRIS, an Illinois Certified
5 Shorthand Reporter, and afterwards transcribed into
6 typewriting, and the signature of the witness is
7 waived.

8

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11

JESSICA TRAME,

12

of lawful age, being produced, sworn and examined on
13 behalf of the Plaintiff, deposes and says:

14

DIRECT EXAMINATION

15

QUESTIONS BY MR. MAAG:

16

Q Can you state your name for the record,

17

please?

18

A Jessica Trame.

19

Q And are you employed?

20

A I am.

21

Q And how are you employed?

22

A I'm with the Illinois State Police,

23

Firearms Services Bureau.

24

Q And what is your job title or job duties

25

at the Firearms Services Bureau?

1 A I'm the bureau chief of the Firearms
2 Services Bureau.

3 Q Okay. And in plain English, what do you
4 do?

5 A I oversee the FOID program, the Firearm
6 Owner's Identification Program, the Firearms
7 Transfer Inquiry Program, the Concealed Carry
8 Licensing Program.

9 Q And very generally, what is the Firearm
10 Owner's Identification Program and what is the
11 Concealed Carry Program, just very generally?

12 A The Firearm Owner's Identification Program
13 administers the FOID card, the FOID application
14 process for someone to possess weapons in Illinois
15 and Concealed Carry Program, the licensing program
16 for the carrying of concealed weapons.

17 Q Thank you. And how long have you been in
18 this position?

19 A Since February, 2012.

20 Q And what did you do prior to being in this
21 position?

22 A I was assigned to the Director's Office.

23 Q The Director of the State Police?

24 A Yes.

25 Q And that's the Illinois State Police?

1 A Correct.

2 Q And how long were you assigned to the
3 Director of the Illinois State Police?

4 A I was in the Director's Office from
5 sometime in 1995, until I went to the Firearms
6 Services Bureau.

7 Q Thank you. And what did you do before
8 that?

9 A I was in college.

10 Q Where did you go to college?

11 A Well, I take that back. Sorry. From 1993
12 to 1995, I was also with the State Police and I was
13 in the Research and Development Bureau.

14 Q What is the Research and Development
15 Bureau?

16 A They no longer exist.

17 Q What were they?

18 A We did a variety of different things, but
19 it was a bureau that handled the Departments Awards
20 Program, the Departments Suggestions Program, we had
21 a granting unit that wrote grants and administered
22 grants for the department and some local police
23 departments.

24 We had the policy section for the
25 department, we did departmental surveys regarding --

1 and evaluations regarding equipment that officers
2 would be using out in the field. It was a variety
3 of different activities.

4 Q Can you tell me very briefly about your
5 post high school education background?

6 A I have a Bachelor's of Administration from
7 St. Mary's College in Notre Dame, Indiana.

8 Q Are you a sworn officer or merely a
9 civilian of the State Police?

10 A I'm a civilian employee.

11 Q Have you ever been a sworn officer?

12 A No, I have not.

13 Q You understand we're here today for your
14 deposition in the case of Samuel versus Trame in
15 your official capacity as chief of the Firearms
16 Services Bureau?

17 A Yes.

18 Q And is it accurate that you have signed an
19 affidavit for purposes of that case?

20 A Yes.

21 Q And do you have a copy of that affidavit
22 with you?

23 A No, I do not.

24 MR. MAAG: If you could go ahead and mark
25 this as Plaintiff's Exhibit A, please.

1 [At this time, a document was marked
2 for identification by the reporter as
3 Plaintiff's Exhibit A.]

4 Q (By Mr. Maag): Take a moment to look at
5 that, and when you're ready let me know.

6 A (Witness complies.) All right.

7 Q Okay. Do you recognize the document
8 that's been handed you and marked as Plaintiff's
9 Exhibit A?

10 A I do.

11 Q What is that document generally?

12 A Generally this is an affidavit regarding
13 the overall processing of Concealed Carry License
14 applications and what we go through in the bureau to
15 do so.

16 Q And is that your signature on the last
17 page of the document?

18 A Yes, it is.

19 Q And I think we've already addressed in
20 your initial background Paragraphs 1 and 2, and so
21 I'm going to skip over those.

22 A Okay.

23 Q Paragraph 3, if you could just read that
24 to yourself and as soon as you read that, I'll start
25 with my questions on it.

1 A (Witness complies.) Okay.

2 Q In Paragraph 3, you appear to be making a
3 distinction between residents and non-residents as
4 far as needing a FOID card to get a Concealed Carry
5 license, is that accurate?

6 A Yes.

7 Q As you have used the term in this
8 Affidavit, what do you mean by a resident and what
9 do you mean by a non-resident?

10 A Well, both of those are -- a resident is
11 defined within the rules as an individual who is
12 eligible for an Illinois driver's license or an
13 Illinois identification card.

14 Q Okay. Ipso facto then, a non-resident
15 would be a person who is not eligible for the
16 Illinois driver's license or Illinois identification
17 card?

18 A Correct.

19 Q From what you've just told me, the only
20 factor that goes into whether a person is a resident
21 or not is the eligibility for a driver's license in
22 Illinois or an Illinois State identification card,
23 nothing else is relevant for purposes of determining
24 whether somebody is a resident or not as you have
25 used the terms in this affidavit?

1 A That's correct.

2 Q Do you have any knowledge whether or not a
3 person that has a driver's license issued by a State
4 other than Illinois is eligible for an Illinois
5 State identification card?

6 A It is my understanding that they would
7 have to surrender that card from the other State.

8 Q And what is the basis of that
9 understanding?

10 A That is what has been explained to me by
11 our Secretary of State's Office.

12 Q Who at the Secretary of State's Office, if
13 you remember?

14 A I don't recall specifically.

15 Q Do you remember when that was explained to
16 you?

17 A Several years ago.

18 Q And Paragraph 4, will you go ahead and
19 read Paragraph 4? It states, "In processing CCL
20 applications, the Bureau performs an extensive
21 background check on each applicant as required by
22 the FOID Card Act and the Firearm Concealed Carry
23 Act."

24 A Yes.

25 Q Can you describe what that background

1 check is?

2 A The background check includes a validity
3 check of the individual using the driver's license
4 or identification card that is valid and their
5 address. And we also look for -- for Illinois
6 residents, they are photographed, and signature.
7 We then --

8 Q Okay. Let me stop you there and then you
9 can finish. What do you mean a validity check to
10 check if it's valid?

11 A They must -- the driver's license or
12 identification card must be valid, be a valid card.

13 Q Do you mean --

14 A It cannot be expired, surrendered to
15 another State, revoked.

16 Q Okay.

17 A It must be a valid Illinois driver's
18 license or Illinois identification card. And the
19 same if it's a non-resident, an Out-of-State
20 resident, and they're able to apply, it would need
21 to be valid in their State.

22 Q Please continue.

23 A I'm sorry, I'm not sure what the question
24 is now.

25 Q I stopped you midway when you were

1 explaining about the extensive background check on
2 each applicant.

3 A Okay. And then --

4 Q After the validity check --

5 A So, the rest of the background check would
6 include various criminal history databases, both
7 State and Federal; to include some but maybe not
8 all, Triple I, which is the Federal FBI criminal
9 history system; NCIC, the National Crime Information
10 Center; The Illinois Criminal History Reporting
11 Information; the Illinois Hot Files; and the NICS
12 which is the National Instant Criminal Background
13 Check System to make a few.

14 Q Are there additional checks that are
15 performed?

16 A If it would be like an alien, non U.S.
17 resident, we would check against immigration.

18 Q Okay.

19 A So, there would be a few other checks
20 depending on the application itself.

21 Q For purposes of this case and this
22 deposition, let's focus on somebody that's at least
23 a U.S. citizen.

24 A Okay.

25 Q Other people may have other concerns, but

1 that's outside the scope of what I'm looking at.

2 A Uh-huh.

3 Q As far as a U.S. citizen is concerned,
4 other than the Triple I, NCIC, and the Illinois
5 State database, the Illinois Hot Files, and the
6 NICS, is there any other --

7 A For a non-resident, we would also check
8 against NLETS, the National Law Enforcement
9 Telecommunications System, and that would produce
10 the response on their driver's license or
11 identification card as well as we would be looking
12 at whether they have some type of a Concealed Carry
13 or equivalent permit in their State.

14 Q And how would you check to determine
15 whether they had a Concealed Carry or equivalent
16 from another State?

17 A There are States that attach that to a
18 record in response to an NLETS message.

19 Q Okay. Any other databases that would be
20 routinely checked for a U.S. citizen?

21 A Not that I can think of off the top of my
22 head, no.

23 Q That's fine. Would it matter for purposes
24 of performing a background check whether or not --
25 or strike that and let me rephrase it.

1 Why would it matter, if indeed it would
2 matter at all, whether or not the person in question
3 has an Illinois driver's license or Illinois State
4 I.D. card or not for purposes of a background check?

5 A Well, for the purposes of the background
6 check, we consume information from the Secretary of
7 State, so we match the photograph or the identity,
8 we match the signature, we match the address, and
9 that information is used directly on the license.

10 Q For what purpose?

11 A To insure the applicant is who they say
12 they are.

13 Q Are you aware that the Illinois driver's
14 license does not comply with the Federal Real ID
15 Act?

16 A No.

17 Q If you had known that previously, would
18 that change anything you've said so far?

19 A I don't know. Not knowing what the Real
20 ID Act says and how we're not complying, I don't
21 believe I can answer that question.

22 Q Is that something you would like to know
23 for purposes of processing FOID cards and Concealed
24 Carry licenses?

25 MR. AZIZ: Objection, foundation. Go

1 ahead.

2 THE WITNESS: Any information is helpful.

3 Q (By Mr. Maag): In Paragraph 5, you make
4 reference to, "The first phase of the process is a
5 quality check of the application to make sure it's
6 complete." I'm paraphrasing. What is done to make
7 sure that specifically a Concealed Carry application
8 is complete?

9 A Well, it varies a little bit between
10 whether it was an application completed on the web
11 or the alternate paper application.

12 But, the name, the spelling of the name is
13 checked against the Secretary of State file; the
14 address, including spelling is checked against the
15 Secretary of State file; other personal identifiers,
16 generally speaking, eye color, hair color, those
17 types of things are checked; certain applications
18 have certain requirements.

19 So, you know, did they attach the training
20 certificate, did all the requirements -- are they
21 there, that's the quality. You know, is everything
22 in the application that is supposed to be completed.

23 So, did they answer all the questions, the
24 criminal history questions; is it fully signed; if
25 there was -- an affidavit was required, was the

1 affidavit attached.

2 Q You made reference to a web based
3 application and a paper application.

4 A Alternative paper application.

5 Q Can you tell me about the alternative
6 paper application?

7 A Yes. An individual would call in to the
8 call center and they would begin their application
9 over the telephone.

10 So, the call taker would ask them a series
11 of questions, mostly their personal identification
12 information, their full name, date of birth,
13 driver's license, address, those types of things and
14 take payment.

15 An application would then be printed with
16 those items already pre-populated, pre-employment.
17 Those items would be pre-populated on the form.

18 The applicant would then attach a
19 photograph, they would answer the criminal history
20 questions, and they would make the signatures that
21 are required, and return that.

22 Q So, it's not like somebody could pick up a
23 blank application, fill it out, and mail it in?

24 A No.

25 Q All right. Substantively, is there any

1 difference between the web based application and the
2 paper application?

3 A No. It's -- the same requirements are
4 there, the same information is asked.

5 Q What is the purpose of the paper
6 application as opposed to the web application? Why
7 have the two?

8 A It was in order for people who may not
9 have access to a computer themselves and they could
10 call in.

11 The purpose for the web base was to
12 increase efficiency. The alternative method of
13 calling in is it looks like a web based application
14 on our side, in your system because we pre-entered
15 much of the information.

16 Q On the web based version, specifically
17 addressing my client, Miss Samuel, there is no
18 mechanism apparently to populate a Montana address
19 into the web based application. Is that accurate to
20 your knowledge?

21 A I believe that is accurate to my
22 knowledge, yes.

23 Q If Miss Samuel had called on the telephone
24 to do a paper application and had provided a Montana
25 address while trying to do the paper application,

1 can you tell me what would have or what should have
2 happened?

3 A I don't believe that would be able to
4 occur either, that the Montana address would be able
5 to be entered.

6 Q So, for either a web based application or
7 the alternative paper application that you've
8 described, there would be no mechanism to populate a
9 Montana address into the application?

10 A Correct.

11 Q Therefore, there would be no mechanism for
12 a Montana resident to fill out the application and
13 send it in for processing?

14 A That's correct.

15 Q Okay. And it's my understanding that
16 there are four States other than Illinois that the
17 Firearms Services Bureau will accept as an
18 application from a resident of, is that accurate?

19 A Yes.

20 Q For any of the other forty-four States,
21 would the answer be the same as Montana as far as
22 whether or not the Firearms Services Bureau would
23 even accept or process an application?

24 A Yes, it would be the same answer.

25 Q Okay. In Paragraph 6 of your affidavit,

1 you made reference to the background check being
2 performed after the verification of identity. Is
3 that consistent with what you have already told me
4 about the background check here today?

5 A Yes.

6 Q And a summation of Paragraph 7 would
7 simply be that once an application is submitted and
8 initialing process, Illinois law enforcement
9 agencies are notified and can object if they want
10 to. And I'm paraphrasing, of course.

11 A Paraphrasing, yes.

12 Q In Paragraph 10, you make reference to the
13 identity being verified through the Illinois
14 Secretary of State's license system, either be it
15 driver's license or State I.D.?

16 A Yes.

17 Q And I think we've already discussed that,
18 so I'll skip down to Paragraph 10 --

19 MR. AZIZ: Just to clarify, Counsel --

20 MR. MAAG: Sure.

21 MR. AZIZ: -- I think you were referring
22 to Paragraph 9?

23 MR. MAAG: Yes.

24 MR. AZIZ: I think you said 10, just to
25 make the record clear.

1 MR. MAAG: Okay. I'm skipping down to
2 Paragraph 10, skipping over --

3 MR. AZIZ: Right. No, when you -- when
4 you had mentioned the Secretary of State, I
5 think you had said, "in Paragraph 10," so I
6 just wanted to make it clear --

7 MR. MAAG: Okay, fair enough.

8 Q (By Mr. Maag): What do you mean by direct
9 access in Paragraph 10?

10 A We don't have -- it's not like I can just
11 pull up, you know, Montana's drivers database. We
12 do have direct, you know, access into the Secretary
13 of State's database, so we have to rely on another
14 agency -- you know, we have to rely on the NLETS
15 system --

16 Q Okay.

17 A -- for an Out-of-State driver's license
18 return.

19 Q Okay. And Montana specifically, how would
20 you verify a Montana driver's license?

21 A Through NLETS.

22 Q Okay. And if you ran a Montana driver's
23 license through NLETS, what information should be
24 provided, assuming everything is functioning
25 properly?

1 A It would be -- well, through -- and I want
2 to make it clear through our system because, you
3 know, a trooper out in the field may run something
4 differently.

5 So, through our system, we would see the
6 person's name, the status of that license, usually
7 the date of issuance, the date of expiration,
8 address.

9 And some States -- and there may be a
10 little bit more information if they have a certain
11 type of driver's license like a CDL versus just like
12 a regular driver's license.

13 And some States make note of whether or
14 not they have a Concealed Carry license or similar
15 permit.

16 Q Okay. And I've asked you previously about
17 Illinois and the Real ID Act. I suspect I know what
18 the answer is from your previous testimony, but I'm
19 going to ask it anyway. Do you know whether or not
20 a Montana driver's license is Real ID Act compliant?

21 A I do not.

22 Q In your affidavit, you make reference to
23 various States that do not make driver's license
24 images currently available on NLETS. I do not see
25 Montana listed in that list. So, can I take that to

1 mean that Montana does, in fact, make driver's
2 license photographs available on NLETS?

3 A I would have to verify that again. But,
4 this information was taken off of the NLETS website
5 at the time.

6 Q So, this information in Paragraph 10 was
7 based on what you read on the NLETS system?

8 A Well, I confirmed it's with our IT staff,
9 but I'm not an expert on NLETS and what it produces.
10 We do not -- I don't log into an NLETS system, you
11 know. So, we provided Out-of-State driver's license
12 and we get a return back.

13 Q So, the contents of Paragraph 10 is based
14 either on what somebody told you or what you read on
15 the NLETS website?

16 A Confirmed on the NLETS website.

17 Q Suffice it to say, as you sit here today
18 and when you signed this affidavit on 30 November,
19 2015, you did not have any information that
20 indicated that Montana did not make images available
21 off its driver's licensees on NLETS?

22 A Correct.

23 Q Correct?

24 A Correct.

25 Q Paragraph 11, if you could read that and

1 let me know when you're ready.

2 A (Witness complies.) I'm ready.

3 Q Okay. You appear to be stating, and
4 correct me if I misstate this, that for Illinois
5 residents, you can locate criminal history through
6 Illinois's Criminal History Recorded System --
7 Record Inquiry System, a system maintained by the
8 Illinois State Police from the Computerized Hot
9 Files and from Federal systems?

10 A Correct.

11 Q How is that different than a Missouri
12 resident, a Montana resident, or a resident from any
13 of the other States?

14 A I'm not sure what you're inferring there.
15 But, we run the same check on everyone and using the
16 same system for an Illinois resident that has
17 Illinois criminal history in their past. We have
18 access to much more detailed information and final
19 disposition data.

20 Running someone's criminal history from
21 another State, most States provide just a summary,
22 arrest, maybe not even include the severity, was it
23 a misdemeanor, was it a felony, what that final
24 disposition was.

25 Many States only provide what they call a

1 summary aspect of the background from another State.

2 Q Okay. Taking all of that as true, a
3 current Illinois resident that was born in Montana,
4 lived for forty years in Montana, and then moved to
5 Springfield, got an Illinois driver's license and
6 applied for a FOID card and an Illinois Concealed
7 Carry license, how is your background check
8 ultimately going to be any different than a person
9 who has never left the State of Montana?

10 A We would have the -- we would struggle
11 with it. If that person had a criminal history in
12 Montana and we were unable to get the records, it
13 would delay the process for sure.

14 Q Okay. Why would the former Montana
15 resident who moved to Illinois six months ago
16 qualify for a Concealed Carry license but the
17 Montana resident who had never left the State of
18 Montana not qualify?

19 A Because we follow the statute and the
20 rules.

21 Q What is the practical reason that that
22 rule exists like that?

23 A I did not write the rules. The rules were
24 meant for the applicants to be treated the same,
25 that an Illinois resident and a resident from

1 another State to be treated the same. That's my
2 understanding.

3 Q Is the current Montana resident and the
4 person who left Montana six months ago being treated
5 the same under my hypothetical?

6 A I think it would depend on the case.

7 Q Assume two identical -- two identical
8 twins who have lived together their whole life up
9 until six months ago with identical criminal
10 histories, whatever they are, with identical mental
11 health histories, whatever they are. Why are they
12 treated differently?

13 A Sir, I don't know why. We follow the laws
14 and the rules that have been given to us.

15 Q Does that strike you as a somewhat
16 arbitrary and capricious rule?

17 MR. AZIZ: Objection, argumentative.

18 Q (By Mr. Maag): You can answer.

19 A Not necessarily.

20 Q Why not?

21 A Well, we haven't talked about mental
22 health. And, you know, to take every application
23 and try to determine what that background was, you
24 know, I -- I -- it's -- you know, in my opinion,
25 it's not my -- my job to put my personal thoughts

1 into what I do. I follow what is put forth in front
2 of me.

3 Q You're just following orders?

4 A Well, if you want to simplify it, yes.

5 Q Attached to your affidavit and referenced
6 in either your Summary Judgment Motion or your
7 Response to my Summary Judgment motion, I forget
8 which, was referenced to a lady from Pascagoula,
9 Mississippi, that was apparently arrested in 2005,
10 for looting. Do you have a recollection of that?

11 A General recollection.

12 Q Okay. And there was some additional
13 documentation that went along with that that
14 indicated that at least somebody in your office,
15 whether or not it was you personally, contacted the
16 Jackson County, Mississippi, Circuit Clerk to try to
17 obtain additional information.

18 A Yes.

19 Q Do you recall that?

20 A Yes.

21 Q How much does an Illinois resident license
22 cost?

23 A For --

24 Q For a Concealed Carry license for a
25 resident.

1 A I'm sorry. I wasn't sure whether -- if
2 you meant driver's license. One hundred and fifty
3 dollars.

4 Q How much is a non-resident supposed to
5 pay?

6 A Three hundred dollars. I have to second
7 guess myself there, but three hundred dollars.

8 Q Okay. I believe those numbers are
9 correct, and I'll assume they are for purposes of
10 our discussion. Why the difference between the two
11 dollar amounts?

12 A I was not involved in those discussions.
13 I don't know why they, you know, decided on those
14 two amounts of money.

15 Q Okay. Really I'm not really asking why
16 the particular amounts as much as why the difference
17 between the two.

18 A I was not involved in any of those
19 discussions about --

20 Q If you don't know, that's fine.

21 A I don't know.

22 Q "I don't know" is a perfectly acceptable
23 answer if you don't know.

24 A I don't know.

25 Q Contrary to popular belief, this is not a

1 test.

2 Suffice it to say, it costs double for a
3 non Illinois applicant to apply for a Concealed
4 Carry license than it does for an Illinois resident,
5 correct?

6 A Correct.

7 Q And it appears that there was some issue
8 with this Pascagoula, Mississippi, lady, that the
9 Jackson County, Mississippi, Clerk wanted ten
10 dollars or something for her records.

11 A Right.

12 Q Wouldn't you agree with me that there's a
13 hundred and fifty dollars in extra money potentially
14 available to the State to pay that ten dollar fee?

15 A I would agree that there is additional
16 money as part of that application process, yes.

17 Q Okay. And of course, if this lady from
18 Pascagoula -- I don't know if she moved to Illinois
19 or not for purposes of whatever she was applying for
20 here -- but, assuming that she had moved to Illinois
21 and was applying as an Illinois resident for
22 whatever she was applying for, this identical issue
23 of having difficulty accessing Jackson County,
24 Mississippi, records would be identical whether or
25 not she had an Illinois driver's license, Illinois

1 State I.D., or a Mississippi driver's license, or an
2 Alabama driver's license, et^cetera?

3 A Yes.

4 Q Do you happen to know what the name of the
5 lady is?

6 A No.

7 Q Who would know?

8 A It's in our records someplace.

9 Q Did anybody just try picking up the phone
10 and calling the Jackson County Clerk of the Court
11 and just asking informally what the disposition was
12 on this?

13 MR. AZIZ: Objection, relevance.

14 Q (By Mr. Maag): You can answer.

15 A We try that every day. That's always our
16 first methodology, but most of them have rules and
17 regulations that they just can't tell us.

18 Q I don't find that problem, but not to
19 argue with you. Ultimately, were you able to
20 discern the outcome of this looting charge from
21 2005?

22 A I do not know.

23 Q In your affidavit, you make reference to
24 having difficulty with -- either you or your office,
25 not necessarily you personally -- Los Angeles

1 County, California, Milwaukee County, Wisconsin, and
2 Jackson County, Mississippi, as they charge for
3 records. Nowhere in your record do I see any
4 indication of you or your department or bureau
5 having any difficulty with Montana records.

6 A When this was written, these happened to
7 be the three issues that we had that week.

8 Q Okay. Can you articulate a specific
9 instance you or your department or your bureau has
10 had with records from Montana not being able to
11 access them?

12 A I cannot specifically.

13 Q If you could read Paragraph 13, and let me
14 know when you're ready.

15 A (Witness complies.) Okay, I'm ready.

16 Q Okay. As I understand it what you're
17 explaining here is periodically your bureau rechecks
18 the persons with Concealed Carry licenses to make
19 sure that they're still eligible?

20 A Correct.

21 Q Is that necessarily any different from the
22 initial background check performed during the
23 application?

24 A They're the same -- same systems are used
25 for that.

1 Q Same basic check?

2 A Yes.

3 Q So, any information that would be
4 available for the initial check presumably would be
5 available for the subsequent check, ninety days or
6 thirty days or whatever the interval is?

7 A Right, we would be looking for any
8 changes.

9 Q Right.

10 A Any additions.

11 Q If you could read Paragraph 14.

12 A (Witness complies.) Okay, I'm ready.

13 Q As I interpret Paragraph 14 and please,
14 correct me if I'm wrong, some of the information in
15 some of the databases that are checked may not be a
16 hundred percent accurate is the crux of Paragraph
17 14?

18 A Correct.

19 Q And that would be true whether the person
20 is a resident of Montana, Alaska, or Illinois,
21 correct?

22 A Correct.

23 Q Is it necessary to submit fingerprints to
24 get an Illinois Concealed Carry license?

25 A It's optional.

1 Q So, it would not be necessary? I'll
2 rephrase it.

3 It is possible to get an Illinois
4 Concealed Carry license without the submission of
5 fingerprints?

6 A Yes.

7 Q Okay. And is it possible to get an
8 Illinois FOID card without the submission of
9 fingerprints?

10 A Yes.

11 Q In Paragraph 15, you're making reference
12 to a National Fingerprint File?

13 A Correct.

14 Q Since it is not necessary to submit
15 fingerprints to get either of the two licenses that
16 your bureau issues, why is it relevant or helpful or
17 even a consideration whether or not a given State
18 other than Illinois participates in a National
19 Fingerprint File?

20 A Because the States that do participate in
21 that provide complete and full criminal history
22 reports to those Federal databases.

23 Q So, it's for purposes other than the
24 fingerprints?

25 A Correct.

1 Q Okay. Does Illinois participate in the
2 National Fingerprint File?

3 A No, we do not.

4 Q Why not, if you know?

5 A I don't know.

6 Q Yet, the State of Illinois has access to
7 the National Fingerprint File?

8 A We do through NCIC. It's -- I believe
9 it's one of their files, so, yes.

10 Q Okay. If an applicant being a resident or
11 a non-resident were to actually submit fingerprints
12 with his or her concealed weapons license in
13 Illinois, can you tell me what is done with those
14 fingerprints?

15 A They would be submitted to first our
16 Bureau of Identification and then it would be sent
17 to the FBI for a fingerprint response.

18 Q All right. And I recognize each
19 individual case is different, but typically how long
20 does a response take?

21 A Assuming the prints are legible and there
22 are no problems with that, usually it's a matter of
23 days.

24 Q Does the FBI charge for that service?

25 A Yes, they do.

1 Q And what do they charge for that service,
2 if you know?

3 A I do not know the exact amount.

4 Q Twenty, twenty-five dollars or do you
5 know?

6 A I believe approximately in the range of --
7 it's a combination of the State processing and the
8 Federal, and it's between thirty and thirty-five
9 dollars, I believe, the last time I checked.

10 Q And that's a combination of the State and
11 the FBI?

12 A Correct.

13 Q All right. Do the fingerprints come back
14 to you or are they retained by the FBI or do you
15 know?

16 A No. An applicant who chooses to provide
17 fingerprints -- it's all done electronically. So,
18 they have to go to a recognized vendor by the
19 Illinois State Police, and they are taken
20 electronically and we just get a response, an
21 electronic response.

22 Q Okay. So, it's not the old FBI's Form 58
23 or whatever they are?

24 A No.

25 Q Now, anything that we've discussed thus

1 far, Paragraphs 1 through 15 -- and I recognize we
2 skipped over some of them because I think we talked
3 about them separate and apart -- are any of the
4 information that we already discussed used as a
5 reason why Illinois and Montana specifically are not
6 substantially similar for purposes of Illinois
7 issuing Concealed Carry license -- weapons license
8 for Montana residents?

9 A I'm trying to remember the Montana
10 survey --

11 Q I have it available here for you if that
12 would help.

13 A That would help.

14 Q That's all of them (indicating), if you
15 want to take a look.

16 A Okay. (Witness complies.)

17 MR. AZIZ: Would you like me to direct
18 her?

19 MR. MAAG: Please.

20 MR. AZIZ: If you look at the bottom
21 left-hand column, do you see the numbers.

22 THE WITNESS: Uh-huh.

23 MR. AZIZ: Thirty-one --

24 THE WITNESS: I just got there. No.

25 Q (By Mr. Maag): The answer to my question

1 is "No"?

2 A I believe. I believe I answered the right
3 question.

4 Q Okay. In Paragraph 16, you start talking
5 about mental health information.

6 A Yes.

7 Q And specifically, you make reference to
8 the fact that Illinois prohibits persons who have
9 been adjudicated as having certain mental problems
10 from preventing -- from possessing firearms and
11 getting the requisite licenses, and it also makes
12 reference to the fact that persons who have
13 voluntarily been a resident of a mental health
14 facility in the past have varying degrees of
15 disqualifications for Illinois firearms license such
16 as Concealed Carry license?

17 A Yes.

18 Q Is that the reason that Illinois has
19 determined Montana is not substantially similar for
20 purposes of issuing Concealed Carry license to
21 Montana residents?

22 A Yes.

23 Q Is there anything else that Illinois has
24 determined is not sufficiently similar?

25 A No.

1 Q My client is Samuel -- I think she just
2 got promoted, but I'll use the term "airman"
3 generically -- an airman stationed at Scott Air
4 Force Base in St. Clair County, Illinois. And I
5 apologize, Ella, for getting your rank wrong, but be
6 that as it may, are you aware of whether or not
7 Scott Air Force Base specifically has any mental
8 health treatment facilities on base?

9 A I'm not aware of that specifically.

10 Q Okay. Are you aware of whether or not
11 there are any treatment facilities, hospitals in St.
12 Clair County more generically that treat mental
13 health conditions, i.e., something that if my client
14 were to have a breakdown, that she could be taken to
15 either voluntarily or involuntarily?

16 A I don't know specifically. I would have
17 to verify that.

18 Q Okay. Do you have a belief and you're
19 just not certain of it, or you have no idea?

20 A I believe that there would be a facility
21 in that vicinity that would treat mental health, but
22 I --

23 Q And I will represent to you that upon my
24 investigation, there is a facility in St. Clair
25 County to do that, and there is not one on post, and

1 that what I have learned is any Air Force personnel
2 that have such issues would be taken to the civilian
3 facility in, I think, Belleville, Illinois.

4 You make reference in your affidavit to
5 the Illinois DHS, I believe. What is the DHS?

6 A Illinois Department of Human Services.

7 Q They are obliged to report to the Illinois
8 State Police, and I guess ultimately to your bureau,
9 both voluntarily and involuntary commitments in
10 Illinois, correct?

11 A Correct, yes.

12 Q Is it your understanding that the facility
13 in Belleville, Illinois, St. Clair County, would be
14 one of those that would be required to report to the
15 DHS and ultimately to the Illinois State Police?

16 A Yes.

17 Q Would any of the other forty-nine
18 States -- strike that.

19 Would any of the hospital or medical
20 treatment -- mental health treatment facilities in
21 any of the other forty-nine States have any
22 obligation that you're aware of to report to any
23 Illinois agency, any voluntary or involuntary mental
24 health treatment or commitment?

25 A No.

1 Q So, if an Illinois resident wanted to
2 avoid hypothetically being reported to the DHS and
3 ultimately your bureau because they were having a
4 really bad time in their life, they could literally
5 go across the Mississippi River to check into a
6 mental health facility in downtown St. Louis right
7 across the river from St. Clair County?

8 A That would be possible.

9 Q And neither the DHS nor ultimately your
10 bureau would ever, with all things being equal,
11 learn about that?

12 A Correct.

13 Q And that is true whether the person is a
14 resident of Illinois with an Illinois driver's
15 license or not, correct?

16 A That would be correct.

17 Q The fact a person born or raised in
18 Illinois that went off to college in another State,
19 that sought mental health treatment in whatever
20 State they went off to college with, ultimately
21 would not be reportable to the DHS or your bureau,
22 correct?

23 A That's correct.

24 Q And so, if that person came back to the
25 State of Illinois, you would be unable to determine

1 whether or not that person had ever been voluntarily
2 or involuntarily committed -- I'll rephrase that,
3 been voluntarily committed?

4 A Correct.

5 Q In truth and in fact, many if not most,
6 involuntary mental health adjudications are reported
7 to the various Federal databases, correct?

8 A They're supposed to be.

9 Q Well, for instance, I believe in 2012,
10 only three of the hundred and two Counties in
11 Illinois reported those to the State of Illinois,
12 correct?

13 A Correct.

14 Q Okay. Has that number improved since
15 2012?

16 A Yes. I believe seventy-two have now --
17 seventy-two of the hundred and two Counties have
18 reported. However, all have indicated they are
19 compliant, meaning they either don't have any cases
20 in their County or they didn't meet the requirements
21 for reporting. That's what we've been told.

22 Q What is the requirement for reporting per
23 your understanding?

24 A Any adjudicated, you know, mental --
25 mentally disabled person, so that -- you know, to

1 break that down, that would include a variety of
2 both criminal and civil type cases. Not guilty by
3 reason of insanity, you know, for example on the
4 criminal side would be --

5 Q An obvious example there?

6 A Obvious example. On the civil side it
7 could be just for an example someone getting into a
8 car accident and losing their, you know, mental
9 capacity in a coma. And it could be that it's for a
10 short period of time and that then is overturned, a
11 guardianship would be included.

12 Q So, hypothetically, a person that's not --
13 that otherwise is not a danger to themselves or
14 others and could otherwise take care of themselves
15 and provide for their basic needs, but for instance,
16 could no longer manage their own financial
17 affairs --

18 A Correct.

19 Q -- would be adjudicated as a mental
20 defective and lose their firearm rights?

21 A That's my understanding.

22 Q I won't ask you if that seems fair.

23 A Thank you.

24 Q Suffice it to say in truth and in fact,
25 with the highly mobile society that is the United

1 States today, it really doesn't make any difference
2 whether or not a person has an Illinois driver's
3 license right now or not, whether they live in any
4 of the hundred and something Counties of Illinois,
5 or they live in California, Montana, or Texas, as
6 far as running a complete background check on
7 that -- individual mental health background check on
8 that individual, does it?

9 MR. AZIZ: Objection, argumentative.

10 Q (By Mr. Maag): You can answer.

11 A Can you repeat the question?

12 MR. MAAG: Ruthie, can you read back my
13 question?

14 (At this time, the previous question
15 was read back by the reporter as follows:

16 "Suffice it to say in truth and in
17 fact, with the highly mobile society that
18 is the United States today, it really
19 doesn't make any difference whether or not
20 a person has an Illinois driver's license
21 right now or not, whether they live in any
22 of the hundred and something Counties of
23 Illinois, or they live in California,
24 Montana, or Texas, as far as running a
25 complete background check on that --

1 individual mental health background check
2 on that individual, does it?")

3 THE WITNESS: I don't know that I can
4 answer that question. I think that there are a
5 lot of variables that go into that.

6 Q (By Mr. Maag): What are some of those
7 variables that go into that?

8 A I understand the point you are making,
9 but, you know, if they've, for instance, lived in
10 Illinois for the last twenty years versus -- you
11 know, twenty years prior to that versus just moving
12 to Illinois, I think there are variables into that,
13 to your point.

14 Q Let's assume that President Obama decided
15 to apply for a Concealed Carry license. It's my
16 understanding that he's lived in Indonesia; he's at
17 least traveled to Kenya -- whether or not he was
18 born there other people can argue about.

19 He's at least lived in Hawaii, whether he
20 was born there or not other people can argue about.
21 He's clearly lived in Illinois and been an Illinois
22 Senator. He clearly lives presently at 1600
23 Pennsylvania Avenue.

24 Why would Mr. Obama or why should
25 Mr. Obama assuming he gets the requisite training

1 not be eligible to apply for an Illinois State
2 Concealed Carry license?

3 MR. AZIZ: Objection, foundation,
4 speculative, and relevance.

5 Q (By Mr. Maag): You can answer.

6 A I don't believe I make those decisions. I
7 believe our legislator -- legislature makes those
8 decisions.

9 Q Do you believe that you would have any
10 difficulty running an appropriate background check
11 on Mr. Obama, if he were to apply?

12 A Do I think I would have difficulty running
13 a background check on him?

14 Q Yes.

15 A Yes, I do.

16 Q He doesn't show up in the same database as
17 everybody else does?

18 A I think any time you have someone that is
19 transient, you will. You're going to have
20 difficulties if they're on the criminal history
21 side, if they've had, you know, time with the law,
22 if they've been arrested or anything else.

23 If the person has never had any mental
24 health issues or any criminal issues, you're not
25 going to have those same problems.

1 Q Okay. The application for a concealed
2 weapons license asks about mental health and
3 criminal history records, correct?

4 A Yes, it does.

5 Q And answers are required to be submitted
6 under oath, correct?

7 A Yes.

8 Q And it's actually a criminal offense to
9 provide false information, correct?

10 A Correct.

11 Q And so when somebody applies for one of
12 the licenses from your bureau, whether they're from
13 Illinois or some other State, they have at least
14 provided sworn testimony or sworn evidence that
15 they're either eligible or they're not, conceivably
16 possible they could answer incorrectly to the
17 certain questions --

18 A Uh-huh.

19 Q -- correct?

20 A Correct.

21 Q And if nothing comes up to contradict the
22 information that is provided on the application in
23 the background checks, aside from what the
24 legislature may have written, your agency, your
25 bureau would have no reason to disapprove any of

1 those applications, correct?

2 A That's correct.

3 Q In fact, even if a person had been
4 adjudicated mentally defective or voluntarily
5 committed themselves after a divorce or something
6 like that, it is still possible for that person to
7 qualify for a license issued by your agency,
8 correct? They can have their rights restored?

9 A Correct.

10 Q Has anyone looked into whether or not
11 Illinois's requirement of having hospitals report to
12 the DHS voluntary check-in's or voluntary
13 commitments violates HIPAA?

14 MR. AZIZ: Objection, personal knowledge.

15 Q (By Mr. Maag): Do you understand that?

16 A I do not.

17 Q What is your understanding generally of
18 what HIPAA is?

19 A I understand that generally HIPAA outlines
20 the dissemination of someone's medical records.

21 Q And that would generally include mental
22 health records?

23 A Yes.

24 Q And of course, that's a Federal statute?

25 A Yes.

1 Q And in fact, it's my understanding that
2 the Federal Department of Health and Human Services
3 per an Attorney General announcement just a few days
4 ago is amending the regulations to clarify concerns
5 from many States that reporting involuntary
6 commitments might violate HIPAA. Are you aware of
7 that?

8 A No, I'm not.

9 Q Suffice it to say, as far as running a
10 mental health check for applicants to your agency,
11 whether they're Illinois residents or not, the same
12 gaps exist in what you're able to access for
13 residents as well as non-residents?

14 A Yes.

15 Q For persons who submit Concealed Carry
16 applications, SANS or without fingerprints, what is
17 the processing time supposed to be?

18 A I'm sorry, without fingerprints?

19 Q No fingerprints.

20 A A hundred and eighty days.

21 Q Double the time period if fingerprints are
22 included?

23 A Correct.

24 Q Are those mine (indicating)?

25 A Yes, those are yours.

1 Q Let's go off the record a minute.

2 (At this time, a short break was
3 taken off the record.)

4 Q (By Mr. Maag): Are there any other cases
5 pending that you're aware of that have this same
6 general topic, i.e., "Non-resident seeking Illinois
7 Concealed Carry permits"?

8 A Yes, I'm aware of one other case.

9 Q One other case?

10 A Uh-huh.

11 Q Yes?

12 A Yes.

13 Q And what case is that?

14 A I don't know the official name of it. It
15 involves Kevin Culp. I'm not aware of the official
16 name of the case.

17 Q Fair enough, I think that was disclosed in
18 the original discovery. That's the only one that
19 you're aware of?

20 A Yes, that I'm aware of.

21 Q Not saying that there are other ones,
22 but --

23 A No.

24 Q Who specifically made the determination of
25 which States were sufficiently similar and why, if

1 you know?

2 A There's not really a -- one person, I mean
3 that makes that decision. A survey was sent out and
4 there was direction given as to which questions on
5 the survey would be used to make the determination.

6 Q Who drafted the survey?

7 A Someone on my staff drafted it. I
8 reviewed it. It went through my chain of command,
9 through our legal department, through the Governor's
10 office.

11 Q I'll ask a loaded question. Which
12 Governor's office?

13 A It would have been Quinn.

14 Q It was obviously a split there which is
15 the reason I asked --

16 A Yeah.

17 Q And for the record, Quinn is now the
18 former Governor?

19 A Yes.

20 Q Okay. Would you agree with me that
21 generally speaking, subject admittedly to various
22 exceptions, it is a criminal offense for a person to
23 carry a firearm in Illinois without an Illinois
24 Concealed Carry license?

25 A Assuming they don't meet any of the

1 exceptions, yes.

2 Q All right. And the exceptions, for
3 instance, might be something like being a law
4 enforcement officer?

5 A Yes.

6 Q Carrying a pistol or revolver while
7 fishing and having a fishing license, that's one
8 most people don't know about. Did you review any
9 documents in preparation for this deposition today
10 that we have not already talked about?

11 A I don't think so. Can you remind me what
12 we've talked about, which documents we've talked
13 about?

14 Q Well, your affidavit for one, and at least
15 some of the surveys that were sent out of State.

16 A Correct, I reviewed those.

17 Q Anything else that you reviewed for
18 purposes of today's deposition?

19 A I don't know the correct terms. I'm
20 looking over there (indicating), sorry.

21 Q That's all right.

22 A I reviewed the Defendant's Responses to
23 Plaintiff's Request to Admit.

24 Q Okay.

25 A And the Interrogatories.

1 Q Okay. Your answers or my client's
2 answers?

3 A My answers.

4 Q Okay. Any other documents that you would
5 have reviewed for purposes of this deposition?

6 A I briefly reviewed the Concealed Carry
7 Act.

8 Q Okay. Anything else?

9 A No.

10 Q Excluding the two attorneys here today
11 that are representing you, did you speak with
12 anybody about this deposition today?

13 A No.

14 Q Okay. Did you do anything else to prepare
15 for this deposition other than possibly talking to
16 those two or possibly not talking to those two
17 attorneys, or reviewing the documents that you've
18 referenced?

19 A No.

20 Q Subject to any redirect, I think that's
21 all I have. Thank you.

22 QUESTIONS BY MR. AZIZ:

23 Q I just want to follow up on a few points
24 that were made during Mr. Maag's examination. You
25 said that you weren't sure if NLETS had driver's

1 license photos for Montana, correct?

2 A I'm not one hundred percent sure of that,
3 no.

4 Q So, it could be, it could not be, you're
5 just not sure one way or the other?

6 A Based on the information I gathered at the
7 time, it was my understanding that they provided
8 photographs.

9 Q Okay.

10 A But, I have not confirmed that
11 information.

12 Q Okay. Now, the Firearm Concealed
13 Carry Act -- correct me if I'm wrong -- the Firearm
14 Concealed Carry Act establishes the substantially
15 similar language with regard --

16 MR. MAAG: Object to the form of the
17 question.

18 Q (By Mr. Aziz): Okay. Do you -- does --
19 does the State Police have the authority to
20 interpret the Firearm Concealed Carry Act?

21 A Yes, we have the ability to make rules.

22 Q What statutory authority, if you know,
23 does the Concealed Carry Act provide with regard to
24 non-resident applications?

25 MR. MAAG: Objection, vague. Subject to

1 that.

2 THE WITNESS: I'm not sure that I can
3 answer that. The specific statute reference or
4 site?

5 Q (By Mr. Aziz): No, I'm asking you what
6 powers of interpretation does it give to the agency.

7 A It allows the rule making authority and we
8 chose to follow administrative rules and define
9 substantially similar in those rules.

10 Q Okay. And to your knowledge, the Act
11 gives you the power to do that?

12 A Yes.

13 Q Okay. So, did the State Police promulgate
14 regulations defining substantially similar?

15 A Yes.

16 Q Okay. And are those generally reflected
17 in the surveys that were sent?

18 A Yes, they were. Questions 1 through 4 in
19 the survey were directly taken from the rules.

20 Q Now, the Firearm Concealed Carry program
21 as to non-resident covers forty-nine States and
22 territories, correct?

23 A Correct.

24 Q And so this was an attempt to create a
25 uniform system for those territories, correct?

1 A Yes.

2 Q And so the rules were created to sort of
3 create that consistent system across non-resident
4 applications, correct?

5 MR. MAAG: Object to the form of the
6 question.

7 THE WITNESS: That's my understanding.

8 Q (By Mr. Aziz): Now, there was some
9 conversation you had with Mr. Maag about a
10 hypothetical Illinois resident who appeared to have
11 been from Montana and a Montana resident, is that
12 correct?

13 A Yes.

14 Q Could you -- when they become an Illinois
15 resident, any circumstances that would be reportable
16 would be able to be verified through an Illinois
17 database that it maintains for resident applicants?

18 MR. MAAG: Objection, vague. Object to
19 the form of the question.

20 THE WITNESS: Can you repeat the question?

21 Q (By Mr. Aziz): Sure, I'll rephrase it.
22 So, when you have an Illinois resident, there are --
23 there is reporting requirements to various databases
24 that State Police have access to?

25 A Yes.

1 Q And as you've discussed, the State Police
2 don't have access to those same types of information
3 about mental health records from other States,
4 right?

5 A Correct.

6 Q So, if an individual who is in Illinois
7 but a resident of another State were to go back to
8 their home State and receive mental health
9 treatment, would State Police be able to gather that
10 information?

11 A Not if it was voluntary.

12 Q What about involuntary?

13 A Assuming that that State reports the NICS,
14 we should be able to, yes.

15 Q Now, you had reviewed the Montana survey a
16 little bit ago --

17 A Yeah.

18 Q To your knowledge, does Montana report
19 involuntary mental health --

20 A No.

21 Q And the survey was filled out by the law
22 enforcement authorities in Montana, correct?

23 A The authority who is over their Concealed
24 Carry program or subsequent permit, similar permit.
25 I don't remember -- every State is a little bit

1 different, so I don't remember exactly what agency
2 it was in Montana.

3 Q So, as to both voluntary and involuntary
4 mental health institutionalization or treatments,
5 Montana does not provide information in a manner
6 that Illinois can have access to?

7 A That's what their survey indicated.

8 Q Now, you were questioned on some
9 hypotheticals regarding an individual who willfully
10 evaded the mental health treatment in Illinois. Do
11 you remember that?

12 A Yes.

13 Q If an individual were to get mental health
14 treatment in another State that Illinois does not
15 have access to their records and then apply for
16 Concealed Carry license, wouldn't they have to make
17 a false statement in order to submit their
18 application?

19 A Yes.

20 Q And that would -- that would be correct?

21 A That would be --

22 Q Illegal?

23 A Correct.

24 Q They would potentially be committing a
25 crime?

1 A Yes.

2 Q But, the application as written is an
3 attempt to gather information assuming someone isn't
4 actively breaking the law, correct?

5 A Correct.

6 Q Is there a way that you know of through
7 your position that Illinois could get access to
8 voluntary admissions from other States?

9 A No.

10 Q So, if someone wanted to violate the law
11 and evade information gathering techniques, that's
12 not something within the scope of Illinois -- the
13 State Police's control?

14 A No.

15 Q And I think I might have asked you this.
16 If someone -- if a non-resident received mental
17 health treatment, let's say in the Belleville area,
18 that would be information that could potentially
19 come into State Police's knowledge, correct?

20 A Yes.

21 Q But, if they went home and got it,
22 depending on the State, the State Police could not?

23 A Not if it was voluntary.

24 Q Well, let's talk about this case
25 specifically. The plaintiff as it's been discussed

1 is from -- is a resident of Montana and -- which is
2 the State as far as you know. If she were to go
3 home to her home State and be involuntarily
4 committed, would State Police find out about that?

5 A Based on the survey, no.

6 Q And if she -- that would be the same
7 answer if she tried to receive voluntary mental
8 health treatment?

9 A Correct.

10 MR. AZIZ: All right. That's all I have.

11 QUESTIONS BY MR. MAAG:

12 Q You were asked questions about whether or
13 not the State Police has the authority to make
14 rules. Do you remember that question?

15 A Yes.

16 Q Does the authority to make rules supercede
17 an agency's or a person's obligations under the
18 United States Constitution?

19 MR. AZIZ: Objection, calls for a legal
20 conclusion.

21 THE WITNESS: I don't know.

22 Q (By Mr. Maag): You don't know?

23 A No.

24 Q You were asked whether the State Police
25 promulgated regulations that defined substantially

1 similar. Do you remember that question?

2 A Yes.

3 Q Did the statute itself define
4 substantially similar?

5 A No.

6 Q Would it not be a reasonable
7 interpretation of substantially similar to simply be
8 a State that issues a Concealed Carry license?

9 MR. AZIZ: Objection, calls for a legal
10 conclusion.

11 THE WITNESS: No.

12 Q (By Mr. Maag): That wouldn't be a
13 reasonable interpretation, what I said?

14 A Not necessarily. There are States that
15 issue Concealed Carry permits or licenses that don't
16 even do backgrounds checks.

17 Q And what's one of those States?

18 A I can't think of one off the top of my
19 head, but I know I have seen documentation on that.
20 And that is dated documentation on that, and I know
21 things change very quickly from State to State.

22 Q So, you're unable to name a single State
23 today --

24 A Well, I would need to do some research.

25 Q I understand. But, as you sit here today,

1 you are unable to list a single State that issues a
2 Concealed Carry or Concealed Firearms license
3 without a background check?

4 A Right, I can't list one today.

5 Q Let's assume hypothetically that a person,
6 whether they're a resident or a non-resident, it
7 doesn't really matter, was issued an Illinois
8 Concealed Firearms license, put a firearm in their
9 pocket, concealed it, and would be walking down the
10 street and was arrested for -- doesn't matter what
11 the underlying offense is. The pistol was found and
12 it was determined that that person was in reality a
13 felon. Would the fact that they had an Illinois
14 Concealed Carry License prevent them from being
15 prosecuted for being a felon in possession?

16 MR. AZIZ: Objection, calls for a legal
17 conclusion, relevance.

18 THE WITNESS: I don't know for sure. I
19 don't know.

20 Q (By Mr. Maag): And that's true for a
21 person that may have a mental health
22 disqualification as well, correct?

23 MR. AZIZ: Objection. She answered the
24 previous question stating she did not know.

25 MR. MAAG: I understand.

1 THE WITNESS: So, the question is?

2 Q (By Mr. Maag): The question is a person
3 that arguably -- the person that had an Illinois
4 State Concealed Carry license that had some sort of
5 mental health disqualification that Illinois
6 recognized would still be subject to violations of
7 the law for violating the mental health
8 promulgations whether or not they actually had an
9 Illinois Concealed Carry license, correct?

10 A I don't know.

11 Q Does Illinois issue a Concealed Carry
12 license to any -- to a resident of a territory of
13 the United States, i.e., not one of the forty-nine
14 other States -- you were asked about territories.

15 A There's four other States. Is that what
16 you're asking?

17 Q Okay. I'll rephrase it. Illinois will
18 issue as I understand it a non-resident Concealed
19 Carry license to residents in four States,
20 specifically, Virginia, I think it's New Mexico,
21 Hawaii, and California --

22 A South Carolina, in this case.

23 Q South Carolina, okay. Will Illinois issue
24 a non-resident Concealed Carry license to a resident
25 of Puerto Rico, Guam, or any of the other U.S.

1 territories that are not U.S. States?

2 A No.

3 Q You were asked about reporting
4 requirements for Illinois residents. Isn't the real
5 issue reporting requirements for Illinois physicians
6 because it's the Illinois physician that may have an
7 obligation to report regardless of whether a person
8 is an Illinois resident or not, correct?

9 MR. AZIZ: Objection, argumentative. Go
10 ahead.

11 THE WITNESS: Well, if we're talking about
12 a hospitalization, it is an Illinois facility
13 that is required to report.

14 Q (By Mr. Maag): And that would be true
15 whether the person was a resident of Illinois,
16 Montana, or Mongolia?

17 A I believe so. I haven't reviewed that
18 statute specifically. I'm assuming it doesn't list
19 only Illinois residents.

20 Q Okay.

21 A I do not know that for sure.

22 Q And you were asked by Mr. Aziz about -- if
23 an applicant for a firearms license sought mental
24 health treatment that was otherwise disqualified in
25 Illinois outside of Illinois and then checked on the

1 application "No," that they didn't receive such
2 treatment, that would be a criminal offense, is that
3 correct?

4 A Yeah.

5 Q And that's true whether or not the
6 applicant was an Illinois resident, a resident of
7 Montana, or a resident of some foreign nation,
8 correct?

9 A Yes.

10 Q So, if someone wanted to violate the law,
11 I believe was the question, that's one possible
12 outcome, correct?

13 A Yes.

14 Q Another possible outcome if someone just
15 wanted to violate the law is they carry a firearm
16 without the appropriate license, correct?

17 A Yes.

18 Q Wouldn't it be more advantageous to the
19 State to know who potentially was carrying a firearm
20 as opposed to not knowing?

21 A Probably.

22 MR. MAAG: No further questions.

23 QUESTIONS BY MR. AZIZ:

24 Q Just on a couple points, just that you're
25 not an attorney, correct?

1 A No.

2 Q We've been using the term "substantially
3 similar." From your understanding, the law speaks
4 to substantially similar to what?

5 A To the laws and regulations in our State.

6 Q So, when we use the term "substantially
7 similar," we're trying to find States that -- whose
8 firearm laws are substantially similar to our laws,
9 correct?

10 A Correct.

11 Q Now, you're familiar with the FOID Act --

12 A Yes.

13 Q -- and the Firearm and Concealed Carry Act
14 which provides for licensure to possess and carry
15 firearms, correct?

16 A Yes.

17 Q And the State of Illinois has created
18 statutes and regulations to your knowledge that
19 basically condition licensure on certain criminal
20 history, certain mental health history --

21 A Right.

22 Q -- and age? And a multitude of other
23 factors?

24 A Yeah.

25 Q So, you had mentioned that you were

1 generally aware that there may be States that don't
2 do any -- I think you used the term "background
3 check"?

4 A Uh-huh.

5 Q And you weren't able to identify a
6 specific State. But, are you aware of States that
7 don't require licensure to possess firearms?

8 A Yeah.

9 Q Do you know of any of those?

10 A I was trying to think of the name. I'd be
11 pulling it out of --

12 Q Okay.

13 A I'm not a hundred percent.

14 Q But, such States exist to your knowledge?

15 A Yes.

16 Q And without a licensure regime, they may
17 not have the same conditions that Illinois places on
18 licensure, correct?

19 A Correct.

20 Q And that has to an extent been put into
21 these surveys and into the definition of
22 substantially similar, right, that -- that
23 disparity?

24 A Right.

25 MR. AZIZ: All right. Nothing further.

1 QUESTIONS BY MR. MAAG:

2 Q Isn't it true that most States do not
3 require a license to possess a firearm?

4 A I can't agree with that without looking.

5 Q Let's look at Virginia, one of the
6 substantially similar States. Isn't it true you
7 don't need a license to possess a firearm in
8 Virginia?

9 MR. AZIZ: Objection, foundation, personal
10 knowledge.

11 THE WITNESS: I don't know.

12 Q (By Mr. Maag): In fact, assuming you
13 comply with Federal law, you can possess machine
14 guns in Virginia, correct?

15 MR. AZIZ: Objection, foundation, personal
16 knowledge.

17 THE WITNESS: I don't know.

18 Q (By Mr. Maag): In Virginia, you can
19 possess assuming you comply with Federal law sawed
20 off shotguns and silencers, correct?

21 A I don't know.

22 Q But, you sent out a survey trying to
23 determine whether the laws were substantially
24 similar, correct?

25 A Yes.

1 Q In New Mexico, that's one of the
2 substantially similar States, isn't it true you
3 don't need a license to possess a firearm in New
4 Mexico?

5 MR. AZIZ: Objection, personal knowledge.

6 THE WITNESS: I don't know. The question
7 we asked is if they had a licensing program for
8 Concealed Carry.

9 Q (By Mr. Maag): Okay. So, the questions
10 Mr. Aziz just asked you about Illinois's licenses to
11 possess firearms and being substantially similar
12 does not factor -- did not factor in at all
13 concerning your agency's determination on whether a
14 State was substantially similar, correct?

15 A Not on all laws.

16 Q Clearly, the ability to possess or not
17 possess firearms without a license was not one of
18 the factors that --

19 A No.

20 Q -- was considered? Clearly, the
21 consideration of whether or not a State allowed
22 possession of machine guns, silencers, sawed off
23 shotguns which Illinois generally doesn't was not
24 one of the factors, correct?

25 A No.

1 Q Virginia, as I understand it, recognizes
2 Concealed Carry licenses under full reciprocity from
3 something like twenty-five other States. Well,
4 that's clearly different than Illinois, isn't it?

5 MR. AZIZ: Objection, foundation.

6 THE WITNESS: It is different.

7 Q (By Mr. Maag): Substantially different,
8 isn't it?

9 MR. AZIZ: Objection, calls for a legal
10 conclusion.

11 THE WITNESS: I don't know.

12 Q (By Mr. Maag): Suffice it to say the only
13 issue that apparently was -- strike that. No
14 further questions.

15 QUESTIONS BY MR. AZIZ:

16 Q The comparison that was made in the
17 substantially similar analysis is as to the ability
18 to Conceal Carry within a State, correct?

19 A Yes.

20 Q And you -- the State Police also inquired
21 about mental health records, both voluntary
22 involuntary, correct?

23 A Yes.

24 Q And to your knowledge, those were the
25 areas of law that the State Police determined to be

1 relevant for the substantially similar analysis, is
2 that right?

3 A That's my understanding, but I believe
4 there were more people involved in that than the
5 State Police.

6 Q Okay. Ultimately, though, the State
7 Police promulgated the regulations regarding
8 substantially similar and its definition, right?

9 A Yes.

10 MR. AZIZ: Okay. Nothing further.

11 MR. MAAG: Nothing further.

12 MR. AZIZ: Have you made a decision on
13 signature?

14 THE WITNESS: Okay, I don't need to read
15 it.

16 MR. AZIZ: Okay, we'll waive signature
17 then.

18 (SIGNATURE OF THE WITNESS WAS
19 WAIVED BY AGREEMENT OF COUNSEL AND CONSENT
20 OF THE WITNESS.)

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CERTIFICATE OF REPORTER

I, RUTH S. MORRIS, an Illinois Certified Shorthand Reporter, do hereby certify that the witness whose testimony appears in the foregoing deposition transcript was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability, and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto; nor am I financially or otherwise interested in the outcome of this action.

IN WITNESS WHEREOF I have hereunto set my hand this 15th day of January, 2016.

Ruth S. Morris

MO CCR 1154

<p>1</p> <p>1 9:20, 36:1, 54:18 20:24, 21:2, 21:5, 21:9, 23:6, 23:13 1000 5 4:19 11 23:25 1154 7:1, 22 13 31:13 14 3:11, 32:13, 32:17 15 3:11, 36:1 15-780-NJR-SCW 1:10, 3:9 13th 7:1, 17 29 15 16 37:4 1600 4:4, 22 1993 7:11 1995 7:5, 7:12</p>	<p>accurate 8:18, 10:5, 18:19 18:21, 19:18, 32:16 across 40:5, 40:7, 55:3 Act 11:22, 11:23, 15:13, 15:20, 22:17, 22:20, 52:7, 53:13 53:14, 53:20, 53:23, 54:10, 55:11, 65:13 action 71:10, 71:15 activities 58:4 activities 8:3 additionals 13:14, 27:12, 27:17, 29 15 additions 32:10 address 12:5, 15:8, 16:14, 17:13, 18:18, 18:25, 19:4, 19:9, 22:8 addressed 9:19 addressing 18:17 adjudicated 37:9, 41:24, 42:19, 47:4 adjudications 41:6 adjudicators 7:21 administrators 6:13 Administration 8:6 administrative 54:8 admissions 58:8 Admit 51:23 admittedly 50:21 advantageous 64:18 affairs 42:17 affidavit 2:15 8:19, 8:21, 9:12, 10:8, 10:25, 16:25, 17:1, 19:25, 22:22, 23:18, 27:5 30:23, 30:4, 51:14 afterwards 5 against 13:17, 16:14 14:8, 16:13, 16:14 age 5:12, 65:22 agencies 20:9 agency 21:14, 39:23, 46:24, 47:7, 48:10, 54:6, 57:1 agency's 59:17, 68:13 agree 29:12 29:15, 50:20, 67:4 AGREED 5:1 AGREEMENT 5:1, 70:19 ahead 8:24, 11:18, 16:1, 63:10 airman 38:2, 38:3 Alabama 30:2 Alaska 32:20 alien 13:16 allowed 68:21 allows 54:7 already 9:19, 17:16, 20:3, 20:17, 36:4, 51:10 alternate 16:11 alternatives 17:4, 17:5, 18:12, 19:7 amending 48:4 amount 35:3 amounts 28:11, 28:14, 28:16 analysts 69:17, 70:1 Angales 30:25 announcement 48:3 answered 37:2, 61:23 answers 46:5 52:1, 52:2, 52:3 anyway 22:19 apart 36:3 apologize 38:5 apparently 18:18, 27:9, 69:13 appear 10:2, 24:3 APPEARANCES 4:1 appeared 55:10 appears 29:7, 71:5 applicant 11:21, 13:2, 15:13, 15:20, 11:21, 13:1, 13:5, 13:12, 14:24, 15:4, 15:5, 34:10, 35:16, 63:23, 64:6 applicants 25:24, 48:10, 55:17 application 6:13,</p>	<p>13:20, 16:5, 16:7, 16:10, 16:11, 16:22, 17:3, 17:3, 17:4, 17:6, 17:8, 17:15, 17:23, 18:6, 18:6, 18:13 18:19, 18:24, 18:25, 19:6, 19:7, 19:9, 19:12 19:18, 19:23, 20:7, 26:22 46:1, 46:22, 57:18, 58:2, 64:1 applications 9:14, 17:20, 16:17, 47:1, 48:16, 53:24, 55:4 applied 25:6 applies 46:11 apply 12:20, 29:3, 44:15, 45:1, 45:11, 57:15 applying 29:19, 29:21, 29:22 appropriate 45:10, 64:16 approximately 35:6 arbitrary 26:16 areas 69:25 arguably 62:3 argue 30:19, 44:18, 44:20 argumentative 28:17, 43:9, 63:9 arrested 27:9, 45:22, 61:10 articulate 31:8 asking 46:23 30:11, 54:5, 62:16 asks 46:2 aspect 23:1 assigned 6:22, 7:2 assume 26:7, 28:9, 44:14, 61:5 assuming 21:24, 29:20, 34:21, 44:25, 50:25, 56:13, 58:5, 63:18, 67:12, 67:19 attach 14:17, 16:19, 17:18 attached 17:1, 27:5 attempt 54:24, 58:3 attorney 4:11 48:3, 64:25, 71:12 attorneys 52:10, 52:17 authorities 56:22 authority 53:19, 53:22, 54:7, 56:23, 59:13, 59:16 available 22:24, 23:2, 23:20, 43:5, 36:11, 32:4, 32:5, 36:11, 44:23 avoid 40:2 Awards 7:19 Aziz 2:7, 2:9 2:11, 4:14, 15:25, 20:19, 20:21, 20:24, 21:5, 26:17, 30:13, 36:17, 36:20, 36:23, 43:9, 45:3, 47:14, 52:22, 55:8, 53:18, 54:5 55:21, 59:10, 59:12, 60:6, 61:16, 61:23, 63:59, 63:22, 64:23, 66:25, 68:5, 67:9, 67:15, 69:9, 68:11, 70:10, 70:12, 70:16</p>	<p>45:10, 45:13, 66:2 46:23, 63:3, 66:2 backgrounds 60:16 bad 40:4 base 18:11, 38:4, 38:7, 38:8, basic 32:1, 42:15 baseball 65:19 baseballgame.state. 4:16 become 55:14 begin 17:8 behalf 1:16, 3:16, 5:13 belief 28:25, 38:18 Belleville 39:3, 39:13, 58:17 best 71:7 Bial 4:14 birth 17:9, 22:10, bit 16:9, 56:25 56:16, 56:25 blank 1:23 born 25:3, 40:17, 44:18, 44:20 bottom 36:20 break 42:1, 49:2 breakdown 38:14 breaking 58:4 briefly 8:4, 52:6 bureau 5:23, 5:25, 6:1, 6:2, 7:6, 7:13, 7:15, 7:19, 8:16, 9:14, 11:20, 18:17, 19:22 31:4, 31:9, 31:17, 33:16, 34:16, 34:10, 39:8, 40:3, 40:10, 40:21, 46:12, 46:25</p>	<p>certificates 16:20, 71:1 certified 3:19, 5:4, 7:3 certify 71:4 chain 50:8 change 15:18, 60:21 changes 32:8 charge 30:24, 35:1 31:2, 34:24, 34:15, 11:21, 12:1, 12:2, 12:3, 12:9, 11:10, 13:1, 11:5, 13:13, 11:17, 14:7, 14:14, 14:24 13:4, 15:6, 16:5 20:1, 20:4, 24:15, 25:7, 31:22, 32:1, 32:4, 32:5, 40:5 43:6, 43:7, 43:25, 44:1, 45:10 43:13, 48:10, 61:3, 66:3 checked 14:20, 16:13, 16:14, 16:17, 32:15, 35:9, 63:25 checks 13:14, 13:19, 46:23, 60:16 chief 6:1, 8:15 chooses 35:16 chose 54:8 Circuit 27:16 circumstances 53:15 citizen 13:23, 14:3, 14:20 24:10, 28:9, 29:5, 29:16, 31:20 32:14, 32:18, 32:21, 32:22, 33:13, 33:25, 35:12, 38:10, 39:11, 40:12, 40:15, 40:16, 40:22, 40:23, 41:4, 41:7, 41:12 41:13, 42:18 46:3, 46:6, 46:9, 46:10, 46:19 46:20, 47:1, 47:2 47:8, 47:9, 48:23, 48:20, 47:1, 48:23, 30:10 client 18:17, 38:1, 38:13 51:16, 51:19, 53:1, 53:13 54:22, 54:23, 54:25, 55:4, 55:12, 56:5, 56:22, 57:20, 58:5 57:23, 58:4, 58:5 58:19, 59:9, 63:8 61:22, 62:9, 64:12 64:3, 64:8, 64:12 65:9, 65:10, 65:15, 66:18, 66:19, 67:14, 67:20, 67:24, 68:14, 68:24, 69:18, 69:22 cost 29:2 costs 52:2, 5:2, 20:19, 70:19, 71:9, 71:13 Countries 41:10, 41:17, 43:4, 43:22 County 27:16, 29:9, 29:23, 30:10, 31:1, 31:1 31:2, 38:4, 38:12 38:25, 39:13, 40:7, 41:20 couple 64:24 course 20:10, 29:17, 47:24 Court 1:1, 3:1, 30:10 54:21 covers 54:24, 55:3 created 55:2, 65:17 crime 13:9, 57:25 criminal 1:3, 6, 13:8, 13:10, 13:12, 16:24, 24:6, 17:19, 24:5, 24:6, 25:11, 26:9, 25:17, 26:9, 33:21, 42:2, 42:4, 45:20, 45:24, 46:5, 46:8, 50:22, 64:2, 63:16 crux 53:20, 53:23,</p>	<p>54:20, 56:23, 57:16, 60:8, 60:15, 61:2, 61:2, 61:8, 61:9, 61:14, 62:4, 62:9, 62:11, 62:18, 62:24, 65:13, 68:8, 69:2 conceivably 46:15 concerned 14:3 concerns 13:25, 48:4 conclusion 59:20, 60:10, 61:17, 69:10 conditions 65:19 condition 38:13, 66:17 confirmed 23:8, 23:16, 53:10 CONSENT 70:19 consideration 33:17, 68:21 considered 68:20 consistent 20:3, 53:3 Constitution 59:18 consume 15:6 contacted 27:15 contents 23:13 continue 12:22 contradict 46:21 contrary 28:25 control 58:13 conversation 55:9 correct 7:1, 10:18, 11:1, 19:10, 19:14, 23:22, 23:23, 23:24, 24:9, 24:10, 28:9, 29:5, 29:16, 31:20 32:14, 32:18, 32:21, 32:22, 33:13, 33:25, 35:12, 38:10, 39:11, 40:12, 40:15, 40:16, 40:22, 40:23, 41:4, 41:7, 41:12 41:13, 42:18 46:3, 46:6, 46:9, 46:10, 46:19 46:20, 47:1, 47:2 47:8, 47:9, 48:23, 30:10 client 18:17, 38:1, 38:13 51:16, 51:19, 53:1, 53:13 54:22, 54:23, 54:25, 55:4, 55:12, 56:5, 56:22, 57:20, 58:5 57:23, 58:4, 58:5 58:19, 59:9, 63:8 61:22, 62:9, 64:12 64:3, 64:8, 64:12 65:9, 65:10, 65:15, 66:18, 66:19, 67:14, 67:20, 67:24, 68:14, 68:24, 69:18, 69:22 cost 29:2 costs 52:2, 5:2, 20:19, 70:19, 71:9, 71:13 Countries 41:10, 41:17, 43:4, 43:22 County 27:16, 29:9, 29:23, 30:10, 31:1, 31:1 31:2, 38:4, 38:12 38:25, 39:13, 40:7, 41:20 couple 64:24 course 20:10, 29:17, 47:24 Court 1:1, 3:1, 30:10 54:21 covers 54:24, 55:3 created 55:2, 65:17 crime 13:9, 57:25 criminal 1:3, 6, 13:8, 13:10, 13:12, 16:24, 24:6, 17:19, 24:5, 24:6, 25:11, 26:9, 25:17, 26:9, 33:21, 42:2, 42:4, 45:20, 45:24, 46:5, 46:8, 50:22, 64:2, 63:16 crux 53:20, 53:23,</p>
<p>2</p> <p>2 9:20, 30:21 2005 27:9, 30:21 2012 6:19, 41:9, 41:15 2015 23:19 2016 1:20, 3:17, 71:17 216-5291 4:8 217 4:15, 4:22 22 4:5</p>	<p>activities 58:4 activities 8:3 additionals 13:14, 27:12, 27:17, 29 15 additions 32:10 address 12:5, 15:8, 16:14, 17:13, 18:18, 18:25, 19:4, 19:9, 22:8 addressed 9:19 addressing 18:17 adjudicated 37:9, 41:24, 42:19, 47:4 adjudications 41:6 adjudicators 7:21 administrators 6:13 Administration 8:6 administrative 54:8 admissions 58:8 Admit 51:23 admittedly 50:21 advantageous 64:18 affairs 42:17 affidavit 2:15 8:19, 8:21, 9:12, 10:8, 10:25, 16:25, 17:1, 19:25, 22:22, 23:18, 27:5 30:23, 30:4, 51:14 afterwards 5 against 13:17, 16:14 14:8, 16:13, 16:14 age 5:12, 65:22 agencies 20:9 agency 21:14, 39:23, 46:24, 47:7, 48:10, 54:6, 57:1 agency's 59:17, 68:13 agree 29:12 29:15, 50:20, 67:4 AGREED 5:1 AGREEMENT 5:1, 70:19 ahead 8:24, 11:18, 16:1, 63:10 airman 38:2, 38:3 Alabama 30:2 Alaska 32:20 alien 13:16 allowed 68:21 allows 54:7 already 9:19, 17:16, 20:3, 20:17, 36:4, 51:10 alternate 16:11 alternatives 17:4, 17:5, 18:12, 19:7 amending 48:4 amount 35:3 amounts 28:11, 28:14, 28:16 analysts 69:17, 70:1 Angales 30:25 announcement 48:3 answered 37:2, 61:23 answers 46:5 52:1, 52:2, 52:3 anyway 22:19 apart 36:3 apologize 38:5 apparently 18:18, 27:9, 69:13 appear 10:2, 24:3 APPEARANCES 4:1 appeared 55:10 appears 29:7, 71:5 applicant 11:21, 13:2, 15:13, 15:20, 11:21, 13:1, 13:5, 13:12, 14:24, 15:4, 15:5, 34:10, 35:16, 63:23, 64:6 applicants 25:24, 48:10, 55:17 application 6:13,</p>	<p>13:20, 16:5, 16:7, 16:10, 16:11, 16:22, 17:3, 17:3, 17:4, 17:6, 17:8, 17:15, 17:23, 18:6, 18:6, 18:13 18:19, 18:24, 18:25, 19:6, 19:7, 19:9, 19:12 19:18, 19:23, 20:7, 26:22 46:1, 46:22, 57:18, 58:2, 64:1 applications 9:14, 17:20, 16:17, 47:1, 48:16, 53:24, 55:4 applied 25:6 applies 46:11 apply 12:20, 29:3, 44:15, 45:1, 45:11, 57:15 applying 29:19, 29:21, 29:22 appropriate 45:10, 64:16 approximately 35:6 arbitrary 26:16 areas 69:25 arguably 62:3 argue 30:19, 44:18, 44:20 argumentative 28:17, 43:9, 63:9 arrested 27:9, 45:22, 61:10 articulate 31:8 asking 46:23 30:11, 54:5, 62:16 asks 46:2 aspect 23:1 assigned 6:22, 7:2 assume 26:7, 28:9, 44:14, 61:5 assuming 21:24, 29:20, 34:21, 44:25, 50:25, 56:13, 58:5, 63:18, 67:12, 67:19 attach 14:17, 16:19, 17:18 attached 17:1, 27:5 attempt 54:24, 58:3 attorney 4:11 48:3, 64:25, 71:12 attorneys 52:10, 52:17 authorities 56:22 authority 53:19, 53:22, 54:7, 56:23, 59:13, 59:16 available 22:24, 23:2, 23:20, 43:5, 36:11, 32:4, 32:5, 36:11, 44:23 avoid 40:2 Awards 7:19 Aziz 2:7, 2:9 2:11, 4:14, 15:25, 20:19, 20:21, 20:24, 21:5, 26:17, 30:13, 36:17, 36:20, 36:23, 43:9, 45:3, 47:14, 52:22, 55:8, 53:18, 54:5 55:21, 59:10, 59:12, 60:6, 61:16, 61:23, 63:59, 63:22, 64:23, 66:25, 68:5, 67:9, 67:15, 69:9, 68:11, 70:10, 70:12, 70:16</p>	<p>California 31:1, 43:5, 43:23, 62:21 calling 16:13, 30:10 can't 30:17, 67:4 60:18, 61:4, cannot 12:14, 31:12 capacity 8:15, 42:9 capricious 26:16 card 6:13, 10:4, 10:22, 11:5, 11:7, 11:22, 12:1, 12:12, 12:12, 12:18, 14:11, 33:8 15:4, 25:6 cards 15:23 care 42:14 Carolina 62:22, 62:23 carry 6:7, 6:11 6:15, 9:13, 10:4, 11:22, 14:12, 14:15, 15:24, 16:7, 22:14, 25:7, 25:16, 27:24, 29:24, 33:4, 36:7, 37:16, 37:20, 44:15, 45:2, 48:15, 49:7, 50:23, 50:24, 52:6, 53:13, 53:14, 53:20, 53:23, 54:20, 56:54, 57:16, 61:2, 60:8, 60:15, 61:2, 61:14, 62:4, 62:11, 62:19, 62:24, 64:15, 65:13, 65:14, 68:8, 69:2, 69:18 68:16, 69:16, 69:19, 70:19, 71:9, 71:13 case 1:10, 8:14, 8:6, 8:19, 13:21, 26:6, 34:19, 49:8, 49:9, 49:13, 49:16, 58:24, 62:22 cases 41:19, 42:2, 49:4</p>	<p>California 31:1, 43:5, 43:23, 62:21 calling 16:13, 30:10 can't 30:17, 67:4 60:18, 61:4, cannot 12:14, 31:12 capacity 8:15, 42:9 capricious 26:16 card 6:13, 10:4, 10:22, 11:5, 11:7, 11:22, 12:1, 12:12, 12:12, 12:18, 14:11, 33:8 15:4, 25:6 cards 15:23 care 42:14 Carolina 62:22, 62:23 carry 6:7, 6:11 6:15, 9:13, 10:4, 11:22, 14:12, 14:15, 15:24, 16:7, 22:14, 25:7, 25:16, 27:24, 29:24, 33:4, 36:7, 37:16, 37:20, 44:15, 45:2, 48:15, 49:7, 50:23, 50:24, 52:6, 53:13, 53:14, 53:20, 53:23, 54:20, 56:54, 57:16, 61:2, 60:8, 60:15, 61:2, 61:14, 62:4, 62:11, 62:19, 62:24, 64:15, 65:13, 65:14, 68:8, 69:2, 69:18 68:16, 69:16, 69:19, 70:19, 71:9, 71:13 case 1:10, 8:14, 8:6, 8:19, 13:21, 26:6, 34:19, 49:8, 49:9, 49:13, 49:16, 58:24, 62:22 cases 41:19, 42:2, 49:4</p>	<p>certificates 16:20, 71:1 certified 3:19, 5:4, 7:3 certify 71:4 chain 50:8 change 15:18, 60:21 changes 32:8 charge 30:24, 35:1 31:2, 34:24, 34:15, 11:21, 12:1, 12:2, 12:3, 12:9, 11:10, 13:1, 11:5, 13:13, 11:17, 14:7, 14:14, 14:24 13:4, 15:6, 16:5 20:1, 20:4, 24:15, 25:7, 31:22, 32:1, 32:4, 32:5, 40:5 43:6, 43:7, 43:25, 44:1, 45:10 43:13, 48:10, 61:3, 66:3 checked 14:20, 16:13, 16:14, 16:17, 32:15, 35:9, 63:25 checks 13:14, 13:19, 46:23, 60:16 chief 6:1, 8:15 chooses 35:16 chose 54:8 Circuit 27:16 circumstances 53:15 citizen 13:23, 14:3, 14:20 24:10, 28:9, 29:5, 29:16, 31:20 32:14, 32:18, 32:21, 32:22, 33:13, 33:25, 35:12, 38:10, 39:11, 40:12, 40:15, 40:16, 40:22, 40:23, 41:4, 41:7, 41:12 41:13, 42:18 46:3, 46:6, 46:9, 46:10, 46:19 46:20, 47:1, 47:2 47:8, 47:9, 48:23, 30:10 client 18:17, 38:1, 38:13 51:16, 51:19, 53:1, 53:13 54:22, 54:23, 54:25, 55:4, 55:12, 56:5, 56:22, 57:20, 58:5 57:23, 58:4, 58:5 58:19, 59:9, 63:8 61:22, 62:9, 64:12 64:3, 64:8, 64:12 65:9, 65:10, 65:15, 66:18, 66:19, 67:14, 67:20, 67:24, 68:14, 68:24, 69:18, 69:22 cost 29:2 costs 52:2, 5:2, 20:19, 70:19, 71:9, 71:13 Countries 41:10, 41:17, 43:4, 43:22 County 27:16, 29:9, 29:23, 30:10, 31:1, 31:1 31:2, 38:4, 38:12 38:25, 39:13, 40:7, 41:20 couple 64:24 course 20:10, 29:17, 47:24 Court 1:1, 3:1, 30:10 54:21 covers 54:24, 55:3 created 55:2, 65:17 crime 13:9, 57:25 criminal 1:3, 6, 13:8, 13:10, 13:12, 16:24, 24:6, 17:19, 24:5, 24:6, 25:11, 26:9, 25:17, 26:9, 33:21, 42:2, 42:4, 45:20, 45:24, 46:5, 46:8, 50:22, 64:2, 63:16 crux 53:20, 53:23,</p>
<p>3</p> <p>3 9:23, 10:2 30 23:18</p>	<p>activities 58:4 activities 8:3 additionals 13:14, 27:12, 27:17, 29 15 additions 32:10 address 12:5, 15:8, 16:14, 17:13, 18:18, 18:25, 19:4, 19:9, 22:8 addressed 9:19 addressing 18:17 adjudicated 37:9, 41:24, 42:19, 47:4 adjudications 4</p>				

Culp 49:15
current 25:3, 26:3
currently 22:24

D

Dame 8:7
danger 42:13
data 24:19
database 14:5,
21:11, 21:13,
33:22, 41:7, 55:17
databases 13:6,
14:19, 32:15,
33:22, 41:7, 55:23
date 17:12, 22:7,
22:7
dated 60:20
decided 28:13,
44:14
decision 50:3,
70:12
decisions 45:6,
45:8
defective 42:20,
47:4
Defendant 3:13,
4:10, 5:3
Defendant's 51:22
define 54:8, 60:3
defined 10:11,
59:25
defining 54:14
definition 66:21,
70:8
degrees 37:14
delay 25:13
department 7:22,
7:25, 31:4, 31:9,
39:6, 48:2, 50:9
departmental 7:25
departments 7:19,
7:20, 7:23
depend 26:6
depending 13:20,
58:22
deposes 5:13
deposition 1:13,
3:15, 5:3, 8:14,
13:22, 51:9,
51:18, 52:5,
52:12, 52:15,
71:5
describe 11:25
described 19:8
detailed 24:18
determination
49:24, 50:5, 68:13
determine 14:14,
26:23, 40:25,
67:23
determined 37:19,
37:24, 61:12,
69:25
determining 10:23
Development 7:13,
7:14
DHS 39:5, 39:5,
39:15, 40:2, 40:9,
40:21, 47:12
difference 18:1,
28:10, 28:16,
43:1, 43:19
differently 22:4,
26:12
difficulties 45:20
difficulty 29:23,
30:24, 31:5,
45:10, 45:12
direct 5:14, 21:8,
21:12, 36:17
direction 50:4,
71:9
directly 15:9,
54:19
Director 6:23, 7:3
Director's 6:22,
7:4
disabled 41:25
disapprove 46:25
discern 30:20
disclosed 49:17
discovery 49:18
discussed 20:17,
35:25, 36:4, 56:1,
58:25
discussion 28:10
discussions 28:12,
28:19
disparity 66:23
disposition 24:19,
24:24, 30:11
disqualification
61:22, 62:5
disqualification
37:15

disqualified 63:24
dissemination
47:20
distinction 10:3
DISTRICT 1:1, 1:2,
3:1, 3:2
divorce 47:5
document 9:1, 9:7,
9:11, 9:17
documentation
27:13, 60:19,
60:20
documents 51:9,
51:12, 52:4, 52:17
dollar 28:11,
29:14
dollars 28:3,
28:6, 28:7, 29:10,
29:13, 35:4, 35:9
double 29:2, 48:21
downtown 40:6
drafted 50:6, 50:7
driver's 10:12,
10:16, 10:21,
11:3, 12:3, 12:11,
12:17, 14:10,
15:3, 15:13,
17:13, 20:15,
21:17, 21:20,
21:22, 22:11,
22:12, 22:20,
22:23, 23:1,
23:11, 23:21,
25:5, 28:2, 29:25,
30:1, 30:2, 40:14,
43:2, 43:20, 52:25
drivers 21:11
duly 71:6
duties 5:24

E

education 8:5
efficiency 18:12
eighty 48:20
either 19:4, 19:6,
20:14, 23:14,
27:6, 30:24,
33:15, 38:15,
41:19, 46:15
Ella 1:8, 3:5,
38:5
employed 5:19,
5:21, 71:10, 71:13
employee 8:10,
71:12
enforcement 14:8,
20:8, 51:4, 56:22
English 6:3
entered 19:5
equal 40:10
equipment 8:1
equivalent 14:13,
14:15
establishes 53:14
etAcetera 30:2
evade 58:11
evaded 57:10
evaluations 8:1
everybody 45:17
everyone 24:15
everything 16:21,
21:24
evidence 46:14
exact 35:3
exactly 57:1
examination 2:6,
2:7, 2:8, 2:9,
2:10, 2:11, 5:14,
52:24
examined 3:16,
5:12
example 42:3,
42:5, 42:6, 42:7
exceptions 50:22,
51:1, 51:2
Excluding 52:10
Exhibit 8:25, 9:3,
9:9
EXHIBITS 2:13
exist 7:16, 48:12,
66:14
exists 25:22
expert 23:9
expiration 22:7
expired 12:14
explained 11:10,
11:15
explaining 13:1,

31:17
extensive 11:20,
13:1
extent 66:20
extra 29:13
eye 16:16

F

facilities 38:8,
38:11, 39:20
facility 37:14,
38:20, 38:24,
39:3, 39:12, 40:6,
63:12
facto 10:14
factor 10:20,
68:12, 68:12
factors 65:23,
68:18, 68:24
fair 21:7, 42:22,
49:17
false 46:9, 57:17
familiar 65:11
FBI 13:8, 34:17,
34:24, 35:11,
35:14
FBI's 35:22
February 6:19
Federal 13:7,
13:8, 15:14, 24:9,
33:22, 35:8, 41:7,
47:24, 48:2,
67:13, 67:19
fee 29:14
felon 61:13, 61:15
felony 24:23
field 8:2, 22:3
fifty 28:2, 29:13
file 16:13, 16:15,
33:12, 33:19,
34:2, 34:7
files 13:11, 14:5,
24:9, 34:9
fill 17:23, 19:12
filled 56:21
final 24:18, 24:23
financial 42:16
financially 71:14
fine 14:23, 28:20
fingerprint 33:12,
33:19, 34:2, 34:7,
34:17
fingerprints
32:23, 33:5, 33:9,
33:15, 33:24,
34:11, 34:14,
35:13, 35:17,
48:16, 48:18,
48:19, 48:21
finish 12:9
firearm 6:5, 6:9,
6:12, 11:22,
42:20, 50:23,
53:12, 53:13,
53:20, 54:20,
61:8, 64:15,
64:19, 65:8,
65:13, 67:3, 67:7,
68:3
firearms 5:23,
5:25, 6:1, 6:6,
7:5, 8:15, 19:17,
19:22, 37:10,
37:15, 61:2, 61:8,
63:23, 65:15,
66:7, 68:11, 68:17
FIRM 4:4
fishing 51:7, 51:7
focus 13:22
FOID 6:5, 6:13,
6:13, 10:4, 11:22,
15:23, 25:6, 33:8,
65:11
follow 25:19,
26:13, 27:1,
52:23, 54:8
follows 43:15
Force 38:4, 38:7,
39:1
foregoing 71:5
foreign 64:7
forget 27:7
former 25:14,
50:18
forth 27:1
forty 25:4
forty-four 19:20
forty-nine 39:17,
39:21, 54:21,
62:13
foundation 15:25,
45:3, 67:9, 67:15,
69:5
front 27:1
full 17:12, 33:21,

69:2
fully 16:24
functioning 21:24

G

gaps 48:12
gather 56:9, 58:3
gathered 53:6
gathering 58:11
general 27:11,
48:3, 49:6
GENERAL'S 4:11
generally 6:9,
6:11, 9:11, 9:12,
16:16, 47:17,
47:19, 47:21,
50:21, 54:16,
66:1, 68:23
generically 38:3,
38:12
gets 44:25
given 26:14,
33:17, 50:4
gives 54:11
goes 10:20
Governor 50:18
Governor's 50:9,
50:12
Grady-paswater
4:21
granting 7:21
grants 7:21, 7:22
Guam 62:25
guardianship 42:11
guess 28:7, 39:8
guilty 42:2
guns 67:14, 68:22

H

hair 16:16
handed 9:8
handled 7:19
happen 30:4
happened 19:2,
31:6
haven't 26:21,
63:17
having 29:23,
30:24, 31:5, 37:9,
40:3, 47:11, 51:7
Hawaii 44:19,
62:21
he's 44:16, 44:16,
44:19, 44:21
Headquarters 3:17
health 26:11,
26:22, 37:5,
37:13, 38:8,
38:13, 38:21,
39:20, 39:24,
40:6, 40:19, 41:6,
43:7, 44:1, 45:24,
46:2, 47:22, 48:2,
48:10, 56:3, 56:8,
56:19, 57:4,
57:10, 57:13,
58:17, 59:8,
61:21, 62:5, 62:7,
63:24, 65:20,
69:21
helpful 16:2,
33:16
hereby 5:1, 71:4
hereto 71:13
hereunto 71:16
highly 42:25,
43:17
HIPAA 47:13,
47:18, 47:19, 48:6
histories 26:10,
26:11
history 13:6,
13:9, 13:10,
16:24, 17:19,
24:5, 24:6, 24:17,
24:20, 25:11,
33:21, 45:20,
46:3, 65:20, 65:20
hospital 39:19
hospitalization
63:12
hospitals 38:11,
47:11
Hot 13:11, 14:5,
24:8
However 41:18
Human 39:6, 48:2
hundred 28:2,
28:6, 28:7, 29:13,
32:16, 41:10,
41:17, 43:4,
43:22, 48:20,
53:2, 66:13

hypothetical 26:5,
55:10
hypothetically
40:2, 42:12, 61:5
hypotheticals 57:9

I

I.D 15:4, 20:15,
30:1
i.e 38:13, 49:6,
62:13
ID 15:14, 15:20,
22:17, 22:20
idea 38:19
identical 26:7,
26:7, 26:9, 26:10,
29:22, 29:24
identification
6:6, 6:10, 6:12,
9:2, 10:13, 10:16,
10:22, 11:5, 12:4,
12:12, 12:18,
14:11, 17:11,
34:16
identifiers 16:15
identify 66:5
identity 15:7,
20:2, 20:13
IL 4:6, 4:13, 4:20
Illegal 57:22
Illinois 1:2, 3:2,
3:17, 3:18, 3:19,
4:11, 4:18, 5:4,
5:22, 6:14, 6:25,
7:3, 10:12, 10:13,
10:16, 10:16,
10:22, 10:22,
11:4, 11:4, 12:5,
12:17, 12:18,
13:10, 13:11,
14:4, 14:5, 15:3,
15:3, 15:13,
19:16, 20:8,
20:13, 22:17,
24:4, 24:8, 24:16,
24:17, 25:3, 25:5,
25:6, 25:15,
25:25, 27:21,
29:3, 29:4, 29:18,
29:20, 29:21,
29:25, 29:25,
32:20, 32:24,
33:3, 33:8, 33:18,
34:1, 34:6, 34:13,
35:19, 36:5, 36:6,
37:8, 37:15,
37:18, 37:23
38:4, 39:3, 39:5,
39:6, 39:7, 39:10,
39:13, 39:15,
39:23, 40:1,
40:14, 40:14,
40:18, 40:25,
41:11, 41:11,
43:2, 43:4, 43:20,
43:23, 44:10,
44:12, 44:21,
44:23, 45:1,
46:13, 48:11,
49:6, 50:23,
50:23, 55:10,
55:14, 55:16,
55:22, 56:6, 57:6,
57:10, 57:14,
58:7, 58:12, 61:7,
61:13, 62:3, 62:5,
62:9, 62:11,
62:17, 62:23
63:4, 63:5, 63:6,
63:8, 63:12,
63:15, 63:19,
63:25, 63:25,
64:6, 65:17,
66:17, 68:23,
69:4, 71:3
Illinois's 24:6,
47:11, 68:10
images 22:24,
23:20
immigration 13:17
improved 41:14
include 13:6,
13:7, 24:22, 42:1,
47:21
included 42:11,
48:22
includes 12:2
including 16:14
incorrectly 46:16
increase 18:12
indeed 15:1
Indiana 8:7
indicated 23:20,
27:14, 41:18, 57:7
indicating 36:14,

48:24, 51:20
indication 31:4
individual 10:11,
12:3, 17:7, 34:19,
43:7, 43:8, 44:1,
44:2, 56:6, 57:9,
57:13
Indonesia 44:16
inferring 24:14
informally 30:11
information 13:9,
13:11, 15:6, 15:9,
16:2, 17:12, 18:4,
18:15, 21:23,
22:10, 23:4, 23:6,
23:19, 24:18,
27:17, 32:3,
32:14, 36:4, 37:5,
46:9, 46:22, 53:6,
53:11, 56:2,
56:10, 57:5, 58:3,
58:11, 58:18
initial 9:20,
31:22, 32:4
initialing 20:8
inquired 69:20
Inquiry 6:7, 24:7
insanity 42:3
instance 31:9,
41:9, 42:15, 44:9,
51:3
Instant 13:12
institutionaliza
57:4
insure 15:11
interested 71:14
interpret 32:13,
53:20
interpretation
54:6, 60:7, 60:13
Interrogatories
51:25
interval 32:6
investigation
38:24
involuntarily
38:15, 41:2, 59:3
involuntary 39:9,
39:23, 41:6, 48:5,
56:12, 56:19,
57:3, 69:22
involved 28:12,
28:18, 70:4
involves 49:15
Ipsos 10:14
isn't 58:3, 63:4,
67:2, 67:6, 68:2,
69:4, 69:8
issuance 22:7
issue 29:7, 29:22,
60:15, 62:11,
62:18, 62:23,
63:5, 69:13
issued 11:3, 47:7,
61:7
issues 31:7,
33:16, 39:2,
45:24, 45:24,
60:8, 61:1
issuing 36:7,
37:20
items 17:16, 17:17
itself 13:20, 60:3

J

Jackson 27:16,
29:9, 29:23,
30:10, 31:2
January 1:20,
3:16, 71:17
Jennifer 4:21
Jessica 1:8, 1:13,
2:5, 3:11, 3:15,
5:11, 5:18
job 5:24, 5:24,
26:25
Judgment 27:6,
27:7

K

Kenya 44:17
Kevin 49:15
knowing 15:19,
64:20
knowledge 11:2,
18:20, 18:22,
47:14, 54:10,
56:18, 58:19,
65:18, 66:14,
67:10, 67:16,
68:5, 69:24
known 15:17

<p>L</p> <p>lady 27:8, 29:8, 29:17, 30:5 language 53:15 law 4:4, 14:8 20:8, 4:21, 51:3, 56:21, 58:4, 58:10, 62:7, 64:10, 64:15, 65:3, 67:13 67:19, 69:25 lawful 5:12, 65:5, laws 26:13, 67:23, 68:8, learn 40:11 learned 39:1 least 13:22, 27:14, 44:17, 44:19, 46:13, 51:14, left-hand 36:21 legal 50:9, 59:19, 60:9, 61:16, 69:9 legible 34:21 legislator 45:7, legislature 45:7, 46:24 let s 13:22, 44:14, 49:1, 58:17, 58:24, 61:5, 67:5 license 9:13, 10:5, 10:12, 10:16, 10:21 11:3, 11:3, 12:11, 12:16, 14:10, 15:3, 15:9, 15:14, 17:13, 20:14, 20:15, 21:17, 21:20, 21:23, 22:6, 23:11, 22:1, 22:14, 23:2, 23:11, 23:20, 23:11, 25:5, 25:7, 25:16, 27:21, 27:24, 28:2, 29:4, 30:1, 30:2, 32:24, 33:4, 34:12, 36:7, 36:7, 37:15, 37:16, 37:20, 40:15, 43:3, 43:20, 44:15, 45:2, 46:2, 47:7, 50:24, 51:7, 53:1, 57:16, 60:8, 61:2, 61:8, 61:14, 62:4, 62:9, 62:12, 63:19, 62:24, 63:23, 64:16, 67:3, 67:7, 68:3, 68:17</p> <p>licensees 23:21 licenses 15:24, 31:18, 33:15, 37:11, 46:12, 60:15, 68:10, 69:2 licensing 6:8, 6:15, 68:7, 68:14, 69:19, 66:7, 66:16, 66:18 listed 22:25 literally 40:4 lived 25:4, 26:8, 44:9, 44:16, 44:19, 44:21 lives 44:22 LLC 4:4 loaded 50:11 local 7:22 locate 24:5 log 23:10 longer 7:16, 42:16 looking 14:1, 14:11, 32:7, 51:20, 67:4 looks 18:13 looting 27:10, 30:20 Lorena 4:5 lose 30:25 loss 42:20 losing 42:8 Louis 40:6</p> <p>M</p> <p>Maag 2:6, 2:8, 2:10, 4:4, 4:7, 5:15, 8:24, 9:4, 16:3, 20:20,</p>	<p>20:23, 21:1, 21:7, 21:8, 26:18, 30:14, 36:19, 36:25, 43:10, 43:12, 44:6, 45:5, 47:15, 49:4, 53:16, 53:25 55:1, 55:9, 55:18, 59:1, 59:22, 60:12, 61:20, 61:25, 62:2, 63:14, 64:22, 67:1, 67:12, 67:18, 68:9, 69:7, 69:12, 70:11 machine 67:13, 68:22 maintained 24:7 maintains 55:17 makes 37:11, 43:7, 50:3 making 10:2, 33:11, 44:8, 54:7 manage 47:5 manner 52:5 mark 8:24 marked 9:1, 9:8 Mary's 8:7, 15:8, match 15:7, 15:8, matter 14:23, 15:1, 15:2, 34:22, 61:7, 63:10 maybe 13:7, 24:22 meaning 41:19 meant 25:24, 28:2 mechanism 18:18, 19:8, 19:11 medical 39:19, 47:20 meet 41:20, 50:25 mental 26:10, 50:25 67:21, 37:5, 37:9, 37:13, 38:7, 38:19, 39:23, 39:20, 39:23, 40:6, 40:19, 41:6, 41:24, 42:8, 44:1, 45:23, 46:2, 47:21, 48:10, 56:3, 56:8, 56:19, 57:4, 57:10 57:13, 58:16, 62:5, 62:7, 63:23 65:20, 69:21 mentally 41:25, 47:4 mentioned 21:4, 65:25 8:8 message 14:18 methodology 30:16 Mexico 62:20, 68:1 midway 12:25 Milwaukee 31:1 mine 48:24 minute 49:1 misdemeanor 24:23 Miss 18:17, 18:23 Mississippi 27:9, 27:16, 28:8, 29:9, 29:24, 30:1, 31:2, 40:5 Missouri 24:11 Missstate 24:4 MO 71:22 mobile 42:25, 43:17 moment 9:4,4 money 28:14 29:13, 29:16 Mongolia 63:16 Montana 18:18, 18:24, 19:4, 19:9, 19:12, 19:21, 21:16, 21:20, 21:22, 21:20, 22:25, 23:1, 25:3, 25:4, 25:9, 25:12, 25:14, 25:17, 25:18, 26:3, 26:4, 31:5, 31:10, 32:20, 36:9, 36:5, 36:8, 36:9, 37:19, 37:21, 43:5, 43:24, 53:1, 55:11, 55:11, 56:15, 56:18, 56:22, 57:2, 57:5,</p>	<p>59:1, 63:16, 64:7 Montana 5, 21:11 months 25:15, 26:4, 26:9 Morris's 3:19, 5:4, 71:3, 71:21, 71:14, mostly 17:11, 27:7 motion 27:6, 27:7 moved 25:4, 25:15, 29:18, 29:20 moving 44:11 multitude 65:22 myself 28:7</p> <p>N</p> <p>national 64:7 National 13:9, 13:12, 14:8 33:12, 33:18, 34:2, 34:7 NCIC 13:9, 14:4, 34:8 necessarily 26:19, 30:25, 31:21, 60:14 necessary 32:23, 33:1, 33:14 needs 10:4 needing 42:15 neither 40:9, 71:9 NICS 13:11, 14:6, 36:13 ninety 14:8, 14:18, 21:14, 21:21, 21:22, 22:4, 23:2, 23:4, 23:7, 23:9, 23:10, 23:15, 23:16, 23:21, 52:25 non 13:16, 29:3 non-resident 10:9, 10:14, 17:19, 14:7, 28:4, 34:11, 49:6, 53:24, 54:21, 53:3, 58:16, 61:6, 62:18, 62:24 non-residents 10:3, 48:13 nor 40:9, 71:10, 71:13 note 22:13 nothing 10:23, 46:21, 66:25, 70:10, 70:11 notified 20:9 Notre 8:7 November 23:18 nowhere 31:5 numbers 28:8, 36:21</p> <p>O</p> <p>o-o-o 5:9 oath 46:6 Obama 44:14 44:24, 44:25, 44:31 object 20:9, 55:18 53:16, 55:15, 55:25, objection 15:25, 26:17, 30:13 43:9, 45:3, 47:14, 53:25, 55:18, 59:19, 60:9, 61:16, 61:23 63:9, 67:9, 67:15, 68:5, 69:5, 69:9, 63:7 obligation 39:22, 63:7 obligations 59:17 obligated 39:7 obtain 27:17 obvious 42:5, 42:6 obviously 50:14 occur 19:4 offense 46:8, 64:2 50:22, 61:11, 64:2 office 4:11, 6:22, 7:4, 11:11, 11:15, 27:14, 30:24, 50:10, 50:12 officer 8:8, 8:11, 51:4 officers 8:1 official 8:15, 49:14, 49:15, ones 49:21 opinion 26:24 opposed 18:6, 64:20 optional 32:25</p>	<p>order 18:8, 57:17 orders 27:3 original 49:18 others 42:14 otherwise 42:13, 42:14, 63:24, 71:14 out-of-state 12:19, 21:17, 23:11 outcome 30:20, 64:12, 64:14, 71:14 outlines 47:19 outside 14:1, 63:25 overall 9:13 overseer 6:5 overturned 42:10 Owner's 6:6, 6:10, 6:12</p> <p>P</p> <p>Paragraph 9:23, 10:2, 11:18, 11:19, 16:3, 19:23, 20:6, 20:12, 20:18, 21:5, 20:22, 21:2, 21:5, 21:9, 23:6, 23:13, 32:1, 32:13, 32:16, 35:13, 32:16, 35:13, 37:4 36:1 paraphrasing 16:6, 20:10, 20:11 participate 33:20, 34:1 participates 33:18 particular 28:16 parties 71:10, 71:13 Pascoquia 27:8, 29:8, 29:18, 37:14 past 24:17, 29:14 pay 28:5, 29:14 payment 17:14 Pennsylvania 44:23 pending 49:5 per 41:22, 48:3 percent 32:16, 53:2, 66:13 performed 28:22 performing 13:15, 20:2, 31:22 performing 14:24 performa 11:20 period 42:10, 48:21 periodically 31:17 permit 14:13, 22:15, 56:24, 56:24 permits 49:7, 60:15 person's 22:6, 59:17 personal 16:15, 17:11, 26:25, 47:14, 67:5, 67:15, 68:5 personally 27:15, 30:25 persons 31:18, 61:5, 61:5, 7:20, 7:20, 54:20, 56:24, 68:7 prohibits 37:8 phase 16:4 photograph 15:7, 17:19 photographed 12:6 photographs 23:2, 53:8 photos 53:1 physician 63:6 physicians 63:5 pick 17:22 picking 30:9, 61:11 places 66:17 plain 6:3 plaintiff 1:16, 2:4, 3:7, 3:16, 4:3, 5:2, 5:13, 58:25 plaintiff's 2:15, 8:5, 9:3, 9:8, 51:23 12:22, 32:13, 36:19 please 5:17, 8:25, 10:23, 13:21, 15:23, 15:4, 15:5, 29:23, 33:3, 36:6, 37:20, 51:18, 52:5</p>	<p>police 3:17, 4:18, 5:22, 6:23, 6:25, 7:3, 7:12, 7:22, 8:9, 24:8, 35:19, 39:8, 39:15, 53:18, 54:13, 55:24, 56:1, 56:9, 58:22, 59:4, 59:15, 59:24, 59:20, 60:25, 70:5, 70:17, Police's 58:13, 58:19 policy 7:24 popular 28:25 populate 18:18, 19:8 position 6:18, 6:21, 58:7, 24:2, 31:14, 31:15, 32:12 real 15:14, 15:19, 22:17, 22:20, 63:4, reality 61:12 really 28:15, 28:15, 40:4, 43:1, 43:18, 50:2, 61:7, reason 25:21, 61:7, 36:5, 37:18, 42:3, 46:25, 50:15 reasonable 60:6, 60:13 receive 56:8, 59:7, 64:1 received 58:16 rechecks 31:17 reciprocity 69:2 recognize 9:7, 34:18, 38:1 recognized 35:18, 62:6 recognizes 69:1 recognition 27:0, 27:11 record 5:16 14:18, 20:25 24:7, 31:3, 49:1, 49:3, 50:17 Records 24:6 recorded 25:12, 29:10, 29:24, 30:8, 31:3, 31:5, 31:10, 46:3, 43:14, 61:24 42:20, 47:25, 69:21 56:3, 57:15, 57:20 redirect 71:8 reduced 16:4, 17:2, 20:1, 20:12 reference 30:23, 31:21, 30:23, 33:12, 39:4, 54:3 referenced 27:5, 27:8, 52:18 referring 20:21 reflected 54:16 regard 53:15, 53:23 regarding 7:25, 9, 8:1, 9:12, 57:9, 70:7 regardless 63:7 regime 66:16 regulations 50:17, 48:4, 54:14, 59:25, 65:5, 65:18, 70:7 related 71:9 relevance 30:13, 45:4, 61:7 relevant 10:23, 33:16, 70:1 reply 21:13, 21:14 remind 51:11 repeat 43:11, 55:20 rephrase 14:25, 21 62:17 report 39:7, 39:14, 39:22, 47:11, 56:18, 63:7, 63:13 reportable 40:21, 55:15 reported 40:2, 41:6, 41:1, 41:8 reporter 3:19, 5:5, 9:2, 43:15, 71:1, 71:4 reporting 13:10, 41:21, 41:22, 63:3, 68:5, 55:23, 63:3, 63:5</p>	<p>Q</p> <p>qualify 25:16, 25:18, 47:7, quality 16:5, 16:21 questioned 57:8 quickly 60:21 Quinn 50:13, 50:17</p> <p>R</p> <p>raised 40:17 ran 21:22 range 33:6 rank 38:5 ready 9:5, 24:1, 24:2, 31:14, 31:15, 32:12 real 15:14, 15:19, 22:17, 22:20, 63:4, reality 61:12 really 28:15, 28:15, 40:4, 43:1, 43:18, 50:2, 61:7, reason 25:21, 61:7, 36:5, 37:18, 42:3, 46:25, 50:15 reasonable 60:6, 60:13 receive 56:8, 59:7, 64:1 received 58:16 rechecks 31:17 reciprocity 69:2 recognize 9:7, 34:18, 38:1 recognized 35:18, 62:6 recognizes 69:1 recognition 27:0, 27:11 record 5:16 14:18, 20:25 24:7, 31:3, 49:1, 49:3, 50:17 Records 24:6 recorded 25:12, 29:10, 29:24, 30:8, 31:3, 31:5, 31:10, 46:3, 43:14, 61:24 42:20, 47:25, 69:21 56:3, 57:15, 57:20 redirect 71:8 reduced 16:4, 17:2, 20:1, 20:12 reference 30:23, 31:21, 30:23, 33:12, 39:4, 54:3 referenced 27:5, 27:8, 52:18 referring 20:21 reflected 54:16 regard 53:15, 53:23 regarding 7:25, 9, 8:1, 9:12, 57:9, 70:7 regardless 63:7 regime 66:16 regulations 50:17, 48:4, 54:14, 59:25, 65:5, 65:18, 70:7 related 71:9 relevance 30:13, 45:4, 61:7 relevant 10:23, 33:16, 70:1 reply 21:13, 21:14 remind 51:11 repeat 43:11, 55:20 rephrase 14:25, 21 62:17 report 39:7, 39:14, 39:22, 47:11, 56:18, 63:7, 63:13 reportable 40:21, 55:15 reported 40:2, 41:6, 41:1, 41:8 reporter 3:19, 5:5, 9:2, 43:15, 71:1, 71:4 reporting 13:10, 41:21, 41:22, 63:3, 68:5, 55:23, 63:3, 63:5</p>
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7. In addition to the processes described above, the applicant's information is made available to Illinois law enforcement agencies, which may submit an objection to a CCL applicant based upon a reasonable suspicion that the applicant is a danger to himself, herself, or others, or is a threat to public safety. If a law enforcement objection is received, the CCL application is referred to the Concealed Carry Licensing Review Board, which reviews information submitted by the objecting law enforcement agency and the applicant. If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself, herself, or others, or is a threat to public safety, then the Board affirms the objection of the law enforcement agency and notifies the Bureau that the applicant is ineligible for a license.

8. These various background check processes are intended to ensure public safety by identifying persons who are unqualified to carry firearms as responsible citizens.

Difficulties Verifying Non-Resident Applicants' Identities

9. As discussed above, the Bureau must verify a CCL applicant's identity while processing the application. For Illinois residents, an applicant's identity is verified through use of the Illinois Secretary of State's (SOS) driver's license or state ID systems to cross-reference the applicant's name, address, photo, and signature.

10. ISP does not have direct access to other states' driver's license, state ID or similar databases. To verify a non-resident's identity, the Bureau must rely on NLETS to check the validity of an out of state driver's license, including personal identifiers of the individual and address. Currently, ISP is not able to receive identifying photographs or signatures from NLETS, but has contracted for development of a system that will allow ISP to access this information from NLETS. Arizona, California, Colorado, Kansas, New York, New Hampshire, Oklahoma, South Carolina, and the District of Columbia do not currently make images available to NLETS, however.

Difficulties Verifying Non-Resident Criminal History

11. The Bureau must verify that a CCL applicant's criminal history does not render the applicant ineligible for a CCL. For Illinois residents, the Bureau is able to locate criminal history through Illinois' Criminal History Record Inquiry, a system maintained by ISP, from the Computerized Hot Files, and from federal systems.

12. The Firearm Services Bureau does not have direct access to other states' local or state criminal history databases, so the Bureau relies on federal databases to obtain criminal history information. Many states provide the federal databases with only a summary of an arrest, which will often be inadequate to assess the applicant's eligibility for a CCL. If a criminal record from the federal database is incomplete, ISP may request a record from the States' Identification Bureau or from the local jurisdiction, but many jurisdictions, including Los Angeles County, California; Milwaukee County, Wisconsin; and, Jackson County, Mississippi, charge for records, and ISP

does not have funds appropriated to pay for the record. As an example, attached hereto as Affidavit Exhibit A is a printout from the III dated August 17, 2015, redacted for identifying information, of an individual arrested in Mississippi in 2005 and charged with looting, a felony. The information does not disclose the disposition of the charge, however. After requesting criminal history information from Mississippi, ISP received a facsimile transmission, attached hereto as Affidavit Exhibit B, refusing ISP's request for lack of fees. Per the Jackson County Circuit Clerk, Pascagoula, MS, a search of the two criminal courts in Jackson County for the ten-year period (the applicant was arrested in 2005) requires a fee of \$20.00. To obtain information from the two civil courts, an additional \$20.00 is required. If ISP needed to search information for a twenty-year period in all four courts, a fee of \$80.00 is required. This also assumes, of course, that the only relevant information regarding the applicant exists in Jackson County, MS and not other jurisdictions in the state.

13. ISP uses NLETS to determine if the nonresident applicant's state-issued CCL is valid and to check the continued validity of the home-state-issued CCL every 90 days. NCIC is the mechanism criminal justice agencies use to access over 13 million active records. The NCIC database consists of 21 files, including 14 "persons" files including the National Sex Offender Registry, Foreign Fugitives, Immigration Violations, Mission Persons, Orders of Protection, and Wanted Persons. ISP accesses the NICS Index and the III through the NCIC network. The III is the national criminal history record system. When someone purchases a firearm, NICS verifies the validity of the Federal Firearms Licensed dealer and checks the NICS Index or "denied persons" files for persons prohibited from possessing firearms. All CCL applicants are also checked against the NICS Index.

14. The criminal history information available in federal databases may also be insufficient to determine a non-resident's criminal history because states are not uniform in their reporting of different levels and types of offenses. ISP is unable to obtain accurate and updated information via NLETS and NCIC for those states that do not fully participate in the systems.

15. The information available from the III, a federal criminal history database, also can be very limited. States are not uniform in their reporting of different levels and types of offenses. Only the National Fingerprint File (NFF) provides detailed extracts directly from states' local databases, and as of August 2015, only nineteen states participate as in the NFF. Those states are: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming.

Difficulties Verifying Non-Resident Mental Health Information

16. Pursuant to the FOID Act and Firearm Concealed Carry Act, an applicant is not eligible for an Illinois CCL if the applicant has been involuntarily admitted into a mental health facility, adjudicated mentally disabled or has been a patient in a mental health facility within the

past five years, regardless of the applicant's state of residence. If an applicant has been a patient in a mental health facility more than 5 years ago, a Mental Health Certification must be provided at the time of the application for a FOID card.

17. Through the Illinois Department of Human Services ("DHS") FOID Mental Health System, the Bureau can readily access information on Illinois mental health facility admissions and determine whether an individual has been involuntarily admitted into a mental health facility in Illinois or has been a patient in a mental health facility in Illinois within the past five years or more.

18. The DHS FOID Mental Health System contains no records of out-of-state mental health facility admissions. Further, ISP does not have access to other states' mental health facility admissions databases, if any exist.

19. In my experience as the Bureau Chief of the FSB, I am aware that the federal databases do not contain the voluntary mental health admission information necessary to determine whether an applicant was a patient in a mental health facility. Also, information concerning involuntary mental health admissions or mental disability adjudications is limited.

20. To search for mental health prohibitors for nonresidents, ISP is limited to information available through the NICS Index. NICS contains information from participating states regarding individuals prohibited from firearm possession for mental health reasons under 18 U.S.C. § 922(g)(4), but does not provide any information on voluntary mental health admissions.

Difficulties Obtaining Updated Non-Resident Information to Revoke a CCL

21. On a daily basis, all resident CCL holders are checked against the Illinois CHRI and DHS Mental Health Systems (by virtue of their FOID Card) for any new prohibitors (conditions that would disqualify a person from holding a FOID Card or CCL). All CCL holders, resident and nonresident, are checked against the federal databases on a quarterly basis.

22. Illinois Physicians or qualified examiners, Illinois Law Enforcement Officials, and Illinois School Administrators are required by law to report persons that may be a clear and present danger to themselves or others. Even if out-of-state personnel have reporting requirements in their own states, the ISP does not receive reports from out-of-state physicians, qualified examiners, law enforcement officials, or school administrators concerning out-of-state persons presenting a clear and present danger. Similarly, daily checks of the DHS Mental Health Systems do not reveal information concerning persons treated in other states.

23. Illinois Circuit Clerks are required by statute to report to ISP persons who have been adjudicated as mentally disabled or persons who have had a finding for an involuntary admittance to a mental health facility. I am aware of no other state that is required to, or does, report such cases to the ISP.

24. DHS must report to the ISP all information collected pertaining to mental health treatment admissions, either voluntary or involuntary, as well as reports of patients deemed to be a clear and present danger. The purpose of this reporting is to determine if the patient is disqualified under state or federal law from possessing firearms. Out-of-state mental health facilities are not required by their states to report admissions or persons presenting a clear and present danger to DHS or to the ISP, and do not do so unless ISP makes a request for that information. Many out-of-state mental health entities do not provide this information even after an ISP request.

25. Access to the types of information described in the Illinois databases allows the Bureau to thoroughly screen for and actively monitor various issues that may be a basis to deny or revoke a FOID or CCL card. ISP's lack of access to this type of data held by other states would make it virtually impossible to effectively conduct this same level of screening and monitoring for nonresident CCL applicants.

Substantially Similar Surveys

26. In 2013, ISP sent surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. In 2014, ISP sent a second survey to those states that did not respond to the first survey.

27. True and correct copies of the various states' responses and the response of the District of Columbia received by the ISP are attached hereto as Affidavit Exhibit C. Based on the states' responses to the survey, ISP created a summary, a true and correct copy of which is attached hereto as Affidavit Exhibit D. As noted in the summary, Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island did not respond to the ISP's request for information.

28. Of those states responding, only Hawaii, New Mexico, South Carolina, and Virginia had laws, similar to Illinois, regulating who may carry firearms in public, reported persons authorized to carry through the NLETS, reported denied persons through the NICS, prohibited persons voluntarily admitted to a mental health facility in the last five years from possessing or using firearms, AND prohibited persons involuntarily admitted to mental health facilities from possessing or using firearms.


29. For example, Montana responded that it does not prohibit use or possession of firearms based on voluntary admissions to mental health facilities in the last five years and did not have a mechanism of tracking that information for its residents. *See* Affidavit Exhibit C.


30. The Bureau would not have the time or resources to properly research the necessary information for nonresident applicants if all such applicants could apply for a CCL. The Firearm Concealed Carry Act requires ISP to either approve or deny an application within as few as 90 days from the date received, subject to certain exceptions. To process the applications to this

standard, it is likely the out-of-state applicants would not be held to the same standards set forth in the FOID Card Act or Firearm Concealed Carry Act as Illinois residents are held. Applications would have to be approved without a complete and thorough background check. Further, applicants residing in states that lack reporting and eligibility requirements similar to Illinois and who are issued licenses under the Firearm Concealed Carry Act cannot be held to the same monitoring standards necessary to ensure continued eligibility due to the lack of, and inability to obtain—either at all or in a timely manner—, information concerning those nonresidents.

FURTHER AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 30 day of November 2015.


JESSICA TRAME


Notary Public

