

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED, et al.,
Plaintiffs,

v.

LOS ANGELES COUNTY SHERIFF’S
DEPARTMENT, et al.,
Defendants.

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

**ORDER GRANTING IN PART,
DENYING IN PART, PLAINTIFFS’
MOTION FOR PRELIMINARY
INJUNCTION [ECF NO. 20]**

Before the Court is Plaintiffs’ California Rifle & Pistol Association, Incorporated; the Second Amendment Foundation; Gun Owners of America, Inc.; Gun Owners Foundation; Gun Owners of California, Inc. (the “Association Plaintiffs”); and individuals Erick Velasquez, Charles Messel, Brian Weimer, Clarence Rigali, Keith Reeves, Cynthia Gabaldon, and Stephen Hoover’s (the “Individual Plaintiffs,” collectively, “Plaintiffs”) motion for a preliminary injunction (the “Motion”). (ECF No. 20). Defendants the Los Angeles (“LA”) County Sheriff’s Department (“LASD”) and Sherriff Robert Luna in his official capacity (collectively the “LA Defendants”); the La Verne Police Department (“LVPD”) and La Verne Chief of Police Colleen Flores in her official capacity (collectively the “LV Defendants”); and Robert Bonta in his official capacity as Attorney General of

1 California (the “State”) oppose. (ECF Nos. 23–25, 27). Having considered the parties’
2 submissions, the relevant law, the record in this case, and the arguments during the hearing
3 on the Motion, the Court GRANTS, in part, and DENIES, in part, Plaintiffs’ Motion.

4 **I. BACKGROUND**

5 In California, it is a crime for individuals to carry on their person, in public, or in
6 their vehicle a concealed firearm if they do not possess a concealed carry weapons
7 (“CCW”) license. *See* Cal. Penal Code § 25400. Before 2022, the California legislature
8 enacted a CCW licensing regime that set various requirements for an individual to apply at
9 the county and municipal levels for a CCW license,¹ including having to make a showing
10 of “good cause.”

11 In June 2022, however, the United States Supreme Court issued the landmark
12 decision of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), which
13 held that a New York CCW licensing statute that required applicants for a CCW license to
14 show a “proper cause” for obtaining a CCW license violated the Second Amendment
15 because it prevented law-abiding citizens with ordinary self-defense needs from exercising
16 their right to keep and bear arms in public for self-defense. *Id.* at 31-32.

17 Given California’s then existing “good cause” licensing regime, in approximately
18 2023, the California legislature, in response to the *Bruen* decision, enacted California
19 Senate Bill 2 (“SB 2”), with the goals of establishing a more uniform and effective
20 licensing process throughout California and addressing the implications from the *Bruen*
21 decision. SB 2 replaced California’s “good cause” requirement with a requirement that the
22 licensing authority, before issuing a license or renewing a license, determine that the
23 applicant is not a disqualified individual based on an assessment of defined criteria. In
24 particular, California law requires that the licensing authority “shall issue or renew a
25 license” to an applicant who (1) is not a “disqualified person to receive such a license,” as
26

27 ¹ The Complaint refers to CCW licenses as CCW permits. Because the California statutes
28 use the term “license,” the Court, in keeping with the language of the CCW statutes, also
uses the term “license.”

1 determined in California Penal Code Section 26202; (2) is at least 21 years of age upon
2 “clear evidence” of the person’s identity; (3) is a “resident of the county or a city within
3 the county,” or the “applicant’s principal place of employment or business is in the county
4 or a city within the county and the applicant spends a substantial period of time in that
5 place of employment or business;” (4) completes a course of training; and (5) is the
6 “recorded owner, with the Department of Justice, of the pistol, revolver, or other firearm”
7 for which the license will be issued. (ECF No. 1 (“Compl.”) ¶ 65 (citing Cal. Penal Code
8 §§ 26150(a), 26155(a)). The licensing authority determines whether an applicant is a
9 “disqualified person” by following a statutory checklist, which includes interviewing the
10 applicant, interviewing three character references, obtaining fingerprints, and conducting
11 a criminal history check. Cal. Penal Code § 26202(b). Within 120 days of receiving a
12 completed application, the “licensing authority shall give written notice . . . indicating if
13 the license . . . is approved or denied.” (Compl. ¶ 66 (citing Cal. Penal Code. § 26205)).
14 The Department of Justice determines the CCW license application fee, *see* (Compl. ¶ 66);
15 however, the local licensing authority “shall charge an additional fee in the amount equal
16 to the reasonable costs for processing the application . . . issuing the license, and enforcing
17 the license.” Cal. Penal Code § 26190(b)(1); *see* (Compl. ¶¶ 69, 74). The new CCW
18 licensing requirements became effective in January of 2024.

19 On December 4, 2023, Plaintiffs commenced this action, claiming that their Second
20 Amendment and other constitutional rights have been violated because of the delay, high
21 fees, and other licensing requirements associated with the LA and LV Defendants’
22 processing of CCW applications pursuant to CCW licensing statutes. *See* (Compl.)
23 Plaintiffs also challenge the California CCW statutes’ prohibition of issuing a license to an
24 individual whose residence is outside the state of California, regardless of whether the
25 individual has obtained a CCW license in another state, as being in violation of the Second
26 Amendment, the Fourteenth Amendment’s Equal Protection and Due Process Clauses, and
27 Article IV’s Privilege and Immunities Clause. *See (id.)*.

28

1 The Complaint alleges that Association Plaintiffs are non-profit membership
2 organizations representing “members and supporters who reside in Los Angeles County or
3 Laverne,” as well as “members and supporters in other states” (*Id.*, ¶¶ 21-22, 46).
4 Plaintiff the Second Amendment Foundation “has over 720,000 members and supporters
5 nationwide” and Plaintiff Gun Owners of America, Inc. “has more than 2 million members
6 and supporters across the country.” (*Id.*, ¶¶ 46-47).²

7 The Complaint alleges the Individual Plaintiffs are “ordinary, law-abiding,” adult
8 residents of LA County and the City of La Verne that have either applied for a CCW license
9 but have not received a license or have been dissuaded or prevented from applying.
10 (Compl. ¶ 20). Two of the Individual Plaintiffs, Brian Weimer, who applied for a CCW
11 license in January of 2023, and Charles Messel, who applied for a CCW license on July 1,
12 2022, reside in LA County and, along with the Association Plaintiffs,³ have challenged
13 LASD’s application of California’s CCW statutes, asserting unreasonable delays
14 exceeding 18 months in the issuance of licenses. (ECF No. 20-16 (“Weimer Decl.”) ¶¶ 2,
15 5; ECF No. 20-17 (“Messel Decl.”) ¶¶ 2, 5). Based on the parties’ representations, as of
16 the date of the hearing on the Motion, neither of the two Individual Plaintiffs has received
17 a CCW license. The Complaint alleges that the delay in issuing licenses to these two
18 Individual Plaintiffs, as well as numerous other individuals on behalf of whom the
19 Association Plaintiffs assert a challenge, violates the Second Amendment. *E.g.*, (Compl.
20 ¶ 125).

21 Plaintiffs also allege LASD has applied discretionary criteria to deny the CCW
22 applications of other LA County residents. Specifically, Individual Plaintiff Velasquez’s
23 application for a CCW license was denied on August 23, 2023, due to an alleged previous
24 theft of Plaintiff Velasquez’s firearms, (ECF No. 20-21 (“Velasquez Decl.”) ¶¶ 2, 8), and
25 the CCW application of Sherwin David Partowashraf’s, who is a member of a Plaintiff
26

27 ² The Complaint does not provide membership information for the two other Association
28 Plaintiffs.

³ The Association Plaintiffs’ claims as to delay are addressed in Section III.A.1.a.i., below.

1 Association, was denied by the LASD because Partowashraf was subject to a previous
2 temporary restraining order. (ECF No. 20-25 (“Partowashraf Decl.”) ¶¶ 1, 2–4). The
3 Complaint alleges that LASD’s denial of these applications was discretionary, instead of
4 based on objective standards, which Plaintiffs argue violates the Second Amendment. *E.g.*,
5 (Compl. ¶ 125).

6 Several residents of the City of La Verne challenge the processes required to apply
7 for a CCW license from the LVPD as being too costly or inappropriately based on
8 discretionary criteria. Specifically, Individual Plaintiff Clarence Rigali represents he is a
9 disabled resident of the City of La Verne⁴ who lives in a senior citizen mobile home park
10 on a fixed income and is unable to afford the fee required for a CCW license in La Verne.
11 (ECF No. 20-18 ¶¶ 2, 4, 6). Individual Plaintiff Cynthia Gabaldon, a self-employed
12 resident of the City of La Verne and a member of the CPRA, represents she has owned and
13 trained with firearms for most of her life but, due to La Verne’s fee, is dissuaded from
14 applying for a CCW license. (ECF No. 20-19 (“Galbadon Decl. ¶¶ 2, 4–5). Jim Carlson,
15 who is a resident of Los Angeles County and a member of the CPRA, represents he applied
16 for and received a CCW license from the LVPD but, after taking the required psychological
17 exam, asserts he does not believe the exam is a reasonable prerequisite to carrying a
18 firearm. (ECF No. 20-23 (“Carlson Decl.” ¶¶ 2, 10). Individual Plaintiff Keith Reeves is
19 a resident of the City of La Verne and a member of each of the Association Plaintiffs, with
20 CCW licenses from Arizona and Utah. (ECF No. 20-24 (“Reeves Decl.”) ¶¶ 2–4). Plaintiff
21 Reeves represents that in 2016, his CCW application for a license from LVPD was denied
22 and, though he would like to reapply for a license, he cannot afford the fee. (*Id.* ¶ 5). The
23 Complaint alleges that the LVPD licensing process violates the Second Amendment due
24 to its “exorbitant fee” and use of “discretionary criteria” to screen applicants through its
25 psychological exam. *E.g.*, (Compl. ¶ 131).

26
27
28 ⁴ Plaintiffs that reside in the City of La Verne are also Los Angeles County residents. *See*,
e.g. (Rigali Decl. ¶ 2)

1 Finally, other individuals are non-residents of California who wish to, or have
2 attempted to, acquire CCW licenses to lawfully carry a firearm in California but have been
3 deemed ineligible for a CCW license or their application has been denied. For example,
4 David Broady, a Nevada resident and member of the CPRA, frequently travels to California
5 because he owns property in the State and visits family but is unable to obtain a CCW
6 license because he is no longer a California resident. (ECF No. 20-20 (“Broady Decl.”) ¶¶
7 1, 3–5). Individual Plaintiff Stephen Hoover is a Florida resident who spent a “significant
8 amount of time” in California during summer 2023 and “plan[s] to return for work and/or
9 leisure purposes.” (ECF No. 20-26 (“Hoover Decl.”) ¶¶ 2–3). Plaintiff Hoover holds a
10 CCW license from Florida, applied for a CCW license in California, but was deemed
11 ineligible because he is not a California resident. (*Id.* ¶ 4). The Complaint alleges that
12 California’s residency requirements violate the Second Amendment, the Fourteenth
13 Amendment’s Equal Protection and Due Process Clauses, and Article IV’s Privileges and
14 Immunities Clause.

15 Plaintiffs’ present Motion requests the Court preliminarily enjoin what they
16 characterize as certain “unconstitutional practices under California’s CCW licensing
17 regime that delay or deny Plaintiffs’ constitutional right to carry.”⁵ (ECF 20-1 (“Mot.”) at
18 32). Defendants oppose the Motion. *See* (ECF No. 23 (“LVPD Opp.”); ECF No. 25 (“State
19 Opp.”); ECF No. 27 (“LASD Opp.”)). Plaintiff submitted a reply to each Opposition brief.
20 *See* (ECF No. 32 (“Reply”)).

21 II. LEGAL STANDARD

22 “A preliminary injunction is an extraordinary remedy never awarded as a matter of
23 right.” *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 24 (2008). A movant seeking a
24

25 ⁵ Plaintiffs’ Complaint and Motion generally do not differentiate between conduct they
26 allege occurred before the changes to California’s CCW licensing regime brought about by
27 SB 2 or after the effective date of SB2. The parties’ briefing, however, appears to treat
28 Plaintiffs’ challenges as being to the application of the current version of the statutes. The
Court, thus, also analyzes the issues raised in the Motion based on the current CCW
statutory regime.

1 preliminary injunction must establish that (1) he is likely to succeed on the merits of his
2 claim; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (2) the
3 balance of equities tips in his favor; and (4) a preliminary injunction is in the public interest.
4 *Id.* at 20. The first *Winter* factor, likelihood of success on the merits, is a “threshold inquiry
5 and is the most important factor in any motion for preliminary injunction.” *Baird v. Bonta*,
6 81 F.4th 1036, 1040 (9th Cir. 2023); *see also Disney Enters. v. VidAngel, Inc.*, 869 F.3d
7 848, 856 (9th Cir. 2017) (“Likelihood of success on the merits ‘is the most important’
8 *Winter* factor; if a movant fails to meet this ‘threshold inquiry,’ the court need not consider
9 the other factors” (quoting *All. for the Wild Rockies*, 632 F.3d at 113–35)). The
10 importance of this factor “holds especially true for cases where a plaintiff seeks a
11 preliminary injunction because of an alleged constitutional violation.” *Baird*, 81 F.4th at
12 1040 (reversing a district court’s denial of a preliminary injunction implicating the Second
13 Amendment). When the government is the non-movant, the last two factors (equities and
14 public interest) merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

15 When, as here, the movant is not seeking to maintain the status quo pending a
16 determination of the action on the merits, *see Chalk v. U.S. Dist. Court*, 840 F.2d 701, 704
17 (9th Cir. 1988), but instead is seeking an order requiring the nonmoving party to take
18 action, the movant is seeking a mandatory injunction. *Garcia v. Google, Inc.*, 786 F.3d
19 733, 740 (9th Cir. 2015). Such injunctions are disfavored. *Id.* (stating that, because a
20 mandatory preliminary injunction “goes well beyond simply maintaining the status quo,”
21 it is “particularly disfavored.”). Thus, in the Ninth Circuit, a request for a mandatory
22 preliminary injunction is subject to “heightened scrutiny and should not be issued unless
23 the facts and law clearly favor the moving party.” *Dahl v. HEM Pharmaceuticals Corp.*,
24 7 F.3d 1399, 1403 (9th Cir. 1993); *see also Doe v. Snyder*, 28 F.4th 103, 111 (9th Cir.
25 2022). A plaintiff must demonstrate “extreme or very serious damage” will occur unless
26 the requested injunction is granted. *Id.* “In plain terms, mandatory injunctions should not
27 issue in ‘doubtful’ cases.” *Garcia*, 786 F.3d at 740 (quoting *Park Vill. Apartment Tenants*
28 *Ass’n v. Mortimer Howard Tr.*, 636 F.3d 1150, 1160 (9th Cir. 2011)).

1 In deciding an application for a preliminary injunction, the Court is permitted to
2 consider the parties’ pleadings, declarations, affidavits, and exhibits submitted in support
3 of and in opposition to the application. *See Republic of the Philippines v. Marcos*, 862
4 F.2d 1355, 1363 (9th Cir. 1988). “If a movant makes a sufficient demonstration on all four
5 *Winter* factors (three when, as here, the third and fourth factors are merged), a court must
6 not shrink from its obligation to enforce his constitutional rights, regardless of the
7 constitutional right at issue.” *Baird*, 81 F.4th at 1041 (internal quotation marks omitted
8 and cleaned up); *Brown v. Plata*, 563 U.S. 493, 511 (2011). “It may not deny a preliminary
9 injunction motion and thereby “allow constitutional violations to continue simply because
10 a remedy would involve intrusion into an agency’s administration of state law.” *Id.*
11 (internal quotations marks omitted).

12 **III. DISCUSSION⁶**

13 **A. Likelihood of Success on the Merits**

14 The Second Amendment provides: “A well regulated Militia, being necessary to the
15 security of a free State, the right of the people to keep and bear Arms, shall not be
16 infringed.” U.S. Const. amend. II. The Supreme Court has repeatedly held this right to
17 “keep and bear arms” is among the “fundamental rights necessary to our system of ordered
18 liberty.” *United States v. Rahimi*, 144 S. Ct. 1889, 1891 (2024) (internal quotations marks
19 omitted). The Court has construed the right as guaranteeing an individual’s right to carry
20

21
22 ⁶ Requests for judicial notice under Rule 201 of the Federal Rules of Evidence have been
23 filed by Plaintiffs, (ECF Nos. 20-2, 32-6), and LA Defendants, (ECF No. 27-8). Plaintiffs
24 object to LA Defendants’ request for judicial notice. *See* (ECF No. 32-11). Because
25 reliance on the Plaintiffs’ judicial notice submissions was not necessary to the
26 determinization of the Motion, Plaintiffs’ request for judicial notice is denied. LA
27 Defendants’ request for judicial noticed is discussed further in this Order. To the extent
28 the Court relies upon a document to which Plaintiffs have objected, the Court overrules the
objection for purposes of this Motion; to the extent the Court has not relied on a document
to which Plaintiffs have objected, the Court overrules the objection for purposes of this
Motion. (ECF Nos. 32-12, 32-13, 32-14).

1 a handgun for self-defense both inside the home, *see D.C. v. Heller*, 554 U.S. 570 (2008),
2 and outside the home, *Bruen*, 597 U.S. at 20.⁷

3 “[L]ike most rights, [however], the right secured by the Second Amendment is not
4 unlimited.” *Bruen*, 597 U.S. at 21 (quoting *Heller*, 554 US at 626). Before the *Bruen*
5 decision, the Courts of Appeals had “coalesced” around a “‘two-step’ framework for
6 analyzing Second Amendment challenges that combines history with means-end scrutiny.”
7 *Id.* at 17. For the first step, the courts considered whether the regulation was justified
8 because the “challenged law regulate[d] activity falling outside the scope of the right as
9 originally understood.” *Id.* at 18. For the second step, courts analyzed how close the
10 challenged law “c[a]me[] to the core of the Second Amendment right and the severity of
11 the law’s burden on that right.” *Id.* Depending on the severity of the burden, courts applied
12 either strict scrutiny or immediate scrutiny to determine whether the government had
13 established that the means (the burden on the right) justified the ends (the governmental
14 interest). *See id.* at 19.⁸

15 The Supreme Court in *Bruen*, however, rejected the two-part means-end scrutiny
16 approach, explaining that its precedent “do[es] not support applying means-end scrutiny in
17 the Second Amendment context.” *Id.* at 17, 19. Instead, it held:

18 When the Second Amendment’s plain text covers an individual’s conduct, the
19 Constitution presumptively protects that conduct. The government must then
20 justify its regulation by demonstrating that it is consistent with the Nation’s
21 historical tradition of firearm regulation. Only then may a court conclude that

22
23 ⁷ The Fourteenth Amendment’s Due Process Clause incorporated the Second Amendment
24 right against the states. *See McDonald v. Chicago*, 561 U.S. 742, 791 (2010).

25 ⁸ In particular, the Courts of Appeals relied upon the following framework: “If a core’
26 Second Amendment right is burdened, courts apply strict scrutiny and ask whether the
27 Government can prove that the law is narrowly tailored to achieve a compelling
28 governmental interest.[] Otherwise, they apply intermediate scrutiny and consider whether
the Government can show that the regulation is substantially related to the achievement of
an important governmental interest.” *Id.* at 18–19 (internal quotation marks and citations
omitted).

1 the individual’s conduct falls outside the Second Amendment’s “unqualified
2 command.”

3 *Id.* at 24 (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, n.10 (1961)). In other
4 words, *Bruen* now requires a different “two-step evaluation” in which “[c]ourts must, first,
5 determine whether ‘the Second Amendment’s plain text covers an individual’s conduct.’”
6 *Rahimi*, 144 S. Ct. at 1928 (Jackson, J., concurring) (quoting *Bruen*, 597 U.S. at 24); *United*
7 *States v. Alaniz*, 69 F.4th 1124, 1128 (9th Cir. 2023) (stating first, the threshold inquiry
8 “requires a textual analysis, determining whether the challenger is ‘part of “the people”
9 whom the Second Amendment protects,’ whether the weapon at issue is “in common use”
10 today for self-defense,’ and whether the ‘proposed course of conduct’ falls within the
11 Second Amendment.” (citing *Bruen*, 597 U.S. at 31–33, and *Heller*, 554 U.S. at 580, 627)).
12 If the conduct falls within the Second Amendment, “[t]he government must then justify
13 its regulation by demonstrating that it is consistent with the Nation’s historical tradition of
14 firearm regulation.” *Rahimi*, 144 S. Ct. at 1928 (Jackson, J., concurring) (citing *Bruen*,
15 597 U.S. at 24).

16 Thus, on a motion for a preliminary injunction, a plaintiff bears the initial “burden
17 of demonstrating the plain text of the Second Amendment covers” the plaintiff’s conduct.
18 *Brumback v. Ferguson*, No. 1:22-CV-03093-MKD, 2023 WL 6221425, at *4 (E.D. Wash.
19 Sept. 25, 2023); *see also Baird*, 81 F.4th at 1046 (“[T]he district court’s analysis of the first
20 *Winter* factor must include consideration of the question whether the conduct that [the
21 statute] regulates is covered by the text of the Second Amendment.”). If the plaintiff meets
22 this burden, the government must then “show that the restriction ‘is consistent with the
23 Nation’s historical tradition of firearm regulation.” *Rahimi*, 144 S. Ct. at 1908 (Gorsuch,
24 J., concurring) (quoting *Bruen*, 597 U.S. at 17).

25 In determining whether an identified historical regulation is “relevantly similar” to
26 the challenged one, a district court considers “whether modern and historical regulations
27 impose a comparable burden on the right of armed self-defense and whether that burden is
28 comparably justified.” *Alaniz*, 69 F.4th at 1128 (describing the “two metrics” as “how

1 and why the regulations burden a law-abiding citizen’s right to armed self-defense”
2 (quoting *Bruen*, 597 U.S. at 29)). In *Rahimi*, the Supreme Court explained that *Bruen*’s
3 historical inquiry is “not meant to suggest a law trapped in amber,” but, instead, requires
4 that a court “ascertain whether the new law is ‘relevantly similar’ to laws that our tradition
5 is understood to permit” and “apply[] faithfully the balance struck by the founding
6 generation to modern circumstances.” *Id.* at 189798 (quoting *Bruen*, 597 U.S. at 29).
7 “[C]entral to this inquiry,” are considerations of “[w]hy and how the regulation burdens”
8 the Second Amendment right. *Id.* at 1898. For example, even if a law “regulates arms-
9 bearing for a permissible reason,” if it “does so to an extent beyond what was done at the
10 founding,” it may “not be compatible with the right.” *Id.* At the same time, if a “challenged
11 regulation does not precisely match its historical precursors,” it may still be “analogous
12 enough to pass constitutional muster.” *Id.* (citing *Bruen*, 597 U.S. at 30). Generally, the
13 law must “comport with the principles underlying the Second Amendment.” *Id.*

14 In analyzing whether the government has met its burden, “[a] district court should
15 not try to help the government carry its burden by ‘sift[ing] . . . historical materials’ to find
16 an analogue.” *Baird*, 81 F.4th at 1041 (quoting *Bruen*, 597 U.S. at 60). “The principle of
17 party presentation instead requires the court to ‘rely on the parties to frame the issues for
18 decision.’” *Id.* (quoting *United States v. Sineneng-Smith*, 590 U.S. 371, 375 (2020)); *see*
19 *also Bruen*, 597 U.S. at 25 n.6 (“Courts are . . . entitled to decide a case based on the
20 historical record compiled by the parties.”). Additionally, under “*Winter*’s well-settled
21 standards—which apply to Second Amendment claims like any other constitutional
22 claim—courts consider all of the *Winter* factors and assess irreparable harm and the public
23 interest through the prism of whether or not the plaintiff has shown a likelihood of success
24 on the merits.” *Baird*, 81 F.4th at 1044.

25 This Court thus applies the above Second Amendment framework, as set forth in
26 *Bruen* and *Rahimi*, to each CCW licensing practice challenged by Plaintiffs, keeping in
27 mind the Ninth Circuit’s “doubly demanding” standard for granting mandatory preliminary
28 injunctions, which requires Plaintiffs to “establish that the law and facts *clearly favor*

1 [their] position, not simply that [they are] likely to succeed.” *Garcia*, 786 F.3d at 740
2 (emphasis in original).

3 1. Plaintiffs’ Challenges to LASD’s Application Process

4 Under their first claim for relief asserted under the Second Amendment, Plaintiffs
5 assert two theories of liability against the LA Defendants: one based on LASD’s delays in
6 processing CCW applications and one based on LASD allegedly “engaging in forbidden
7 suitability determinations.” *See* (Compl. ¶ 125). The Motion raises both theories, and the
8 Court considers each in turn.

9
10 a) *Delay in LASD’s Issuance of CCW Licenses*

11 As outlined above, California law provides that an individual may carry a concealed
12 weapon in public once their CCW license application is approved. Plaintiffs allege,
13 however, that many individuals who have applied for a CCW license with the LASD have
14 been waiting for a decision on their CCW applications for longer than the 120 days
15 contemplated by current California law. *See* (Mot. at 12–17; Compl. ¶ 125).⁹ Plaintiffs
16 argue that the delays in LASD’s application processing are unconstitutional under the
17 Second Amendment.

18 As a threshold issue, the Court must classify whether the constitutional challenge
19 being brought by the Plaintiffs is either a facial or as-applied challenge. *See Bucklew v.*
20 *Precythe*, 587 U.S. 119, 138 (2019) (“[C]lassifying a lawsuit as facial or as-applied affects
21 the extent to which the invalidity of the challenged law must be demonstrated . . .”).
22 Although as a caveat to the Motion, Plaintiffs state, “[t]o be sure, Plaintiffs do not believe
23 a waiting period of *four months* to exercise a right is remotely constitutional,” (Mot. at 15
24

25 ⁹ Plaintiffs also allege a claim for declaratory and injunctive relief against the LA
26 Defendants for “violations of the California Penal Code” based on LASD’s delays that
27 extend beyond 120 days. (Compl. ¶¶ 143–47). Plaintiffs contend, however, that they “do
28 not seek to enforce state law” by their Motion, only to enforce the Second Amendment.
See (Reply at 12 n.2). The Court, thus, does not consider Plaintiffs’ fourth claim for relief
in the Complaint that seeks relief for violations of the California Penal Code.

1 (emphasis in original)), Plaintiffs have not framed the issues in the Motion as a facial
2 challenge to the 120-day waiting period of California’s CCW regulatory scheme. Instead,
3 two Individual Plaintiffs that reside in LA County are challenging the LASD’s delay in
4 excess of 120 days in assessing their CCW applications. *See* (Weimer Decl. ¶ 5 (January
5 2023); (Messel Decl. ¶ 5 (July 2022)). The Association Plaintiffs also appear to contend
6 that they are asserting an as-applied challenge on behalf of all individuals who have applied
7 to the LASD for a CCW license whose applications have been pending for more than 120
8 days, whether the applicants have a membership with one of the Association Plaintiffs or
9 not. *See* (Skadsem Decl. ¶ 6; Stalter Decl. ¶ 10). Plaintiffs ask the Court to enter an order
10 that requires LASD to process all these pending applications for licenses within 120 days.
11 *See* (ECF No. 20-28). The Court thus first considers whether Association Plaintiffs have
12 standing to assert such a broad challenge.

13
14 i. Association Plaintiffs’ Challenge Against LASD for
15 Delay

16 The Association Plaintiffs challenge the LASD’s delays of more than 120 days in
17 deciding applications for CCW licenses. In support of their challenge, the Association
18 Plaintiffs have submitted the declarations of just two members, both of whom complain of
19 delays in processing their applications for a CCW license. *See* (ECF No. 20-22 (“Skadsem
20 Decl.”) ¶¶ 2, 6; ECF No. 20-27 (“Stalter Decl.”) ¶¶ 1–2, 10). The Association Plaintiffs
21 seek a preliminary injunction requiring LASD to grant CCW licenses to all individuals who
22 have applied to LASD for a CCW license, whether these applicants are members of one of
23 the Association Plaintiffs or not. *See* (Mot. at 16) (“[T]his Court should, at a minimum,
24 and in accordance with the statute, order LASD to comply with the statute, and issue
25 permits once applicants have completed their background check and CCW training course
26 or on day 121 from application submission, whichever is later.”).

1 The LA Defendants oppose the Motion, arguing the Association Plaintiffs’ request
2 for relief on behalf of all LASD CCW license applicants goes “far beyond” the standing
3 the Association Plaintiffs claim to have in this case. During the hearing on the Motion,
4 Plaintiffs’ Counsel argued in response that the Association Plaintiffs have associational
5 standing to raise an as-applied challenge on behalf of all CCW applicants who have applied
6 to the LASD for a CCW license whose applications have been pending for more than 120
7 days regardless of the applicant’s membership status.¹⁰ The Court disagrees.

8 “An as-applied challenge contends that the law is unconstitutional as applied to the
9 litigant’s particular . . . activity, even though the law may be capable of valid application
10 to others.” *Foti v. City of Menlo Park*, 146 F.3d 629, 635 (9th Cir. 1998). An as-applied
11 challenge “does not implicate the enforcement of the law against third parties.” *Id.*; *see*
12 *also United States v. Perez-Garcia*, 96 F.4th 1166, 1182 n.13 (9th Cir. 2024) (declining to
13 “take up the question whether the [challenged] firearm condition may theoretically be
14 applied to others because ‘[a]n as-applied challenge does not implicate the enforcement of
15 the law against third parties’” (quoting *Foti*, 146 F.3d at 635)). As-applied challenges,
16 therefore, consider the constitutionality of a law or practice as applied to the parties in the
17 case.

18 Here, Plaintiffs have failed to show the Association Plaintiffs have standing to seek
19 the broad relief they request. *See id.*; *see also Ass’n for Accessible Medicines v. Bonta*,
20 No. 2:20-CV-01708-TLN-DB, 2022 WL 463313, at *8 (E.D. Cal. Feb. 15, 2022) (agreeing
21 that an injunction brought as an as-applied challenge only applies to the plaintiff). Even if
22 the Association Plaintiffs have standing to challenge LASD’s delays as to the Association
23 Plaintiffs’ members, Plaintiffs have specifically rejected this far narrower relief. Instead,
24

25 ¹⁰ During the hearing on the Motion, Plaintiffs’ Counsel also stated that he “believe[s] there
26 is precedent that if an association establishes standing on behalf of one of their members,
27 they can challenge the statute generally.” Without deciding whether Plaintiffs’ proposition
28 is true, this statement alludes to associational standing for a *facial* challenge. Plaintiffs’
Counsel, however, affirmed during the hearing that the Motion does not assert a facial
challenge to California’s CCW statutes.

1 during the hearing, Plaintiffs’ Counsel reaffirmed the broad scope of Plaintiffs’ request,
2 saying a “general injunction is called for here” and stated, “it would be sort of confusing”
3 to “limit relief to just the members of the association” because “the application would have
4 to say are you a member of CRPA or something like that.” On this record, however, the
5 Association Plaintiffs have not sufficiently demonstrated standing to consider their LASD
6 delay claim. Thus, Plaintiffs have not shown a likelihood of success on the merits of the
7 Association Plaintiffs’ claim against LASD for delay, let alone shown under the heightened
8 standard for mandatory preliminary injunctions that the facts and law are clearly in their
9 favor on that claim.¹¹ The Court therefore denies Plaintiffs’ Motion, insofar as it is based
10 on the Association Plaintiffs’ challenge asserting unreasonable delay on behalf of all
11 individuals that have applications pending with LASD for a CCW license.

12 ii. Individual Plaintiffs’ Challenge Against LASD’s Delay

13 Two Individual Plaintiffs Weimer and Messel challenge LASD’s delay in issuing
14 CCW licenses to them, asserting they both have been waiting for a decision from LASD
15 on their CCW applications for over eighteen months.¹² See (Weimer Decl. ¶ 5 (January
16 2023); Messel Decl. ¶ 5 (July 2022)). To assert their challenge based on delay, these two
17 Individual Plaintiffs must initially show, per *Bruen* and *Rahimi*, that “the plain text of the
18 Second Amendment protects [the Individual Plaintiffs’] proposed course of conduct.”
19 *Bruen*, 597 U.S. at 32. On this first prong, the parties disagree on the nature of the course
20 of conduct at issue. The Individual Plaintiffs assert that the proposed conduct protected by
21 the Second Amendment is merely the act of obtaining a CCW license in the first place
22 because LASD’s lengthy delays in processing applications have essentially denied the
23 Individuals Plaintiffs the right to such licenses. The LA Defendants, however, argue that
24 the conduct at issue involves acquiring a CCW license within a specific amount of time

25 _____
26 ¹¹ Because of how broadly Plaintiffs have framed their request for relief—namely, as
27 requesting that all pending CCW applications to the LASD be granted, which Plaintiffs’
28 Counsel reaffirmed during the hearing, members Skadsen’s and Stalter’s claims also fail.

¹² LA Defendants do not appear to dispute that Individual Plaintiffs Weimer and Messel
each have standing to bring their respective challenge.

1 and contend that the text of the Second Amendment does not cover the timeliness of CCW
2 license issuances. (LASD Opp. at 15). Both parties acknowledge that the Supreme Court
3 has yet to specifically address time limits and delays in obtaining firearm licenses. *See*
4 (Mot. at 14–15; Opp. at 15–19).

5 The Ninth Circuit has framed *Bruen*'s threshold inquiry as a textual analysis that
6 determines “whether the challenger is ‘part of “the people” whom the Second Amendment
7 protects,’ whether the weapon at issue is “in common use” today for self-defense,’ and
8 whether the ‘proposed course of conduct’ falls within the Second Amendment.” *Alaniz*,
9 69 F.4th at 1128 (citing *Bruen*, 597 U.S. at 31–33). Neither the Supreme Court nor the
10 Ninth Circuit has addressed how to define the proposed course of conduct under the type
11 of circumstances that are presented in this case.¹³ *See Rahimi*, 144 S. Ct. at 1929 (Jackson,
12 J., concurring) (identifying still “unresolved questions,” including but not limited to: “Who
13 is protected by the Second Amendment, from a historical perspective? To what conduct
14 does the Second Amendment’s plain text apply?”); *see also Nat’l Ass’n for Gun Rts., Inc.*

15 _____
16 ¹³ It is worth noting, as Justice Jackson did in her *Rahimi* concurrence, *see Rahimi*, 144 S.
17 Ct. at 1926–30 (citing cases), that multiple levels of courts have long been confounded by
18 this first analytical step and, before *Bruen*, many courts of appeals simply skipped the first
19 step by assuming that the Second Amendment was triggered. *See, e.g., Pena v. Lindley*,
20 898 F.3d 969, 976 (9th Cir. 2018) (noting that “the courts of appeals have spilled
21 considerable ink in trying to navigate the Supreme Court’s framework” at step one and thus
22 have decided to “bypass the constitutional obstacle course of defining the parameters of
23 the Second Amendment’s individual right in the context of” *Heller*’s “presumptively
24 lawful” regulations). *See also Rahimi*, 144 S. Ct. at 1930 (Jackson, J., concurring)
25 (“[W]hen courts signal they are having trouble with one of our standards, we should pay
26 attention.”). But where, as here, the first step under *Bruen* is disputed, this Court will not
27 simply assume that Plaintiffs have met their burden, notwithstanding the difficulties of
28 navigating the first step. *Cf. id.* at 1932 (Thomas, J., dissenting) (“It is undisputed that
§ 922(g)(8) targets conduct encompassed by the Second Amendment’s plain text.”); *see*
generally California Rifle & Pistol Ass’n, Inc. v. City of Glendale, 644 F. Supp. 3d 610,
621 (C.D. Cal. 2022) (finding on a preliminary injunction that “the Court is unpersuaded
that a plaintiff may simply assert a general desire to carry a firearm and thereby force the
government to provide historical evidence of regulations addressing every separate
location where the ordinance applies”).

1 *v. City of San Jose*, 618 F. Supp. 3d 901, 915 (N.D. Cal. 2022) (noting that “[t]he Supreme
2 Court provided limited guidance on how to define the proposed course of conduct”).

3 Here, based on the record before it, the Court agrees that Individual Plaintiffs’
4 Weimer’s and Messel’s conduct at issue is appropriately defined as the right to carry a
5 firearm in public for self-defense without unreasonable delay.¹⁴ The two Individual
6 Plaintiffs assert they have not received a decision on their applications for more than one
7 year—well beyond the CCW statutes’ 120-day assessment period—and further contend
8 that Individual Plaintiff Messel’s application to LASD has been pending for more than two
9 years.¹⁵ *See* (Opp. at 15–18). Although Plaintiffs suggest the LASD’s delay in the issuance
10 of a CCW license crosses the line from acceptable to unreasonable after approximately 121
11 days, the Court does not need to make that determination. For purposes of determining
12 this Motion, the Court will assume that an LASD application that has been “complete”
13 within the meaning of Section 26205(a)¹⁶ and pending for eighteen months or more crosses
14

15 ¹⁴ The Court acknowledges the LA Defendants’ point that the proposed conduct could more
16 appropriately be defined as the right to carry a firearm without waiting for a CCW license.
17 To the extent, however, Plaintiffs’ argument can be construed as a request to
18 “*instantaneously*” acquire a license to carry a firearm in public, (Mot. at 13 (emphasis in
19 original)), that argument would necessitate the conclusion that most licensing schemes that
20 require background checks or training courses are unconstitutional. *Bruen*, however, does
21 not support this conclusion. *See Bruen, Heller; see also Baird v. Bonta*, No. 2:19-CV-
22 00617-KJM-AC, 2023 WL 9050959, at *22 (E.D. Cal. Dec. 29, 2023) (California may
23 require licenses before carrying firearms in public).

24 ¹⁵ California Penal Code Section 26205(a) states that the licensing authority “shall give”
25 notice of approval or denial “within 120 days of receiving the completed application for a
26 new license, or 30 days after receipt of the information and report from the Department of
27 Justice described in [section 26185(a)(2)], whichever is later.” For license renewals, the
28 licensing authority shall give notice within “120 days of receiving the completed
application.” *See also* (Mot. at 15). Plaintiffs do not adequately address what starting point
they are using to determine how long their applications have been pending.

¹⁶ The Court finds LA Defendants arguments persuasive—at least in the abstract—that a
mere delay in issuing a CCW license has not typically been found to violate the Second
Amendment. Indeed, *Bruen* implicitly accepts some sort of waiting period by approving
so-called “shall-issue” licensing schemes that include as part of the application process the

1 the line. As such, the two Individual Plaintiffs’ conduct is presumptively protected by the
2 Second Amendment. Therefore, the burden shifts to the LA Defendants to establish the
3 second *Bruen* prong.

4 As stated previously, under the second *Bruen* prong, the LASD Defendants must
5 show LASD’s more than 18-month delay, as applied to Individual Plaintiffs Weimer’s and
6 Messel’s applications, is “consistent with the Nation’s historical tradition of firearm
7 regulation.”¹⁷ *Rahimi*, 144 S. Ct. at 1891 (quoting *Bruen*, 597 U.S. at 24). For the LA

8
9 requirement that an applicant take firearms training courses and undergo background
10 checks, which inevitably involve some period of delay between applying for a CCW
11 license and its issuance. *See Bruen*, 597 U.S. at 38 n.9. Further, it is not clear from the
12 Supreme Court’s Second Amendment jurisprudence whether the proper inquiry for
13 *Bruen*’s first prong is to determine whether the conduct states a Second Amendment
14 violation, as opposed to determining whether the requested conduct is simply of the type
15 typically protected by the Second Amendment. *See, e.g., Connecticut Citizens Def.*
16 *League, Inc. v. Thody*, 664 F. Supp. 3d 235, 253 (D. Conn. 2023), *aff’d*, No. 23-724-CV,
17 2024 WL 177707 (2d Cir. Jan. 17, 2024) (“[T]he court’s qualified immunity inquiry is
18 whether the right to such timely process [under the Second Amendment] is ‘clearly
19 established.’ A review of existing case law reveals that the answer is a resounding ‘no.’”).
20 Notwithstanding the lack of clarity, neither party here has attempted to provide any analysis
21 as to the text of the Second Amendment even though some of the Supreme Court’s older
22 cases had demonstrated a textual analysis as to the Second Amendment. For example, in
23 *Heller*, the Supreme Court discussed determining the historical scope of the word “bear,”
24 and how the Founders would have understood “bearing arms” outside of military service.
25 *See Heller*, 554 U.S. at 592 (after “[p]utting all of these textual elements together,” holding
26 that the words in the Second Amendment “guarantee the individual right to possess and
27 carry weapons in case of confrontation,” which was “strongly confirmed by the historical
28 background of the Second Amendment”).

¹⁷ Regarding differences between the scope of the constitutional right between 1791 and
1868, the Supreme Court noted that there “is an ongoing scholarly debate on whether courts
should primarily rely on the prevailing understanding of an individual right when the
Fourteenth Amendment was ratified in 1868 when defining its scope (as well as the scope
of the right against the Federal Government).” *Bruen*, 597 U.S. at 37–38 (citing A. Amar,
The Bill of Rights: Creation and Reconstruction xiv, 223, 243 (1998); K. Lash, *Re-*
Speaking the Bill of Rights: A New Doctrine of Incorporation (Jan. 15, 2021) (manuscript,
at 2), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766917 (“When the people
adopted the Fourteenth Amendment into existence, they readopted the original Bill of

1 Defendants to carry their burden under *Bruen*, they must identify “historical precursors” in
2 effect at the founding that “impos[ed] similar restrictions for similar reasons” and “comport
3 with the principles underlying the Second Amendment.” *Rahimi*, 144 S. Ct. at 1898; *see*
4 *also Baird*, 81 F.4th at 1041–42 (observing that the historical analogue must have been
5 “broadly in effect when the Second or Fourteenth Amendment was ratified”).¹⁸ In
6 particular, the LA Defendants must establish that a historical regulatory regime (1)
7 burdened the individual’s Second Amendment rights in a similar way, the “how”; (2)
8 burdened Second Amendment rights for similar reasons, the “why”; and (3) was applicable
9 “when the Second or Fourteenth Amendment was ratified,” *Baird*, 81 F. 4th at 1043. *See*
10 *Bruen*, 597 U.S. at 29. This comparative inquiry permits abstracting some level of
11 generality.¹⁹ The LA Defendants may meet their burden without identifying a specific law
12

13 Rights, and did so in a manner that invested those original 1791 texts with new 1868
14 meanings”). However, the Supreme Court did not specifically resolve the question
15 because the right defined in *Bruen*, “the right to keep and bear arms,” was “for all relevant
16 purposes, the same with respect to the right to carry them in public. *Id.*

17 ¹⁸ Though “post-enactment history can be an important tool,” the history that “matters most
18 is the history surrounding the ratification of the text,” and “[h]istory (or tradition) that long
19 postdates ratification does not serve that function.” *Rahimi*, 144 S. Ct. at 1924 (Barrett, J.,
20 concurring).

21 ¹⁹ Take the Supreme Court’s analysis in *Rahimi*. The challenged regulation in *Rahimi*,
22 Section 922(g)(8), makes it unlawful for an individual who is subject to a domestic violence
23 civil restraining order to possess firearms or ammunition. *See Rahimi*, 144 S. Ct. at 1930
24 (Thomas, J., dissenting). The eight-Justice majority characterized Section 922(g)(8) as one
25 that “disarm[s] individuals who present a credible threat to the safety of others.” *Id.* at
26 1902. The majority then determined that Section 922(g)(8)’s ban on firearm possession
27 was relevantly similar to the surety and going armed laws because those regimes also
28 targeted individuals who presented credible threats to others’ safety—the “why”—and
because some of these laws involved a more restrictive penalty, i.e., imprisonment—the
“how.” In his dissent, by contrast, Justice Thomas argued that the majority had too broad
an approach and thus the historical analogues were not relevantly similar. For example, as
to the “why,” Justice Thomas found inapposite various English laws from the late 1600s
and 1700s, that the Government argued illustrated a tradition of restricting the rights of
dangerous individuals, because the types of dangerous people were different: “the English
were concerned about preventing insurrection and armed rebellion,” while Section

1 to serve as the comparator: it may be the case, for example, that several regimes of
2 regulations, “[t]aken together,” demonstrate a historical tradition of protecting against a
3 societal problem by burdening the Second Amendment right.²⁰ *Rahimi*, 144 S. Ct. at 1901.
4 As stated by Justice Barrett, “[a]nalogical reasoning’ under *Bruen* demands a wider lens”
5 than trying to prove that a modern law is “an updated model of a historical counterpart.”
6 *Rahimi*, 144 S. Ct. at 1925 (Barrett, J., concurring). “Historical regulations reveal a
7 principle, not a mold.” *Id.*

8 To satisfy their burden, the LA Defendants argue that LASD’s licensing regime that
9 “ensures that those bearing arms in the jurisdiction are in fact law-abiding, responsible
10 citizens” is consistent with the historical tradition of firearm regulation. (LASD Opp. at
11 8). LA Defendants argue, for example, some states “banned concealed weapons or
12 concealed weapon carrying outright.” (Opp. at 19 (citing *Baird v. Bonta*, No. 2:19-CV-
13 00617-KJM-AC, 2023 WL 9050959, at *22 (E.D. Cal. Dec. 29, 2023))). The LA
14 Defendants also identify “60 historical statutes that imposed licensing, permitting, or
15 ticketing requirements as a pre-requisite to public carry.” (LASD Opp. at 20; ECF Nos.
16 27-8, 27-9, 27-10).

17
18
19 922(g)(8) is “concerned with interpersonal violence.” *Id.* at 1935 (Thomas, J., dissenting).
20 And as to the “how,” Justice Thomas found that the early forfeiture laws identified by the
21 Government did not impose a comparable burden on the Second Amendment right because
22 forfeiture of one or some improperly-stored firearms could “still allow[] a person to keep
23 their other firearms or obtain additional ones,” which is “in no way equivalent to
24 § 922(g)(8)’s complete prohibition on owning or possessing any firearms.” *Id.* at 1937. It
25 is the majority’s approach, however, that “settles on just the right level of generality.” *Id.*
26 at 1926 (Barrett, J., concurring).

27 ²⁰ In *Rahimi*, for example, the Supreme Court acknowledged that the historical landscape
28 of surety and going armed laws were “by no means identical” to the modern regulation,
Section 922(g)(8). *Rahimi*, 144 S. Ct. at 1901. Nonetheless, “tak[ing] together” the surety
and going armed laws, the founding era historical landscape confirmed the “common
sense” principle that “[w]hen an individual poses a clear threat of physical violence to
another, the threatening individual may be disarmed,” and therefore Section 922(g)(8) does
not violate the Second Amendment. *Id.*

1 Plaintiffs respond that the LA Defendants’ showing is insufficient. First, Plaintiffs
2 contend the LA Defendants purportedly rely on laws that post-date both relevant eras.
3 Second, Plaintiffs argue that, to the extent the LA Defendants cite to laws from the
4 Founding era, those laws are “explicitly racist laws that have no place here.” (Reply at 14).

5 The Court finds the LA Defendants have not carried their burden to demonstrate that
6 the over 18-month delays imposed on Individual Plaintiffs Weimer and Messel are part of
7 a historic tradition of firearms regulation. First, Plaintiffs are correct that the only laws
8 from the Founding era to which the LA Defendants cite are those that outlaw carrying
9 based on race, and the LA Defendants do not explain how racial regulations bear on a
10 waiting period. The LA Defendants otherwise cite to regulations allowing municipal
11 authorities to issue CCW licenses, most of which arose for the first time around the 1870s,
12 *see* (ECF No. 27-9 at 10–16), among various other twentieth century regulations that set
13 forth licensing regimes for CCW licenses.²¹ This is insufficient to carry the LA
14 Defendants’ burden.

15 The LA Defendants also do not explain how any of the laws they identify provide a
16 similar analogue to the LASD’s more than 18-month delay in deciding the two Individuals
17 Plaintiffs’ applications. *See* (LASD Opp. at 20 (“LASD has identified 60 historical statutes
18 that imposed licensing, permitting, or ticketing requirements as a pre-requisite to public
19 carry.”)). These statutes appear to merely provide support for the proposition that there is
20

21 ²¹ Plaintiff objects to the LA Defendants’ request for judicial notice of a “survey of
22 historical license requirements,” a summary document created by Defendants LASD and
23 Luna, arguing that a summary document is not the type of document that can be the subject
24 of judicial notice because “the survey does not purport to quote verbatim legislative
25 enactments.” (ECF No. 32-11 at 4). The Court tends to agree with Plaintiffs that a
26 document summarizing other public documents is more properly submitted as an exhibit
27 to a sworn declaration rather than as a document to be judicially noticed. Nevertheless, as
28 described herein, the LA Defendants’ arguments have not provided a basis for the Court to
consider the contents of the survey document, nor any of the other documents for which
the LA Defendants ask the Court to take judicial notice. Therefore, the LA Defendants’
request for judicial notice of ECF No. 27-9 is denied.

1 a historical tradition for allowing CCW licensing regimes, generally. This tradition,
2 however, does not appear to involve lengthy delays—let alone delays of 18 months or
3 more. While these historical licensing schemes sometimes wholly prohibited individuals
4 from carrying a concealed firearm, the LA Defendants do not identify whether, or which,
5 of the cited municipalities or states allowed the *open* carrying of firearms and,
6 consequently, fail to demonstrate that any historical bans or limits on carrying concealed
7 weapons pose the same burden in LA County on individuals (who are prevented from
8 carrying a firearm *anywhere* without a CCW license). *See, e.g., Alaniz*, 69 F.4th at 1128.

9 In sum, the LA Defendants’ arguments are insufficient to carry their burden.
10 Plaintiffs have therefore established not only that they are likely to succeed on the merits
11 of their Second Amendment claim, insofar as it challenges LASD 18-month delays as
12 applied to Individual Plaintiffs Weimer and Messel, but also that the facts and law are
13 clearly in their favor as to this challenge. The Court will therefore address later in this
14 order whether Plaintiffs have satisfied for this particular challenge the remaining *Winter*
15 factors for a preliminary injunction.

16
17 *b) Plaintiffs’ Challenge of LASD’s Denial of Licenses to Velasquez*
18 *and Partowashraf*

19 Plaintiffs move for preliminary injunctive relief against the LA Defendants, broadly
20 arguing that “LASD discretionary denials are unconstitutional” because *Bruen* allows only
21 for processes that use “narrow, objective, and definite” standards and “flatly prohibits
22 standards that require the ‘appraisal of facts, the exercise of judgment, and the formation
23 of an opinion.’” (Mot. at 21–22). Without citing to any legal authority, Plaintiffs argue that
24 “the use of discretionary and subjective criteria should be considered *per se* government
25 misconduct.” (*Id.* at 24). According to the Motion, one individual Plaintiff and one
26 member of an Association Plaintiff (CRPA) suffered from this “*per se* government
27 misconduct.” Specifically, Plaintiffs assert Individual Plaintiff Velasquez’s CCW
28 application was denied because “he was the victim of a crime” and CRPA member

1 Partowashraf’s application was denied due to a temporary restraining order (“TRO”) filed
2 against him, even though the TRO was “promptly dissolved” thereafter and his firearms
3 returned to him. (*Id.* at 22). In Plaintiffs’ view, these denials evidence the LA Defendants’
4 “subjective belief” that Plaintiff Velasquez and Partowashraf were not “model citizens.”
5 (Mot. at 23). Plaintiffs thus ask the Court to rule these denials unconstitutional and order
6 LASD to immediately issue CCW licenses to Plaintiff Velasquez and CRPA member
7 Partowashraf.

8 The LA Defendants contend that LASD’s existing CCW licensing scheme relies
9 only upon objective criteria set forth by the California Penal Code that is “designed to
10 ensure that only those bearing arms in the jurisdiction are, in fact, law-abiding, responsible
11 citizens.” Each subsection of Section 26202 simply asks the official to determine whether
12 an applicant for a CCW license satisfies the objective criteria. If an applicant does not
13 satisfy the objective criteria, the applicant’s CCW application is denied, and LASD does
14 not exercise any discretion when denying a CCW application. (LASD Opp. at 21).

15 As applied to Individual Plaintiff Velasquez and CRPA member Partowashraf, the
16 LA Defendants argue that Plaintiffs’ challenge fails because each of these denials was
17 based on the LASD’s application of objective criteria. Specifically, according to the LA
18 Defendants, CRPA member Partowashraf’s denial was based on an application of Section
19 26202(a)(3), which prohibits CCW licenses from issuing to individuals who are either
20 subject to any restraining order, unless the order “expired or was vacated or otherwise
21 canceled more than five years prior to the receipt” of the CCW license application. (LASD
22 Opp. at 24). CRPA member Partowashraf’s restraining order, which was initially issued
23 based on allegations that he used firearms to intimidate a victim, was dissolved on motion
24 of the victim on July 18, 2022, and thus more than five years had not passed under the
25 statute. (*Id.*). The LA Defendants argue that Individual Plaintiff Velasquez was denied a
26 CCW license because his firearms were stolen from the trunk of his car after he left three
27 firearms unsecured and unlocked. Section 26202(a)(9) precludes CCW licenses to
28 individuals whose firearms have been lost or stolen due to the individual’s failure to

1 comply with federal, state, or local law regarding “storing, transporting, or securing” the
2 firearms. (LASD Opp. at 24). Additionally, the LA Defendants assert that Individual
3 Plaintiff Velasquez also purportedly engaged in the reckless use of firearms when, on April
4 20, 2021, Velasquez “discharged a loaded firearm and unintentionally fired a bullet into
5 the wall,” which under Section 26202(a)(5) also precludes the issuance of a CCW license.

6 Because Plaintiffs’ Motion requesting that the Court order LASD to issue CCW
7 licenses to Individual Plaintiff Velasquez and CRPA member Partowashraf seeks relief
8 “beyond simply maintaining the status quo,” Plaintiffs must satisfy the heightened standard
9 applied to requests for mandatory preliminary injunctive relief. *Garcia*, 786 F.3d at 740.
10 Plaintiffs, however, have not met their burden of showing a likelihood of success on the
11 merits, let alone that the “facts and law clearly favor” their position. *See Dahl*, 7 F.3d at
12 1403.

13 As an initial matter, Plaintiffs’ “subjective denial” arguments suffer from a lack of
14 clarity as to the requested scope of relief. For example, Plaintiffs appear to suggest in their
15 reply brief that the applicable subsections of California Penal Code Section 26202(a), such
16 as Section 26202(a)(3), are facially unconstitutional. *See* (Reply at 15–18 (“Because
17 California Penal Code section 26202(a)(3) commands or allows this [denial], this Court
18 should rule it unconstitutional.”)). But the question of Section 26202(a)’s constitutionality
19 has not been brought before this Court by Plaintiffs’ Motion, and the Court will not
20 consider arguments made for the first time in Plaintiffs’ reply brief. *See Zamani v. Carnes*,
21 491 F.3d 990, 997 (9th Cir. 2007); *see also Baird*, 81 F.4th at 1041 (the “principle of party
22 presentation” requires the court to “rely on the parties to frame the issues for decision”
23 (citation omitted)). Additionally, to raise a facial challenge, Plaintiffs “must ‘establish that
24 *no set of circumstances exists under which the [law] would be valid,*’ or show that the law
25 lacks ‘a plainly legitimate sweep.’” *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595,
26 615 (2021) (emphasis in original). Plaintiffs have not met this showing.

27 Nor have Plaintiffs adequately framed their challenge as an as-applied challenge.
28 Instead, Plaintiffs contend that LASD’s denials of Individual Plaintiff Velasquez and

1 CRPA member Portowashraf’s applications violate the Second Amendment *because* they
2 were discretionary denials. But Plaintiffs have not demonstrated that the LASD’s denials
3 were, in fact, discretionary and therefore provide no question for this Court to examine
4 under *Bruen*.

5 Section 26202(a) provides in relevant part: “Unless a court makes a contrary
6 determination pursuant to Section 26206, an applicant shall be deemed to be a disqualified
7 person and cannot receive or renew a license pursuant to Section 26150, 26155, or 26170
8 if the applicant:”

9 . . .

10 (3) Has been subject to any restraining order, protective order, or other
11 type of court order issued pursuant to the following statutory
12 provisions, unless that order expired or was vacated or otherwise
13 canceled more than five years prior to the licensing authority receiving
the completed application:

14 (A) Section 646.91 or Part 3 (commencing with Section 6240) of
15 Division 10 of the Family Code.

16 (B) Part 4 (commencing with Section 6300) of Division 10 of the
Family Code.

17 (C) Sections 136.2 and 18100.

18 (D) Section 527.6, 527.8, or 527.85 of the Code of Civil
Procedure.

19 (E) Section 213.5, 304, 362.4, 726.5, or 15657.03 of the Welfare
20 and Institutions Code.

21 . . .

22 (5) Has engaged in an unlawful or reckless use, display, or brandishing
of a firearm.

23 . . .

24 (9) In the 10 years prior to the licensing authority receiving the
25 completed application for a new license or a license renewal, has
26 experienced the loss or theft of multiple firearms due to the applicant’s
27 lack of compliance with federal, state, or local law regarding storing,
transporting, or securing the firearm. For purposes of this paragraph,
28 “multiple firearms” includes a loss of more than one firearm on the

1 same occasion, or the loss of a single firearm on more than one
2 occasion.

3 Here, Plaintiffs acknowledge that the temporary restraining order against CRPA
4 member Partowashraf was vacated in June 2022, which, according to Section 26202(a)(3),
5 makes Partowashraf a “disqualified person” to obtain a CCW license. *See* (Reply at 18;
6 Partowashraf Decl. ¶ 5). Indeed, Plaintiffs state that Section 26202(a)(3) “commands” the
7 denial on this basis. (Reply at 18).

8 Similarly, Plaintiffs have not shown that the LA Defendants violated the Second
9 Amendment when LASD denied Individual Plaintiff Velasquez’s CCW application.²²
10 Although Plaintiffs acknowledge that “California law makes it a crime to store firearms
11 improperly in a vehicle,” (Reply at 16), they argue that Individual Plaintiff Velasquez was
12 not charged with that crime and that Velasquez represents in his January 2024 declaration
13 that he stored the now-stolen firearms in a “range bag in the locked trunk of [his] car, in
14 compliance with California Penal Code [Section] 25610(a)(1).” (Velasquez Decl. ¶ 6).
15 According to Plaintiffs, LA Defendants must therefore be “speculat[ing]” that Velasquez
16 left the firearms unsecured. (Reply at 16). On this record, however, Plaintiffs, at most,
17 present a factual dispute under Section 26202(a)(9) not ripe for resolution at this stage of
18 the proceedings. Plaintiffs have not shown a likelihood of success or that the facts and law
19 clearly favor their position. Further, Plaintiffs have not clearly demonstrated that the LA
20 Defendants exercised “discretion to deny [the] licenses based on a perceived lack of need
21 or suitability,” *Bruen*, 597 U.S. at 13, instead of simply applying the objective criteria set
22 forth in Section 26202(a) and denying the application.

23 Because Plaintiffs have not established that the facts and law clearly favor their
24 theory that the LA Defendants denied either Plaintiff Velasquez’s or CRPA member
25 Partowashraf’s application based on LASD’s purported use of “subjective” criteria and

26 ²² While the parties dispute whether Section 26202(a)(5), regarding reckless use of a
27 firearm, involves discretionary criteria, the Court need not reach that question, given that
28 a denial based on the firearm thefts is, on its own, sufficient to require a denial of a CCW
license under Section 26202(a).

1 have not even shown a likelihood of success on that issue,²³ Plaintiffs’ Motion, insofar as
2 it asserts a challenge based LASD’s denial of Individual Plaintiff Velasquez’s and CRPA
3 member Portowashraf’s CCW applications, is denied.

4 2. Plaintiffs’ Challenge of LVPD’s CCW Application Process

5 a) *Plaintiffs’ Challenge of LVPD’s Psychological Test Requirement*

6
7 Plaintiffs contend that LVPD’s psychological testing requirement is unconstitutional
8 because it is “inherently subjective and discretionary,” there is no appeal process, and the
9 administrative burdens of the test dissuade individuals from applying for a CCW license.
10 *See* (Mot. at 24).²⁴ According to Plaintiffs, the LVPD test involves traveling an hour from
11 La Verne to San Bernadino for an interview from a psychologist who then makes a
12 recommendation to the City of La Verne “based on that individual psychologist’s
13 subjective impressions as to whether the person should be entrusted with Second
14 Amendment rights.” (*Id.*). Plaintiffs further argue that “[n]othing in the Second
15 Amendment requires Plaintiffs to subject themselves to the indignity of a subjective exam
16 as a precondition to exercise their constitutional rights.” (*Id.* at 25).

17 The LV Defendants contend that LVPD’s psychological testing requirement is
18 permissible because *Bruen* did not take up the issue of standard-based personality

19
20 ²³ Even if Plaintiffs had raised a facial challenge to this statute, *Rahimi* appears to foreclose
21 such a challenge because the Supreme Court held that prohibiting individuals subject to
22 domestic violence restraining orders from possessing firearms pursuant to § 922(g)(8) is
23 constitutional under the Second Amendment.

24 ²⁴ Notwithstanding the Complaint’s challenge to California Penal Code Section 26190(e)
25 that allows licensing authorities to require psychological testing in the CCW licensing
26 process, Plaintiffs’ instant Motion does not raise such a challenge to the statute. Belatedly,
27 in reply, Plaintiffs argue that the State is wrong that Plaintiffs do not facially challenge
28 Section 26190(e) because Plaintiffs submitted a proposed order asks that “La Verne be
ordered to stop requiring a psychological exam,” and Plaintiff’s Complaint calls for
enjoining Section 26190(e). (Reply at 32). This argument primarily regurgitates Plaintiffs’
challenge to the LVPD psychological test. While Plaintiffs are not precluded from
pursuing their challenge to Section 26190(e), they did not properly raise it in their Motion.

1 evaluators, *see* (LV Opp. at 10–11), and LVPD’s psychological test is part of “taking the
2 steps necessary to confirm that the CCW license applicants are law-abiding citizens that
3 do not pose a danger to themselves, to others or to the community.” (*Id.* at 11). The LV
4 Defendants further argue that the MMPI, the psychological test LVPD uses, is a
5 “standardized psychometric test of adult personality and psychopathology with an
6 established rubric” that is widely used, including by LVPD for its law enforcement
7 applicants. (*Id.* at 13). The LV Defendants also dispute that Plaintiffs have proffered any
8 evidence that MMPI is a discretionary tool. (*Id.* at 14).

9 The Court observes that, in making their arguments, Plaintiffs fail to contend with
10 the *Bruen* framework and have not addressed their burden of establishing the Second
11 Amendment covers the conduct at issue, leaving the Court with no parameters for which
12 to consider their challenge. Further, the Court does not have a sufficient factual record at
13 this stage of the litigation regarding the actual functioning of the MMPI to determine
14 whether Plaintiffs are likely to succeed on the merits of their claim that the LVPD’s use of
15 the MMPI involves “open ended discretion.” Plaintiffs, therefore, have not carried their
16 initial burden under *Bruen* to raise a challenge to the LVPD’s use of psychological testing
17 before issuing a CCW license. The Motion is therefore denied as to that challenge.

18 *b) Individual Plaintiffs’ Challenge to the LVPD’s CCW Application*
19 *Fees*

20 Plaintiffs argue that LVPD’s processing fees for CCW license applications are
21 unconstitutional and ask the Court to prohibit LVPD from imposing fees greater than the
22 “standard DOJ CCW license application fee of \$93, with the applicants bearing the cost of
23 the training and live scan requirements.” (ECF No. 20-28; Compl. ¶ 131). Plaintiffs argue
24 that LVPD’s fees—which purportedly amount to between \$900 and \$1,200—surpass the
25 fees of other California jurisdictions and are “dramatically more (many orders of
26 magnitude more) than what citizens of other states pay,” pointing to fee regimes in Texas,
27 Arizona, Utah, and Washington. (Mot. at 17–18). According to Plaintiffs, *Bruen* “clearly
28 disapproved of” LVPD’s fees because the ““exorbitant fees [] deny ordinary citizens their

1 right to public carry.” (Mot. at 18 (citing *Bruen*, 597 U.S. at 38 n.9)).²⁵ In support,
2 Plaintiffs submit declarations from several declarants who represent the LVPD’s fees have
3 prohibited them from being able to apply for a CCW license.²⁶ Finally, citing to *Invisible*
4 *Empire Knights of Ku Klux Klan v. City of W. Haven*, 600 F. Supp. 1427, 1434 (D. Conn.
5 1985), and *Bullock v. Carter*, 405 U.S. 134, 149 (1972), Plaintiffs ask the Court to consider
6 other constitutional contexts that have held that “fees cannot inhibit people from exercising
7 their rights.” (Mot. at 21).²⁷

8
9 ²⁵ Citing *Murphy v. Guerrero*, No. 1:14-CV-00026, 2016 WL 5508998, at *24 (N. Mar. I.
10 Sept. 28, 2016), Plaintiffs also argue that “under a less stringent standard [than *Bruen*],”
11 (Mot. At 19), a federal court previously rejected a \$1,000 excise tax by finding that the
12 plaintiff demonstrated that the “tax imposes more than a de minimis burden on his [Second
13 Amendment] right.” *Guerrero*, 2016 WL 5508998, at *24. Plaintiffs have not analogized
14 LVPD’s fee, which purportedly aligns specifically with the processing costs of the CCW
15 license applications, to the \$1,000 excise tax imposed only on handguns in *Murphy*.
16 Further, Plaintiffs have not explained why a district court decision applying now-rejected
17 means-ends scrutiny should be considered persuasive authority. *See id.* at *23.
18 Additionally, Plaintiffs argue that “even pre-*Bruen*” courts had “implicitly recognized that
19 \$1,000 is a constitutionally unreasonable sum to charge for a CCW permit.” (*Id.* at 20
20 (citing *Kwong v. Bloomberg*, 723 F.3d 160 (2d Cir. 2013))). The Court similarly sees no
21 basis to consider an out-of-circuit opinion using means-end scrutiny.

22 ²⁶ *See* (Rigali Decl. ¶ 6 (“I live in a senior citizen mobile home park on a fixed income . . .
23 [making] the total expense of getting a CCW permit from [LVPD], which is somewhere
24 between \$900-1100 . . . out of the question for me.”); Gabaldon Decl. ¶¶ 5 (“I am self-
25 employed and have a son in college, so an extra \$1,000 expense is too much for me at this
26 time.”); Reeves Decl. ¶ 5 (“I wish to reapply for a permit but cannot afford to do so due to
27 the excessive application and issuance fees charged by La Verne.”)).

28 ²⁷ Specifically, citing to *Kwong v. Bloomberg*, 723 F.3d 160 (2d Cir. 2013), Plaintiffs
suggest this Court should follow as persuasive authority the 2nd Circuit’s pre-*Bruen*
analysis of the constitutionality of a fee on firearm licenses, which considered whether the
fee was “designed to defray (and not exceed) the administrative costs associated with the
licensing scheme.” (Mot. at 20). Notwithstanding Plaintiffs’ subsequent (correct)
statement that this standard was used under the now-repudiated means-ends scrutiny for
the Second Amendment, Plaintiffs argue that LVPD’s fees would still fail under that
standard because, unlike in *Kwong*, Plaintiffs have offered evidence that the LVPD’s fees
are prohibitively high. But such an analysis is inconsistent with *Bruen*, which expressly
rejected “means-end scrutiny” as being “inconsistent with *Heller*’s historical approach”

1 The LVPD Defendants respond that Plaintiffs are “expand[ing] the holding of *Bruen*
2 beyond the issue that was actually considered and ruled upon” and assert that there is no
3 Supreme Court precedent holding that a particular amount of processing fees are
4 unconstitutional. (LVPD Opp. at 7, 11). The LV Defendants also argue that footnote 9 in
5 the *Bruen* opinion, which gratuitously suggests that licensing fees that are “exorbitant” may
6 be unconstitutional, was mere *dicta* and, in any event, the LVPD’s fees are neither
7 consistent with the dictionary definition of “exorbitant,” (*id.* at 11), nor are they
8 unreasonable. Instead, asserts the LV Defendants, the fee amounts are the amounts
9 “needed to meet the requirements of the State’s CCW permitting laws,” and the City of La
10 Verne does not profit from the fees. (*Id.* at 12). The LV Defendants also point to several
11 other California jurisdictions that have higher CCW licensing fees than LVPD’s fees to
12 argue that “[c]harging applicants for the actual costs involved in processing their CCW
13 permit applications is reasonable and clearly does not ‘exceed[] customary or appropriate
14 limits or amounts.’” (*Id.* at 13).

15 In asserting their respective arguments, neither party has addressed the *Bruen*
16 framework at all. Ignoring their burden under the first *Bruen* prong, Plaintiffs instead cite
17 to pre-*Bruen* tests to argue the unconstitutionality of fees, and do not endeavor to define—
18 or even address—the conduct at issue and whether it falls within the protections of the text
19 of the Second Amendment. The LV Defendants, for their part, have not submitted *any*
20 historical analogues of Founding-era laws that imposed licensing fees and, instead, point
21 to contemporary fees imposed by various jurisdictions within California. *See* (ECF No.
22 23-4 ¶¶ 6–7, ECF No. 23-5). Similarly, in their Reply, Plaintiffs argue in support of their
23 claims that contemporary comparators, such as current fees imposed in Arizona and Utah,
24 demonstrate that the LVPD’s fees are too high. *See* (Reply at 29–33).

25
26
27 and held that regulations burdening Second Amendment conduct may be found
28 constitutional “[o]nly if [the] firearm regulation is consistent with this Nation’s historical
tradition.” 597 U.S. at 24.

1 On this record, Plaintiffs’ arguments have provided no basis to grant their request
2 for a preliminary injunction. Thus, the Court declines Plaintiffs’ Motion, insofar as it
3 challenges the constitutionality of LVPD’s fees.

4
5 3. Plaintiffs’ Challenge of the State’s Residency Requirement for CCW
6 Licenses

7 Among the named Individual Plaintiffs and members of Plaintiff Association are
8 individuals who do not reside in California but have a CCW license from a different state
9 and wish to carry a firearm while traveling in California. (Hoover Decl. ¶ 4; Broady Decl.
10 ¶ 3).²⁸ Plaintiffs argue that it is unconstitutional for California to use California residency
11 as a requirement to lawfully carry a concealed weapon because it leaves non-Californians,
12 who have the right to carry in other states, with “no ability to exercise the right to carry in
13 this state.” (Mot. at 26). Plaintiffs ask the Court to enjoin the State from imposing criminal
14 penalties under California Penal Code Section 25850 against out-of-state Plaintiffs who
15 have licenses issued from other states. *See* (ECF No. 20-28 ¶ 4). Further, Plaintiffs request
16 that the Court order the State to recognize out-of-state CCW licenses. *See* (Reply at 23).²⁹
17 Because Plaintiffs seek relief that goes beyond the status quo, Plaintiffs’ challenge is
18 subject to “heightened scrutiny” requiring that Plaintiffs show for preliminary injunctive
19

20
21
22 ²⁸ As discussed later in this Order, certain of the Individual Plaintiffs reside in California
23 but possess out-of-state CCW licenses that California does not recognize. Plaintiffs argue
24 that the State’s failure to recognize these out-of-state licenses violates the Equal Protection
25 Clause of the Fourteenth Amendment and the Privileges and Immunities Clause of Article
26 IV. Plaintiffs also appear to imply that California’s failure to recognize the out-of-state
27 licenses of the Individual Plaintiffs who are California residents also violates the Second
28 Amendment. *See* (Mot. at 26; (Rigali Decl. ¶ 5; Reeves Decl. ¶ 4; Minnich Decl. ¶ 14),
The Plaintiffs, however, have not presented any argument in that regard based on the
Second Amendment, and the Court will not supply such an argument.

²⁹ Plaintiffs state that they “have sought only reciprocity for their out-of-state issued
permits, not reciprocity with the permitless [sic] carry some other states allow.” (*Id.*).

1 relief the facts and law clearly favor their claims. *Dahl*, 7 F.3d at 1403. With this standard
2 in mind, the Court considers Plaintiffs’ challenge under the *Bruen* framework.

3 As stated previously, under *Bruen*, Plaintiffs have the initial burden to demonstrate
4 they are part of “the people whom the Second Amendment protects,” whether the “weapon
5 at issue is in common use today for self-defense,” and whether the “proposed course of
6 conduct falls within the Second Amendment.” *Alaniz*, 69 F.4th at 1128 (cleaned up) (citing
7 *Bruen*, 597 U.S. at 31–33). Plaintiffs’ Motion argues both that the Second Amendment (1)
8 prohibits California from refusing to allow non-residents to apply for a CCW licenses
9 within California; and (2) requires California to recognize CCW licenses from out-of-state.
10 To satisfy the first prong of *Bruen*, Plaintiffs assert “[their] proposed course of conduct
11 clearly meets the plain text of the Second Amendment,” namely, “a desire to carry firearms
12 for self-defense when they visit California.” (Reply at 19). The State, by contrast, argues
13 that the proper definition of the proposed conduct is “a traveler’s right to rely on a foreign
14 license to carry within the State of California.” (Bonta Opp. at 11).

15 Here, Plaintiffs have only demonstrated that the text of the Second Amendment
16 likely applies to the first of its arguments, that non-residents have the right, like California
17 residents, to apply to lawfully carry firearms for self-defense while in public. *See Bruen*,
18 597 U.S. at 32 (“Nothing in the Second Amendment’s text draws a home/public distinction
19 with respect to the right to keep and bear arms”). As to the second argument, Plaintiffs
20 have not presented any argument that CCW license reciprocity for out-of-state residents is
21 conduct that falls within the text of the Second Amendment. Instead, Plaintiffs argue that
22 an “analogous issue” was decided by the Supreme Court in *Obergefell v. Hodges*, 576 U.S.
23 644 (2015), when the Court held that the Fourteenth Amendment prohibits a State from
24 denying a marriage license to couples of the same sex and requires the State to recognize
25 same-sex marriages that were lawfully licensed and performed out-of-state. Plaintiffs only
26 state that the “holding and its logic” should “apply with equal force to the enumerated right
27 to bear arms found in the Second Amendment.” (Mot. at 26). But the Supreme Court
28 based its holding in *Obergefell* on the Equal Protection Clause and substantive due process,

1 and the Court held that there was “no lawful basis for a State to refuse to recognize a lawful
2 same-sex marriage performed in another State on the ground of its same-sex character.”
3 *Obergefell*, 576 U.S. at 681. Here, by contrast, the Supreme Court has recognized in the
4 CCW licensing context that each state may engage in some regulation of firearms. *See*
5 *generally Bruen*, 597 U.S. at 13 n.1. Plaintiffs have therefore failed to show that the
6 circumstances here are analogous to those in *Obergefell*. As such, Plaintiffs have not
7 shown a likelihood of success on the issue of reciprocity or that the law clearly favors their
8 reciprocity challenge theory under the Second Amendment. The Court therefore proceeds
9 to the second *Bruen* step only as to Plaintiffs’ first argument regarding non-residents having
10 the right to apply for CCW licenses in California.

11 As set forth above, the State bears the burden of showing whether California’s
12 residency requirements for a CCW license is “consistent with the Nation’s historical
13 tradition of firearm regulation.” *Rahimi*, 144 S. Ct. at 1891. To satisfy this burden, the
14 State contends generally that historical tradition supports locality-based licensing laws.
15 First, the State argues that, generally, “if a person during the founding or Reconstruction
16 eras were carrying a firearm, they would have had to comply with a local jurisdiction’s law
17 when they reached its border, regardless of any differing laws in their home state or
18 locality.” (Bonta Opp. at 14). Defendant also points to public carry laws prohibiting
19 carrying concealed weapons in particular localities to argue that that “virtually every state
20 in the country restricted or criminalized [concealed carry of pistols].” (ECF No. 25-1
21 (“Spitzer Decl.”) ¶ 18); *see also* (ECF No. 26-3 (“Rivas Decl.”) ¶ 16). According to the
22 State, this “local nature” of restrictions is apparent in various states’ municipal laws from
23 1837, 1849, 1851, and 1870–1917, arguing that it was common for municipalities to have
24 different policies than the state as a whole. *See* (Bonta Opp. at 15–16; Rivas Decl. ¶¶ 40,
25 52–54; ECF No. 25-2 (“Vorenberg Decl.”) ¶¶ 17–19).

26 Second, the State argues that several localities’ early licensing laws prohibited non-
27 residents from applying for a license to carry a firearm within the locality and points the
28 Court to three laws. Specifically, in 1910, Georgia made it unlawful for someone to carry

1 a firearm “without first taking out a license from the Ordinary of the respective counties in
2 which the party resides.” (Bonta Opp. at 17 (citing 1910 Ga. Laws 134, No. 432)). Oregon
3 required, in 1913, that anyone *purchasing* a firearm have a license signed by an official “in
4 the county wherein such person resides.” (*Id.* (citing 1913 Or. Laws 497, ch. 256)). And
5 in 1925, West Virginia required anyone who wanted to carry “dangerous or deadly
6 weapons (including pistols) in West Virginia,” to obtain a license to carry by demonstrating
7 both that the applicant had been “a *bona fide* resident of [that] state for at least one year”
8 and “‘of the county’ in which they filed their application” for sixty days. (*Id.* (citing W.
9 Va. Acts 25, ch. 3§ 7(a)). Recognizing that each of these laws came after the Founding
10 and Reconstruction, the State contends that these three laws reflect the “previously settled
11 practices and assumptions” that states and municipalities could enact their own licensing
12 schemes and impose the restrictions on non-residents. Therefore, the State argues, these
13 laws that purportedly limited firearm licenses to residents “fit[] comfortably within the
14 Nation’s history and tradition of firearm regulation.” (*Id.*).

15 Plaintiffs contend Defendants’ showing is inadequate primarily due to an “almost
16 total lack of Founding era history.” (Reply at 21). Plaintiffs argue that, at most, the State
17 has identified a “post-Founding and post-Reconstruction tradition for licensing schemes in
18 general.” (*Id.* at 22). Plaintiffs also point to the “plethora of historical laws” that provided
19 “traveler exceptions to carry laws,” which purportedly gave “nonresidents *more* leeway to
20 carry.” (Mot. at 28). For example, in the 1870s, the cities of Sacramento and Oakland
21 enacted laws that made carrying a pistol without a license unlawful, except as to
22 “traveler[s] actually engaged in making a journey.” *See* (Mot. at 28).

23 As outlined above, for the State to carry its burden, it must establish that a historical
24 regulatory regime (1) burdened the individual’s Second Amendment rights in a similar
25 way, the “how”; (2) burdened Second Amendment conduct for similar reasons, the “why”;
26 and (3) was applicable “when the Second or Fourteenth Amendment was ratified,” *Baird*,
27 81 F. 4th at 1043. Here, the State has only carried its burden as to the “how.”

28

1 For clarity and for purposes of this Motion: the present issue is that nonresident
2 Plaintiffs’ Second Amendment rights to lawfully carry firearms in public for self-defense
3 are burdened—indeed, entirely barred—by California’s statute that allows only
4 Californians to apply for CCW licenses. The only historical analogues offered by the State
5 that involve a remotely similar method of burdening Second Amendment conduct, namely,
6 limiting exercise of Second Amendment rights to a state’s own residents, are the 20th
7 century laws in Georgia, Oregon, and West Virginia.³⁰ And, of those, only Georgia’s and
8 West Virginia’s laws involve a comparable burden—the cited Oregon law dealt only with
9 purchasing firearms, which is distinct from carrying already-owned firearms. Both
10 Georgia’s and West Virginia’s laws did limit the ability to carry to their residents, or at
11 least imposed a residency requirement before one could acquire a license to carry. Georgia,
12 for example, made it unlawful to carry a firearm without first applying for a license “from
13 the Ordinary” of the county in which he presides. West Virginia imposed residency
14 restrictions on those applying for a license to carry, including demonstrating *bona fide*
15 residency of the State for at least one year and the relevant county (in which the license
16 was pending) for sixty days. The State has thus demonstrated that the identified analogues
17 satisfy the metric of “how” a “regulation burden[s] a law-abiding citizen’s right to armed
18 self-defense.” *Bruen*, 597 U.S. at 29; *see also Perez-Garcia*, 96 F.4th at 1184 (finding that
19 Founding-era “pretrial disarmament imposed ‘a comparable burden’ on defendants’

20
21
22
23 ³⁰ For the purposes of this Motion for preliminary injunctive relief, and with consideration
24 of the burdens specific to that stage of the proceedings, the Court focuses its analysis on
25 the analogues specifically raised by the parties in their briefing. *See United States v.*
26 *Sineneng-Smith*, 590 U.S. 371, 375 (2020) (“In both civil and criminal cases, in the first
27 instance and on appeal . . . , we rely on the parties to frame the issues for decision and
28 assign to courts the role of neutral arbiter of matters the parties present.” (citation omitted));
see also May v. Bonta, No.: SACV 23-01696, 2023 WL 8946212, at *7 n.5 (C.D. Cal. Dec.
20, 2023) (limiting discussion on a motion for preliminary injunction to specific laws cited
within the parties’ briefs).

1 Second Amendment rights as the Bail Reform Act’s firearm condition imposes on
2 Appellants today”).³¹

3 The State has failed, however, to demonstrate the “why” in the analysis—that the
4 Georgia and West Virginia analogues burdened Second Amendment conduct for the same
5 reasons. The State suggests that requiring individuals to be residents before acquiring a
6 CCW license is justified because it ensures that CCW licenses are only held by law abiding
7 citizens. *See* (Bonta Opp. at 20). Though California “continuously monitor[s] the
8 eligibility of CCW license holders,” and revokes licenses if an individual “later becomes
9 disqualified,” California does not have the ability to continuously monitor the eligibility of
10 non-residents. (*Id.*) But the State has not provided the “why” behind the West Virginia or
11 Georgia analogues. Therefore, the State has provided the Court with no ability to evaluate
12 whether they were enacted for similar reasons as California. The State’s showing is thus
13 insufficient to demonstrate that these laws are relevantly similar. *See Rupp*, 2024 WL
14 1142061, at *21 (finding regulations insufficiently similar when, even though the presented
15 analogues “used a similar ‘how,’” they were “enacted with a somewhat different ‘why’ in
16 mind”).

17 Finally, the State has also not demonstrated that the West Virginia and Georgia
18 analogues derive from the relevant period or even that they represent a consensus or
19 tradition from other states. As a threshold issue, these laws are only from the 20th century,
20 not the Founding or Reconstruction eras. *See Bruen*, 597 U.S. at 36–36. Without
21 identifying any similar laws before *either* the Founding or Reconstruction, the State has
22 not carried its burden at this stage to show that the limitation of CCW licenses to California
23 residents is part of a historical tradition of this Nation. *See id.* at 66 n.28 (“We will not
24 address any of the 20th-century historical evidence brought to bear by respondents
25 [because] the 20th-century evidence presented by respondents . . . does not provide insight
26

27 ³¹ *See also Rupp v. Bonta*, --- F. Supp. 3d ---, No. 8:17-cv-00746-JLS-JDE, 2024 WL
28 1142061, at *20 (C.D. Cal. Mar. 15, 2024) (finding the state “identifie[d] four laws that
banned possession (the same ‘how’) of dangerous and unusual weapons”).

1 into the meaning of the Second Amendment when it contradicts earlier evidence.”). That
2 there were laws from the Founding era demonstrating a (purported) consensus among the
3 states of regulating the manner of carrying within each state does not, as the State argues,
4 speak to whether the States during the Founding era limited the ability to carry firearms to
5 only their residents. The State has pointed the Court to no history on that point.³² The
6 State has thus failed to demonstrate that it is likely that its residency requirement to apply
7 for a CCW license is part of a historical tradition of this Nation.

8 The Court will therefore analyze shortly the remaining *Winters* factors as to
9 Plaintiffs’ challenge seeking an order allowing non-residents to *apply* for a CCW license,
10 as well as Plaintiffs’ challenge regarding the lengthy delay in deciding the two LASD
11 Individual Plaintiffs’ LASD applications. For the reasons stated above, the Court denies
12 the Motion as to Plaintiffs’ reciprocity challenge that California must recognize out-of-
13 state CCW licenses.

14
15
16 _____
17 ³² Plaintiffs suggest that the infamous *Dred Scott v. Sandford* decision demonstrates that
18 there was a historical tradition of allowing citizens of each State to enter any other state
19 while carrying their firearms based on, as Plaintiffs frame it, then-Chief Justice Taney’s
20 concern with freed-slaves’ ability to “enter every other State . . . and to keep and carry arms
21 wherever they went.” See (ECF No. 32-1 (“Cramer Decl.”) ¶¶ 31–32). The Court is not
22 persuaded that *Dred Scott* has any precedential value, given both its repugnant historical
23 standing and its holding, or that it even stands for the proposition for which Plaintiffs offer
24 it. For example, Plaintiffs have pulled the phrase “enter every other state” out of a multi-
25 clause sentence (which includes intervening terminal punctuation) to suggest that the
26 clause “entering every other state” modifies the later-clause “to keep and carry arms.” See
27 *Dred Scott v. Sandford*, 60 U.S. 393, 417 (1857), *superseded* (1868). To be sure, the Court
28 acknowledges that Justice Thomas similarly references *Dred Scott*. But Justice Thomas
does so only to offer it as corroborating evidence of the right to public carry, in general.
See Bruen, 597 U.S. at 61. There is no question, after *Bruen*, that there is a general right
to public carry and there is no question that States may regulate that right. *See Bruen*, 597
U.S. at 13 (implying that shall-issue CCW regimes are currently lawful). In short,
precedential value aside, the Court does not find *Dred Scott* relevant to the narrower
question presented in the Motion.

1 4. Plaintiffs’ Due Process Claim Against the LVPD’s CCW Psychological
2 Examination Requirement

3 Plaintiffs argue that LVPD’s “psychological exam process” violates “due process
4 protections” because the “current scheme of psychological exams required by LVPD” has
5 no procedural safeguards, such as judicial hearings, evidentiary standards, the right to call
6 supporting witnesses, and the right of appeal. (Mot. at 25). The Complaint, however,
7 asserts a due process claim only against the State (whom the Motion does not address), not
8 Defendant LVPD. Accordingly, the Court does not consider Plaintiffs’ due process
9 argument regarding LVPD’s psychological testing under this claim and denies the Motion
10 to the extent it seeks to enjoin Defendant LVPD’s psychological testing requirement on
11 this ground.³³

12 5. Plaintiffs’ Other Constitutional Challenges Brought by Out-of-State
13 Plaintiffs

14 The Complaint asserts two other claims against the State regarding restrictions on
15 non-residents; one under the Fourteenth Amendment and one under Article IV. *See*
16 (Compl. ¶¶ 155–67). In the Motion, Plaintiffs argue that (1) California’s “policy of denying
17

18
19 ³³ The Court also questions whether a substantive due process claim is the appropriate
20 vehicle for a right that is enumerated in the Bill of Rights. The Supreme Court has been
21 “reluctant to expand the concept of substantive due process because guideposts for
22 responsible decisionmaking in this uncharted area are scarce and open-ended.”
23 *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (citation omitted). Consistent with
24 this sentiment, the Supreme Court has also declined to analyze a constitutional claim using
25 a substantive due process analysis “if the claim is covered by a specific constitutional
26 provision.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 843 (1998); *see also Fontana v.*
27 *Haskin*, 262 F.3d 871, 882 (9th Cir. 2001) (same); *Clifton v. United States Dep’t of Just.*,
28 615 F. Supp. 3d 1185, 1205 (E.D. Cal. 2022) (declining to consider a substantive due
 process challenge to a claim regarding the right to bear arms “because plaintiff’s
 substantive due process claim is duplicative of his Second Amendment claim”); *Baird v.*
 Becerra, No. 2:19-cv-00617-KJM-AC, 2020 WL 5107614, at *9 (E.D. Cal. Aug. 31, 2020)
 (rejecting a plaintiff’s “attempt to shoehorn [the] Second Amendment claims into a
 substantive due process claim”).

1 out-of-state residents the ability to lawfully exercise” their right to be armed in public
2 violates the Equal Protection Clause of the Fourteenth Amendment because the residency
3 requirement is a “regulation and classification[] that impose[s] a penalty or impermissible
4 burden on the right to travel” without a “compelling government interest,” and (2) that
5 “California’s refusal to honor the CCW permits/licenses issued by its sister states” violates
6 the Privileges and Immunities Clause of Article IV of the Constitution by discriminating
7 based on residency. (Mot. at 27); *see also* (Compl. ¶¶ 160, 167).

8 Though Plaintiffs suggest that they have asserted their CCW license reciprocity
9 contention under their Privileges and Immunities claim for relief, the Complaint does not
10 do so. The Complaint asserts only that “California’s law of refusing to accept CCW
11 *applications* from citizens of other states” violates the Privileges and Immunities clause.
12 *See* (Compl. ¶¶ 162–67 (emphasis added)).³⁴ Accordingly, the Court will not address
13 Plaintiffs’ reciprocity argument, which, in the Motion, is the only argued basis for
14 Plaintiff’s asserted Privileges and Immunities Clause violation. *See generally Wasco*
15 *Prods., Inc. v. Southwall Techs., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006) (“The necessary
16 factual averments are required with respect to each material element of the underlying legal
17 theory. . . .” (internal quotation marks, alteration, and citation omitted)).

18 Furthermore, because the Court already found that Plaintiffs are likely to succeed on
19 the merits of their Second Amendment claim alleging that California’s residency
20 requirement for CCW applications is unconstitutional, the Court does not address whether
21 that residency requirement also violates the Fourteenth Amendment or the Privileges and
22 Immunities Clause.³⁵

23
24 ³⁴ Under their Equal Protection claim, Plaintiffs similarly have only challenged the
25 residency requirement for CCW applications and have not explicitly raised a reciprocity
26 challenge. *See* (Compl. ¶¶ 155–61).

27 ³⁵ The Court is also not persuaded though that Plaintiffs have met their burden, at least as
28 presented in this Motion, to demonstrate a likelihood of success as to either of these claims.
As to Plaintiff’s Fourteenth Amendment claim, Plaintiffs offer no more than a conclusory
paragraph in its opening Motion (and nothing in Reply) to argue that California’s residency
requirement for applications burdens the right to travel by burdening the right to be armed

1 **B. Irreparable Harm**

2 Because the only claims for which Plaintiffs have shown they have a likelihood of
3 success concern (1) LA Defendants’ delay as to Individual Plaintiffs Weimer and Messel
4 and (2) California’s residency requirement for CCW applications, the only Defendants’
5 arguments the Court considers for the remaining *Winters* factors are those of the State and
6 the LA Defendants.

7 Plaintiffs argue that they face irreparable harm because their Second Amendment
8 rights will be violated absent preliminary injunctive relief. In opposition, LA Defendants
9 argue that Plaintiffs make no showing of irreparable harm outside of their assertion that
10 they suffered constitutional violations. For its part, the State argues that the challenged
11 laws have been in effect for “many years,” and Plaintiffs delay in requesting injunctive
12 relief demonstrates a lack of urgency and cuts against their claims of irreparable harm.
13 (Bonta Opp. at 27).

14 To obtain a preliminary injunction, a plaintiff must show that irreparable harm is
15 likely in the absence of preliminary relief. *Winter*, 555 U.S. at 20. “It is well established
16 that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’”
17 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S.
18 347, 373 (1976)); see also *Goldie’s Bookstore, Inc. v. Superior Ct. of State of Cal.*, 739
19 F.2d 466, 472 (9th Cir. 1984) (“An alleged constitutional infringement will often alone
20 constitute irreparable harm.”). Although a delay, alone, in seeking injunctive relief “is not
21 a determinative factor in whether the grant of interim relief is just and proper,” *Miller for*
22 *& on Behalf of N.L.R.B. v. California Pac. Med. Ctr.*, 991 F.2d 536, 544 (9th Cir. 1993),
23

24 _____
25 in public. As to the Privileges and Immunities claim, as described above, Plaintiffs
26 similarly offer no more than a three-sentence paragraph in the Motion (and again, nothing
27 in Reply) that California’s failure to “honor the CCW permits” of its “sister states”
28 frustrates the “constitutionally mandated policy” of “bar[ring] discrimination based on
their status as a citizen of another state.” (Mot. at 27). These two paragraphs do very little,
if anything, to demonstrate that these claims have a likelihood of success on the merits, let
alone that the law and facts clearly favor these claims.

1 *on reh'g*, 19 F.3d 449 (9th Cir. 1994), such delay is weighed against the moving party
2 because an injunction is “sought upon the theory that there is an urgent need for speedy
3 action to protect the [party’s] rights.” *Lydo Enterprises, Inc. v. City of Las Vegas*, 745 F.2d
4 1211, 1213 (9th Cir. 1984); *see also Oakland Trib., Inc. v. Chron. Pub. Co.*, 762 F.2d 1374,
5 1377 (9th Cir. 1985) (stating that a “long delay before seeking a preliminary injunction
6 implies a lack of urgency and irreparable harm”).

7 For the reasons described above, Plaintiffs have demonstrated a likely Second
8 Amendment violation due to LASD’s delay as to the two Individual Plaintiffs and based
9 on California’s residency requirement. That likely constitutional violation therefore
10 weighs heavily in favor of a finding of irreparable harm. *See, e.g., Elrod*, 427 U.S. at 373.
11 As to the State’s delay argument, Plaintiffs’ only response is that “*Bruen* made Plaintiffs’
12 claims viable.” (Reply at 36). But *Bruen* has been the law since June 2022, almost two
13 years ago, and Plaintiff Hoover was denied his California CCW license based on residency
14 in the summer of 2023. *See* (Hoover Decl. ¶ 4).³⁶

15 Notwithstanding, the likely deprivation of Plaintiffs’ constitutional rights is
16 sufficient to demonstrate irreparable harm. *See* (Hoover Decl. ¶ 4, Broady Decl. ¶¶ 3–4);
17 *see also Baird*, 81 F.4th at 1047 (instructing the district court in a Second Amendment case
18 that, “[b]ecause even a brief deprivation of a constitutional right causes irreparable injury,
19 the district court must quickly determine whether the *Winter* factors favor issuance of a
20 preliminary injunction in this case, and if so, not ‘shrink from [its] obligation to enforce
21 [their] constitutional rights.’” (first citing *Cuviello v. City of Vallejo*, 944 F.3d 816, 831–
22 34 (9th Cir. 2019), and second citation omitted)). And, as to the State’s delay argument,
23 Plaintiffs are correct that, before *Bruen*, the Supreme Court had not yet held that individuals
24 had a general right to carry *outside* the home. Thus, the possible rights that could be
25
26

27 ³⁶ On the other hand, Plaintiff Broady is newly a nonresident of California and, up until he
28 left in 2020, was able to carry while he was here. *See* (Broady Decl. ¶¶ 3–4).

1 vindicated regarding a CCW license pre-*Bruen* were different. Accordingly, the record
2 supports a finding of irreparable harm absent preliminary injunctive relief.

3 C. Balance of Equities and Public Interest

4 When, as in this case, the government is a party, the analysis of the remaining two
5 *Winter* factors merges. See *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th
6 Cir. 2014) (citing *Nken*, 556 U.S. at 435). The balance of equities factor focuses on “the
7 effect on each party of the granting or withholding of the requested relief.” *Winter*, 555
8 U.S. at 24. By contrast, “[t]he public interest inquiry primarily addresses impact on non-
9 parties rather than parties.” *League of Wilderness Defs./Blue Mountains Biodiversity*
10 *Project. v. Connaughton*, 752 F.3d 755, 756 (9th Cir. 2014) (quoting *Sammartano v. First*
11 *Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002)).

12 In a recent case that considered *Bruen*’s impact on the preliminary injunction factors,
13 the Ninth Circuit noted that a plaintiff who can show that a statute “likely violates the
14 Constitution” will also “usually show ‘that both the public interest and the balance of the
15 equities favor a preliminary injunction.’” *Baird*, 81 F.4th at 1044 (first citation omitted,
16 also citing *Am. Beverage Ass’n v. City & Cnty. of San Francisco*, 916 F.3d 749, 757–58
17 (9th Cir. 2019) (recognizing that a showing of likelihood of success on the merits of a
18 constitutional claim “compels a finding” that the balance of hardships and the public
19 interest favor issuance of a preliminary injunction)). The Ninth Circuit specifically
20 instructed that, if plaintiffs established a likely violation of the Second Amendment under
21 *Bruen*, a district court “must account for the impact that determination has on the remaining
22 *Winter* factors when it analyzes each of them,” and “recogniz[e] that, in cases involving a
23 constitutional claim, a likelihood of success on the merits usually establishes irreparable
24 harm, and strongly tips the balance of equities and public interest in favor of granting a
25 preliminary injunction.” *Id.* at 1048 (citations omitted).

26 Plaintiffs argue that Defendants “cannot suffer harm from an injunction that merely
27 ends an unlawful practice.” (Mot. at 30). Further, Plaintiffs contend that an injunction is
28 in the public interest because individuals with CCW licenses have “exceedingly low

1 homicide rates,” and thus allowing nonresidents to apply for CCW licenses will not harm
2 the public. (Reply at 38). Disputing Defendants’ suggestion that more CCW licenses will
3 increase gun violence, Plaintiffs assert that the more individuals who are allowed to
4 lawfully carry concealed weapons, the more likely it is that these individuals can stop
5 criminals, such as “[m]ass killers,” before “committing their atrocities.” (*Id.*).

6 In response, the State argues that a state always suffers “a form of irreparable injury”
7 when a court enjoins a statute, “enacted by representatives of its people.” (Bonta Opp. at
8 27). The State also argues that an injunction would harm Defendants’ interest in promoting
9 public safety by limiting the right to carry to only “law-abiding, responsible citizens.” *See*
10 (*id.*). LA Defendants argue that forcing the LASD into the “impracticable,
11 unadministrable, and frankly impossible task” of processing the “nearly 10,000 permit
12 backlog within 120 days” would lead to the reckless issuance of CCW licenses to
13 individuals who possibly should not hold them. *See* (LASD Opp. at 28–29).

14 The Court finds that the third and fourth *Winters* factors are satisfied, as Plaintiffs
15 have established that their constitutional rights have been violated. A constitutional
16 violation “strongly tips the balance of equities and public interest in favor of granting a
17 preliminary injunction.” *Baird*, 81 F.4th at 1048; *see also Cal. Chamber of Commerce v.*
18 *Council for Educ. and Research on Toxics*, 29 F.4th 468, 482 (9th Cir. 2022) (“It is always
19 in the public interest to prevent the violation of a party’s constitutional rights.” (cleaned
20 up)). Neither the State nor LA Defendants’ arguments counteract that balance. Concerns
21 for the public safety, to be sure, are important. But the State does not explain how an order
22 enjoining only the residency requirement for applications, which would still require
23 nonresidents to apply for a CCW license in accordance with California law, would impact
24 public safety. And LA Defendants’ (justified) concerns over the practicalities of
25 processing 10,000 applications do not apply to processing the two applications discussed
26 in this Order.

27 Therefore, Plaintiffs have satisfied all of the *Winters* factors for their challenges as
28 to the LASD’s delay of the two LASD Individual Plaintiffs as specified above and as to

1 the California residency requirement for applying for CCW licenses. Accordingly, the
2 Court grants the Motion only as to these challenges.

3 **IV. CONCLUSION**

4 For the foregoing reasons, the Court GRANTS, in part, and DENIES, in part,
5 Plaintiffs' Motion for a preliminary injunction. The Court further ORDERS:

- 6 (1) Within twenty-one (21) calendar days of the date this Order is entered on the
7 docket, Defendants must file their response to the Complaint pursuant to the
8 Court's December 26, 2023, Order on the parties' stipulation to extend each
9 Defendants' time to answer the Complaint, *see* (ECF No. 17); and
10 (2) Within thirty (30) calendar days of this Order being entered on the docket,
11 Plaintiffs must meet and confer with the State and the LA Defendants to
12 submit a proposed order entering the preliminary injunction consistent with
13 the specific findings made in this Order.

14 **IT IS SO ORDERED.**

15
16 DATED: August 20, 2024



17
18 HON. SHERILYN PEACE GARNETT
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28