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September 15, 2010

Department of Justice
Attn: Jeff Amador
P.O. Box 829299
Sacramento, CA 94293-0200
(916) 263-0256

VIA E-MAIL: Jeff.Amador@doj.ca.gov

Re: Proposed Regulation 11 C.C.R. §4001

Mr. Amador,

I write on behalf of The Calguns Foundation in response to the proposed DROS fee regulations – 11 C.C.R. §4001. The Calguns Foundation (“CGF”) is a nonprofit organization incorporated under the laws of California with its principal place of business in San Bruno, California. CGF’s purposes include supporting the California firearms community by promoting education for all stakeholders about California and Federal firearm laws, rights, and privileges, and protecting the civil rights of California gun owners. CGF represents these members and supporters.

The stated purpose of the proposed regulation is to adjust the Department of Justice (DOJ) fee for processing firearms purchase/transfer applications commonly referred to in statute as Dealer’s Record of Sale (DROS). The proposed regulation lowers the current \$19 DROS fee to \$14, allegedly commensurate with the actual cost of processing a DROS. The proposed regulations would also establish a process for DOJ to administratively adjust the DROS fee.

While the Calguns Foundation, Inc. supports the reduction in fees, its findings reveal that the reduction is insufficient to bring the fees within the Statutory Guidelines. Additionally, the DOJ has no itemized accounting of the DROS program funds. Without an itemized accounting of the criteria necessary to determine the proper DROS fee pursuant to Penal Code section 12076, any fee schedule set is speculative and will be made without the authority to do so, since Penal Code section 12076 prohibits the DOJ from charging more than necessary to implement and administrate the requisite DROS Programs. As such, the Proposed Regulations fail to have the requisite authority necessary for passage pursuant to Government Code section 11349.1.

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THE \$14 FEE REMAINS BEYOND THE STATUTORY AUTHORITY OF THE DOJ

A proposed regulation satisfies the requirement of “authority” if a provision of law permits or obligates the agency to adopt, amend, or repeal a regulation. (Govt Code 11349(b).)

The Department of Justice’s authority to charge fees to recover the costs for DROS funded programs is limited by the provisions of Penal Code 12076(e)¹ and (f)². Both of these provisions limit what the DOJ

¹ The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. **The fee shall be no more than is necessary to fund the following:**

- (1) (A) The department for the cost of furnishing this information.
- (B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.
- (2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.
- (3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.
- (4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.
- (5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
- (6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.
- (7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).
- (8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.
- (9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.
- (10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

² (f) (1) The Department of Justice may charge a **fee sufficient to reimburse it** for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations:

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can collect to only the amount necessary to fund the specific tasks. Thus, in order to determine the appropriate sum that can be charged as the fee, the DOJ must account for the costs of each category of information referenced in Penal Code section 12076 and included in the total costs.

Unfortunately, the DOJ has not been able to provide such an accounting – and is therefore unable to substantiate the proposed \$14 fee. On July 27, 2010, Brandon Combs submitted a Public Records Act request for information pertaining to an accounting for each of the categories that the proposed fee is purportedly based upon. (Exhibit A.) In response, after several conversations with representatives of the Bureau of Firearms, Mr. Combs was informed that no such accounting exists. And, his request was therefore modified to obtain information currently available, namely:

1. The DROS fund total budget for years 2000-2010;
2. The amount of DROS sales for years 2000-2010 (the number of DROS transactions for long-guns and shotguns and the amount of DROS transactions for handguns);
3. The amount deposited into the DROS fund for years 2000-2010 (i.e. DROS revenue);
4. A list of services that are provided by the DOJ/BOF using DROS monies; and
5. A list of the statutory/regulatory authority for the fees charged/services provided.

On August 10, 2010, the DOJ responded to Mr. Combs' request by providing: (1) a chart that provides a summary of the DROS budget, total revenue, expenditures, and DROS transactions for the last ten fiscal years, and (2) A chart that provides the list of services that are provided by the DOJ that are supported by the DROS funds, as well as a listing of any associated fees and statutory references. (Exhibit B.)

In sum, the DOJ was unable to provide an accounting of the DROS funds, as necessary to establish the fee schedule permitted Penal Code section 12076. Further, based upon the materials provided, it appears as though the DOJ is or has been comingling the DROS account funds for use with activities beyond those statutorily authorized.

In researching the matter further, information from the California Department of Finance indicates that there has been an ongoing surplus of funds in the DROS account. (Exhibit C.) When considered in conjunction with the information provided by the DOJ, this leads to the conclusion that the existing fees, as well as the proposed \$14.00 fee, are beyond that statutorily authorized.

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (1) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for implementing this subdivision.

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As such, the Calguns Foundation opposes the fee of \$14.00 on the basis that the information obtained from the DOJ cannot support a claim that the amount necessary to perform the services required by the DOJ is \$14.00 and the surplus of funds suggests that the proposed amount is insufficiently reduced. In fact, because the DOJ is unable to provide an itemized accounting of each of the programs that the total fee is based upon, we request an audit of the use of the DROS funds to establish the appropriate fee to bring the DOJ into compliance with the requirements of Penal Code section 12076.

THE PROPOSED 11 C.C.R. 4001(b) EXCEEDS THE DOJ'S AUTHORITY

The Calguns Foundation opposes proposed 11 C.C.R. section 4001(b) to the extent that it authorizes the DOJ to annually set a fee without having a proper accounting from which to determine a proper fee – as required by Penal Code section 12076. Penal Code section 12076 sets forth the guidelines upon which the DOJ may raise fees. (See footnotes 1 and 2.) The Proposed Section 4001(b), however, states only one restriction, that the “fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.”

Nothing in the proposed Section 4001(b) provides guidance as to how the proper fee is to be determined; nor does it mandate an accounting of the specified Penal Code 12076 programs – a requisite to the determination of the appropriate fee. As such, any regulation permitting a fee adjustment based upon pure speculation as to what the actual costs are is beyond the statutory authority of Penal Code section 12076.

CONCLUSION

The Proposed regulation does not reduce the fee to the sufficient amount given the current surplus in the DROS funds accounts. Further, any setting of fees without an itemized accounting of the costs of implementing and maintaining the various DROS Programs necessary to determine the appropriate fees pursuant to Penal Code 12076 is mere speculation and not authorized by the Penal Code. As such, The Calguns Foundation requests an audit of the programs funded by the DROS fees to determine the actual costs and the appropriate fee schedule.

Sincerely,
DAVIS & ASSOCIATES



JASON DAVIS

EXHIBIT A

Combs

From: Brandon Combs [combspm@gmail.com]
Sent: Tuesday, July 27, 2010 2:29 AM
To: administrative.officer@dof.ca.gov; kimberly.graham@doj.ca.gov
Subject: Public Records Act Request (Reference No. 072710-DROS)
Attachments: 0015a.pdf; 0460.pdf; 1008.pdf

Importance: High

Tuesday, July 27, 2010

Administrative Officer
Department of Finance
915 L Street, Suite 1260
Sacramento, CA 95814
SENT VIA EMAIL (administrative.officer@dof.ca.gov)

Ms. Kimberly Graham
California Department of Justice
P.O. Box 944255-2550
Sacramento, CA 95814
SENT VIA EMAIL (kimberly.graham@doj.ca.gov)

Re: Public Records Act Request
Reference No: 072710-DROS

Dear Department of Finance and Department of Justice:

I. THIS LETTER IS A REQUEST UNDER THE CALIFORNIA PUBLIC RECORDS ACT

This letter constitutes a request under the California Public Records Act ("CPRA"), California Government Code Section 6250, et seq. (the Act). Please include the reference number located above in all communications related to this request for tracking purposes.

This request is directed individually: (1) to each person identified in the addressee section above, and (2) to the Public Records Act Clerk for each entity identified in the addressee section above. If the items listed below are under the control of another department or agency, please forward this letter accordingly.

This request seeks the information listed below, whether in the form of a writing, email, computer file, photograph, audio or video tape, or however kept.

Please assist me in identifying what records may be directly or indirectly related to the subject of my search (namely, the DROS system and costs related thereto) pursuant to Government Code section 6253.1. Further, please indicate the information technology used for and physical location of all responsive documents.

II. INFORMATION REQUESTED

1. Regarding the Dealers' Record of Sale Special Account (DROS) (no. 0460), a copy of the historical cost data (both inception to date and last fiscal year) for this and any related funds/accounts, funds/accounts which received monies from or transferred monies to the DROS account, to the greatest level of detail for all cost codes and types, including (but not limited to):
 - a. actual costs incurred for the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of subdivision (e) of Cal. Penal Code Section 12076;

- b. actual costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of subdivision (e) of Cal. Penal Code Section 12076;
- c. actual costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of subdivision (e) of Cal. Penal Code Section 12076;
- d. actual costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code;
- e. actual costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of subdivision (e) of Cal. Penal Code Section 12076;
- f. actual costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code;
- g. actual costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Cal. Penal Code 12072;
- h. actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Cal. Penal Code Section 12078;
- i. actual processing costs associated with the submission of a Dealers' Record of Sale to the department;
- j. actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Cal. Penal Code Section 12078 or paragraph (18) of subdivision (b) of Cal. Penal Code Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Cal. Penal Code Section 12072, or paragraph (3) of subdivision (f) of Cal. Penal Code Section 12072;
- k. actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c) of Cal. Penal Code Section 12076;
- l. actual costs incurred pursuant to the following:
 - 1. paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Cal. Penal Code Section 12072;
 - 2. Cal. Penal Code Sections 12083 and 12099;
 - 3. subdivision (c) of Cal. Penal Code Section 12131;
 - 4. Cal. Penal Code Sections 12234, 12289, and 12289.5;
 - 5. subdivisions (f) and (g) of Cal. Penal Code Section 12305;
- m. the statutory and regulatory basis for the DROS program and associated fees (including any associated rulemaking documents and correspondences);
- n. CA DOJ's DROS policy and all processes related thereto, including descriptions of the type and quantity of personnel, equipment/assets and vendors and the tasks performed by each to operate the system and fulfill the objectives of the program;
- o. The names of all personnel (and their titles), including a statement(s) of annual wages or salaries, other compensation, fringe benefits and all other employee costs, who participate in the DROS process or incur cost to the DROS budget item(s).

- p. Copies of all bills of sale and/or contracts for all interagency/interdepartmental, outside services/vendors, equipment/assets and consumables used in creating, operating and maintaining the DROS system.
2. Detailed DROS transaction reports for each year between inception and the last total fiscal year, including:
 - a. Number of transactions and the number of all firearms transferred that are not pistols, revolvers, or other firearms capable of being concealed upon the person;
 - b. Number of transactions and the number of all firearms transferred that are pistols, revolvers, or other firearms capable of being concealed upon the person;
 3. DROS fund total budget and actual revenues, by year, from inception through the last fiscal year;
 4. DROS fund total budget and actual costs, by year, from inception through the last fiscal year;
 5. Regarding the "Firearms Safety and Enforcement Special Fund" (no. 1008):
 - a. current policy and procedures surrounding the Firearms Safety Testing fund, including the statutory and regulatory basis for the program (including any associated rulemaking documents and correspondences);
 - b. current assessed transactional fees associated thereto;
 - c. historical cost data (both inception to date and last full fiscal year) to the greatest level of detail for all cost codes and types, including employee, equipment/asset and vendors;
 6. Regarding the "Firearms Safety Training Fund Special Account" (no. 0015a):
 - a. current policy and procedures surrounding the Firearms Safety Testing fund, including the statutory and regulatory basis for the program (including any associated rulemaking documents and correspondences);
 - b. current assessed transactional fees associated thereto;
 - c. historical cost data (both inception to date and last full fiscal year) to the greatest level of detail for all cost codes and types, including employee, equipment/asset and vendors.

Manuals for known related funds or accounts are attached for reference.

III. ELECTRONIC FORMAT

Pursuant to Government Code section 6253.9, subdivision (a)(2), I ask that any information sought that constitutes an identifiable public record be provided in the electronic format in which you hold the information or, if scanned, in 'PDF' format (a format that has been used by your agency to create copies for your own use or for provision to other agencies. (Cal. Gov't Code § 6253.9(a)(2))). If the original format is subject to manipulation, you may at your option provide the documents in a static format so long as any responsive text, formulas or other information (including metadata) contained in the original are also made available in the alternative format.

IV. TIME TO RESPOND

I ask that your determination in response to this Request be relayed to me within 10 days of your receipt of this Request, and an even earlier reply if you can make that determination without having to review the records in question.

V. COST DISCLOSURE & REIMBURSEMENT

Pursuant to section 6253 of the CPRA, I am willing to pay fees for the direct cost of duplication or to pay statutory fees. (Gov. Code, §6253(b) (paper records), §6253.9 (electronic records)). I ask that you notify me of any costs

involved prior to incurring those costs; however, if you estimate that the total direct costs of the requested records and shipping, if necessary, will not exceed fifty dollars (\$50.00), please accept this as authorization to begin the process of reproduction.

VI. TERMS ARE SEVERABLE

Please treat the terms of this request as severable. That is, should you determine that one or more portions of the requested information cannot be released, please state the legal basis for such non-release, and release the remaining portions expeditiously as required by Government Code Sections 6250 et seq.

VII. EXEMPTIONS, EXCLUSIONS & DENIALS

A. Exemptions Must Be "Narrowly Construed"

If you determine that any or all of the information is exempt from disclosure, I ask that you reconsider that determination in view of Proposition 59, which has amended the California Constitution to require that all exemptions be "narrowly construed." The newly amended Government Code, section 6250, et seq., may modify or overturn authorities on which you have relied in the past.

B. Exclusion is Discretionary, Not Mandatory

If you nonetheless determine that the requested records are subject to a still-valid exemption, I would further request that: (1) you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and (2) that, with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest.

C. Denials Must Be Supported by Citation of Legal Authority

Finally, should you deny part or all of this request, I expect that each denial is clearly supported by citation of applicable statute and case law. As the CPRA requires, I expect to receive notification of your compliance with this request within ten (10) days of your receipt of this letter.

VIII. COMMUNICATION & CONTACT INFORMATION

Please communicate with me by email (combspm@gmail.com) for all correspondence related to this request; however, any written correspondence or shipments should be directed to:

Mr. Brandon Combs
37200 Paseo Padre Parkway Unit 146
Fremont, CA 94536

If you have any questions or would like to discuss this request in detail please call me directly at (925) 335-6860. Thank you for your cooperation.

Sincerely,

Mr. Brandon Combs

EXHIBIT B

Combs

From: Kimberly Graham [Kimberly.Graham@doj.ca.gov]
Sent: Thursday, August 12, 2010 3:46 PM
To: Brandon Combs
Subject: DROS PRA request
Attachments: Document.pdf; DROS Services & Statutes.pdf; Summary of DROs Budget, Revenue and Expenditures 2000_2010 wit.pdf

Dear Mr. Combs,

Attached please find correspondence and documents regarding your DROS Fund PRA request.

Best regards,

Kimberly Graham

Kimberly Graham
Deputy Attorney General III
Government Law Section
Direct phone line: (916) 322-6114
Bureau of Firearms
Direct phone line: (916) 263-5153
Email: kimberly.graham@doj.ca.gov
Fax: (916) 324-8835

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EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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Facsimile: (916) 324-8835
E-Mail: Kimberly.Graham@doj.ca.gov

August 10, 2010

Mr. Brandon Combs
37200 Paseo Padre Parkway Unit 146
Fremont, CA 94536

RE: Public Records Act Request (Reference No. 072710-DROS)

Dear Mr. Combs:

This letter is in response to the above request made pursuant to the California Public Records Act (PRA) set forth in California Government Code Section 6250, et seq., received by the Bureau of Firearms within the California Department of Justice (DOJ) on July 27, 2010. In your request, you sought several categories of documents relating to the Dealers' Record of Sale (DROS) Special Account.

Over the course of several days, you and I had multiple conversations regarding a modification of your request so that you would obtain the information that you were seeking. On July 30, 2010, we finalized the modification of your request as seeking the following documents:

- The DROS fund total budget for years 2000-2010;
- The amount of DROS sales for years 2000-2010 (the number of DROS transactions for long-guns and shotguns and the amount of DROS transactions for handguns);
- The amount deposited into the DROS fund for years 2000-2010 (i.e., DROS revenue);
- A list of the services that are provided by DOJ/BOF using DROS monies; and
- A list of the statutory/regulatory authority for the fees charged/services provided.

In response to your modified request, I have attached the following two documents:

- 1) A chart that provides a summary of the DROS budget, total revenue, expenditures, and DROS transactions for the last ten fiscal years; and

2) A chart that provides the list of services that are provided by the Department of Justice/Bureau of Firearms that are supported by the DROS fund, as well as a listing of any associated fees and statutory references.

As I indicated in a prior email, other than internal memoranda that would be covered by the deliberative process¹ and attorney-client² and work-product³ privileges, and thus exempt

¹ The deliberative process privilege is applied to the PRA through section 6255. It exempts from disclosure materials that would expose an agency's decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is actually related to the process by which policies are formulated or, if it is inextricably intertwined with policymaking processes. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1342.)

The documents responsive to this request reveal the decision-making process of the Attorney General and his staff, including but not limited to internal memoranda and emails about the development of policy; specifically, it seeks documents reflecting the analysis by DOJ employees regarding a possible fee reduction. Disclosure of the materials would expose the decision-making process of the Attorney General and DOJ "in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. [Citation.]" (*Times Mirror Company v. Superior Court, supra*, 53 Cal.3d at p. 1342.) Therefore, we deny your request for any documents that are responsive to this request which are exempt from disclosure pursuant to the deliberative process privilege.

² Section 6254, subdivision (k), incorporates confidentiality privileges set forth elsewhere in law. The attorney-client privilege is contained in Evidence Code section 952 and protects confidential communications between an attorney and his or her client. Section 6254, subdivision (k), expressly exempts from disclosure matters privileged under the Evidence Code, which includes the attorney-client privilege. (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 370.) Public entities may assert the attorney-client privilege. (*Ibid.*) The privilege "applies to communications in the course of professional employment that are intended to be confidential." (*Id.*, at p. 371.)

In the present case, deputy attorneys general provide legal advice to the Attorney General, his designees, and to the bureaus and divisions within DOJ. The documents that are responsive to your request include legal advice to the Attorney General, his designees, and to the bureaus and divisions within DOJ regarding a possible fee reduction. Any documents that constitute legal advice from deputy attorneys general to the Attorney General, his designees, or the bureaus/divisions within DOJ are exempt from disclosure pursuant to the attorney-client privilege. Because attorney-client communications are exempt from disclosure in response to a PRA request, we deny your request for any documents that constitute attorney-client communication.

³ Code of Civil Procedure section 2018.030 exempts from disclosure the work product of an attorney. The attorney work product privilege applies to any writing that reflects an attorney's impressions, conclusions, opinions, legal research or legal theories that are maintained as confidential. It is incorporated into the PRA by section 6254, subdivision (k). (*County of Los Angeles v. Superior Court* (2000) 82 Cal.App.4th 819, 833.) Under the attorney work-product exception, records such as confidential analyses, draft language and memoranda prepared by the attorneys employed in the Attorney General's Office constitute attorney work product that is exempt from public disclosure under the PRA.

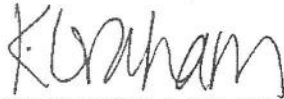
In the present case, the attorneys in our department provide legal advice to the Attorney General and his designees. To the extent that records were prepared by deputies attorney general to offer their impressions, conclusions, opinions, legal research or legal theories to the Attorney General, his designees, or the bureaus/divisions within DOJ about a possible fee reduction, those records are attorney work product that is exempt

Mr. Brandon Combs
August 10, 2010
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from disclosure under the PRA, you are receiving the documentation that has or will be used by DOJ to form the basis of its analysis and recommendation for the DROS fee reduction.

I hope this information is helpful and responsive to your request. If you have any questions or concerns, please do not hesitate to contact me. Thank you again for your cooperation with respect to this request.

Sincerely,



KIMBERLY J. GRAHAM
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

KJG:

SA2010101369
10601049.doc

from disclosure in response to your request. Because attorney work product is exempt from disclosure in response to a PRA request, we deny your request for any documents that constitute attorney work product.

BUREAU OF FIREARMS FEE SCHEDULE/AUTHORIZATIONS

	INITIAL	Initial Fee Breakdown			RENEWAL	PENAL CODE
	Total	FD	Fingerprint Fee			
	Fee	Fee	State	FBI		
DROS FUND - 0460						
FIREARMS CLEARANCE SECTION FEES						
California Assault Weapons Guide	\$2.00	\$2.00				12276.5(a)
California Firearms Laws Booklet	\$2.00	\$2.00				12080(c)
Personal Firearms Eligibility Check	\$20.00	\$20.00				12077.5(b)
Law Enforcement Gun Release Eligibility Check (\$20 for 1st firearm)	\$20.00	\$20.00				12021.3(c)
DROS Revolver or Pistol	\$19.00	\$19.00				12076(e) and 12076(f)(1)(B)
DROS for multiple handguns acquired on same day after first	\$15.00	\$15.00				12076(e) and 12076(i)(2)
DROS Rifle or Shotgun	\$19.00	\$19.00				12076(e) and 12076(f)(1)(B)
Firearms Reporting (Op Law, New Resident Handgun Rprt, Curio/Relic)	\$19.00	\$19.00				12076(f)(1)(C)
POST Certification (Non-sponsored)	\$70.00	\$19.00	\$32.00	\$19.00		13511.5
Peace Officer Candidates	\$51.00	\$19.00	\$32.00			832.15
Security Guard with 2-year firearms	\$89.00	\$38.00	\$32.00	\$19.00	\$38.00	7583.26 BP Code
FIREARMS LICENSING AND PERMITS SECTION FEES						
.50 BMG Rifle Registration - Citizen	\$25.00	\$25.00				12285(b)
Assault Weapon Registration	\$20.00	\$20.00				12285(a)
Certificate of Eligibility	\$73.00	\$22.00	\$32.00	\$19.00	\$22.00	12071(a)(5) and 12071.1
Concealed Weapon Permits (CCW):						
90-Day Employment	\$73.00	\$22.00	\$32.00	\$19.00	\$30.00	12050
2-Year Resident	\$95.00	\$44.00	\$32.00	\$19.00	\$52.00	12050
3-Year Judicial	\$117.00	\$66.00	\$32.00	\$19.00	\$74.00	12050
4-Year Reserve Peace Officer/LE Custodial Officer	\$139.00	\$88.00	\$32.00	\$19.00	\$96.00	12050
*\$8 BCII for thumbprint on license + multiples of \$22 for each year						
Dangerous Weapons Licenses/Permits:						
Assault Weapon Permit	\$372.00	\$321.00	\$32.00	\$19.00	\$126.00	12286 (12230 & 12231) and 12287
Assault Weapon Permit (Military)**	\$73.00	22**	\$32.00	\$19.00	\$22.00	12286
Destructive Device Permit	\$372.00	\$321.00	\$32.00	\$19.00	\$126.00	12305(e)
Explosive Permit	\$73.00			\$73.00		12101 (j)(2) H&S
.50 BMG Rifle Permit	\$372.00	\$321.00	\$32.00	\$19.00	\$126.00	12286 (12230 & 12231) and 12287
Machine Gun License and Permit	\$394.00	\$343.00	\$32.00	\$19.00	\$148.00	12231 and 12250

Permit Only	\$372.00	\$321.00	\$32.00	\$19.00	\$126.00	12231
Short-Barreled Shotgun/Rifle Permit	\$372.00	\$321.00	\$32.00	\$19.00	\$126.00	12096
Multiple DW permits after first permit	\$22.00	\$22.00			\$22.00	
Inspection fee Tier 1 = 26+	\$1,500.00	\$1,500.00			\$1,500.00	Stats 2002 ch.1106
Inspection fee Tier 2 = 5-25						Stats 2002 ch.1106
Dangerous Weapon Inventory	\$750.00	\$750.00			\$750.00	Stats 2002 ch.1106
Inspection fee Tier 3 = 0-4						Stats 2002 ch.1106
Dangerous Weapon Inventory	\$165.00	\$165.00			\$165.00	
Protective Tear Gas System Permit	\$224.00	\$173.00	\$32.00	\$19.00	\$61.00	12424
Tear Gas Permit	\$224.00	\$173.00	\$32.00	\$19.00	\$61.00	12424
Entertainment Firearms Permit	\$99.00	\$48.00	\$32.00	\$19.00	\$29.00	12081(c)
Centralized List (CL) of Firearms	\$20.00	\$20.00			\$20.00	12071(f)
CL Large Capacity Magazine Permit	\$0.00					12079
Centralized List of Firearms Dealers Inspection Fee	\$95.00	\$95.00			\$95.00	12071(f)
Centralized List of Exempted Federal Firearms Licensees (CLEFFL)	\$115.00				\$115.00	12083(b)
Firearms Manufacturers License (100-499 guns per year)	\$250.00	\$250.00			\$250.00	12086(b)(3)
Firearms Manufacturers License (500 + guns per year)	\$600.00	\$600.00			\$600.00	12086(b)(3)
Gun Show Promoter	\$85.00	\$85.00			\$85.00	12071.1(d)
DROS Funded Programs/Services w/o Fees						
Automated Firearms System (AFS) Program						11106 & 12076(e)(10)
California Firearms Licensee Check Program						12072(f)(1)
Firearms Prohibition Report Processing						12076(e)
Reimbursement for Mental Health Reporting						12076(e)
Reimbursement for Tarasoff Reporting						12076(e)(6)
DROS Enforcement Activities						12076(e)(10)
Firearms Database Audits						12076(e)(10)
Firearms Dealer Acquisition System Program						12071(b)(18)
No Longer in Possession of Handgun						12078(l) & 12076(f)(1)

Summary of DROS Actual Revenues and Expenditures

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11 ⁴
Budget ¹	8,930	8,345	8,595	8,425	8,198	8,627	9,673	10,010	11,693	9,929	11,237
Total Revenues ²	8,416	7,471	6,907	6,425	10,175	10,441	10,438	11,146	12,597	12,844	13,936
Total DROS transactions ⁵	365,815	359,301	335,953	300,648	326,293	374,558	367,494	387,226	479,772	478,682	n/a
Expenditures ³	8,780	7,928	8,482	8,238	8,297	8,667	8,325	8,814	10,890	9,136	

Note: numbers were pulled from the DROS - 0460 Fund Condition Statements.

Footnotes:

¹ Reflects the total expenditure authority displayed in the current year (middle column) Fund Condition Statement in Gov's Budget.

² Actual revenues & transfers reported in the prior year (first column) column of Gov's Budget Fund Condition Statement.

³ Budget numbers reflect what is proposed in the 2010/11 Governor's Budget. Revenues are estimates.

⁴ Budget numbers reflects authority as of 7/1/10; revenue are estimates; and there are no prior year actual expenditures to report.

⁵ Reflects the number of DROS transactions during the fiscal year.

Combs

From: Kimberly Graham [Kimberly.Graham@doj.ca.gov]
Sent: Thursday, August 12, 2010 4:27 PM
To: Brandon Combs
Subject: DROS Stats by Fiscal Year (handguns/long guns) -- PRA re: DROS Fund

Dear Mr. Combs,

Below please find the fiscal year break down for DROS transactions re: long guns/handguns. I apologize for excluding this information from my previous response.

Best regards,

Kimberly Graham

FISCAL YEAR	Handguns	Long guns	TOTAL RECEIVED (HANDGUNS AND LONG GUNS)
2000/01	181,795	184,020	365,815
2001/02	161,909	197,392	359,301
2002/03	156,567	179,386	335,953
2003/04	136,615	164,033	300,648
2004/05	148,551	177,742	326,293
2005/06	170,124	204,434	374,558
2006/07	174,606	192,888	367,494
2007/08	189,493	197,733	387,226
2008/09	230,645	249,127	479,772
2009/10	224,604	254,078	478,682

Kimberly Graham
Deputy Attorney General III
Government Law Section
Direct phone line: (916) 322-6114
Bureau of Firearms
Direct phone line: (916) 263-5153
Email: kimberly.graham@doj.ca.gov
Fax: (916) 324-8835

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From: Bralley, Dana [mailto:Dana.Bralley@dof.ca.gov]
Sent: Friday, July 30, 2010 2:55 PM
To: combspm@gmail.com
Cc: kimberly.graham@doj.ca.gov
Subject: FW: Public Records Act Request (Reference No. 072710-DROS)

Dear Mr. Combs:

The Department of Finance received your Public Records Act request listed below. We understand that on July 29, you amended your request through Kimberly Graham of the Department of Justice. The Department of Finance is now only required to produce documents regarding the DROS fund budget for years 2000 through 2010.

The information you seek is available on our website at the following link:
<http://www.dof.ca.gov/budget/historical/2010-11/>. The information is located within the Governor's Budget Summary for each respective fiscal year under Appendices & Schedules. All funds are located in the Fund Condition Statement within Schedule 10. NOTE: The Governor's Budget displays three years of information - prior year (actual), current year, and proposed budget year. So, for example, to find the actual revenue and expenditure figures for 2008-09 for DROS funds, you need to look in the 2010-11 Governor's Budget Summary.

Sincerely,

Dana Bralley

Dana Bralley | Training and Administrative Officer | Department of Finance | 916.445.3274

 Please consider the environment before printing this e-mail

EXHIBIT C

DROS PROGRAM - ACTUAL COSTS & REVENUES*

FY 2000-2009

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
APPROVED BUDGET	\$ 8,930,000	\$ 8,345,000	\$ 8,595,000	\$ 8,425,000	\$ 8,198,000	\$ 8,627,000
TOTAL REVENUES	\$ 8,416,000	\$ 7,471,000	\$ 6,907,000	\$ 6,425,000	\$ 10,175,000	\$ 10,441,000
TOTAL EXPENDITURES	\$ 8,780,000	\$ 7,928,000	\$ 8,482,000	\$ 8,238,000	\$ 8,297,000	\$ 8,667,000
Unique Handgun DROS Trans	181,795	161,909	156,567	136,615	148,551	170,124
Unique Long Gun DROS Trans	184,020	197,392	179,386	164,033	177,742	204,434
TOTAL DROS TRANSACTIONS	365,815	359,301	335,953	300,648	326,293	374,558
DROS fee	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00
TTL DROS REVENUES**	\$ 6,950,485	\$ 6,826,719	\$ 6,383,107	\$ 5,712,312	\$ 6,199,567	\$ 7,116,602

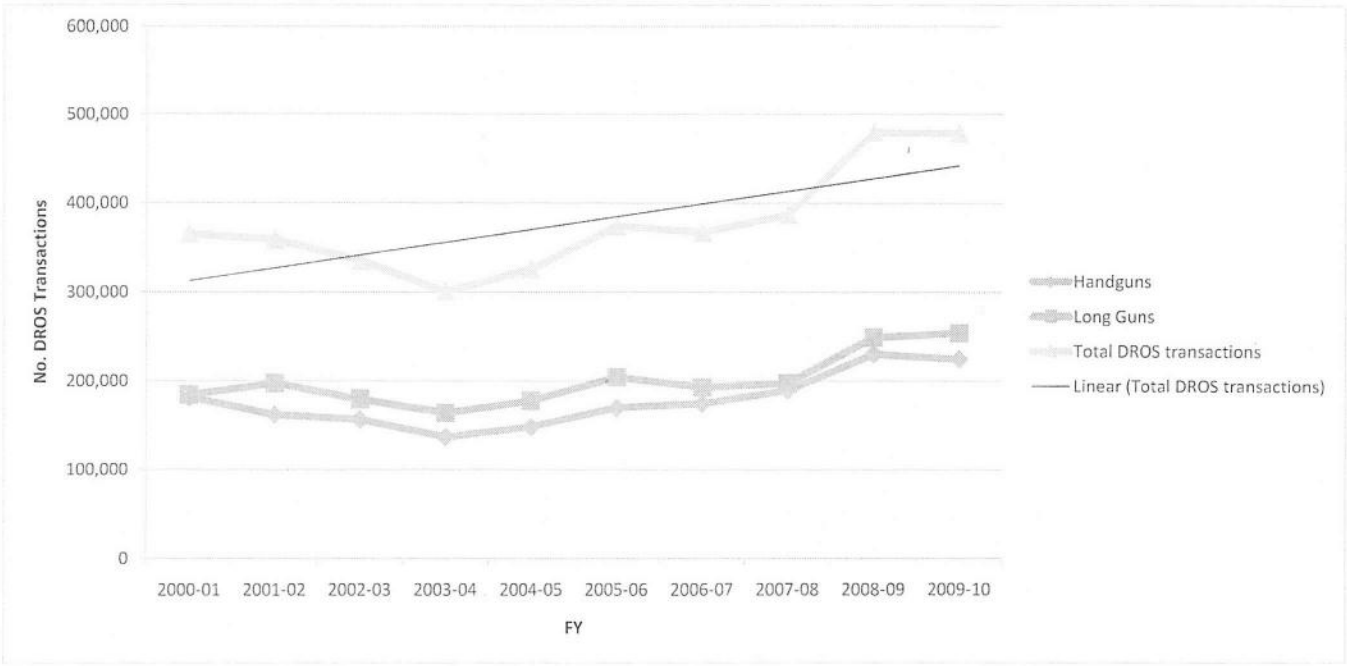
	2006-07	2007-08	2008-09	2009-10
BUDGET	\$ 9,673,000	\$ 10,010,000	\$ 11,693,000	\$ 9,929,000
TOTAL REVENUES	\$ 10,438,000	\$ 11,146,000	\$ 12,597,000	\$ 12,844,000
EXPENDITURES	\$ 8,325,000	\$ 8,814,000	\$ 10,890,000	\$ 9,136,000
Unique Handgun DROS Trans	174,606	189,493	230,645	224,604
Unique Long Gun DROS Trans	192,888	197,733	249,127	254,078
TOTAL DROS TRANSACTIONS	367,494	387,226	479,772	478,682
DROS fee	\$ 19.00	\$ 19.00	\$ 19.00	\$ 19.00
TTL DROS REVENUES**	\$ 6,982,386	\$ 7,357,294	\$ 9,115,668	\$ 9,094,958

* To include only "DROS Revolver or Pistol", "DROS for multiple handguns acquired on same day after first", "DROS Rifle or Shotgun"

** Does not account for \$15 reduced handgun DROS fee for multiple transactions as this info is unavailable

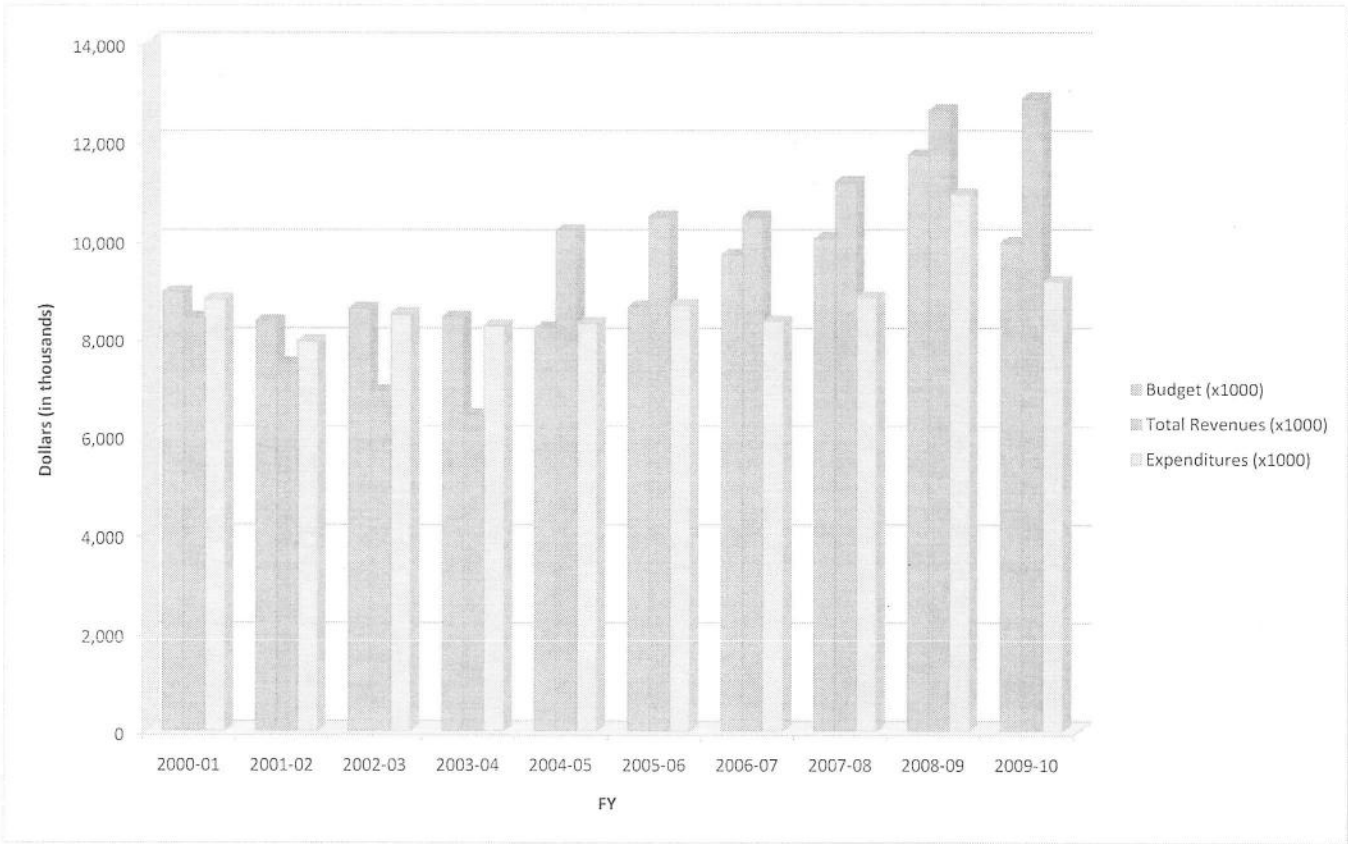
DROS FUNDS & TRANSACTIONS
FY 2000-2000 (including partial 2010)

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Budget (x1000)	8,930	8,345	8,595	8,425	8,198	8,627	9,673	10,010	11,693	9,929	11,237
Total Revenues (x1000)	8,416	7,471	6,907	6,425	10,175	10,441	10,438	11,146	12,597	12,844	13,936
Expenditures (x1000)	8,780	7,928	8,482	8,238	8,297	8,667	8,325	8,814	10,890	9,136	-
Handguns	181,795	161,909	156,567	136,615	148,551	170,124	174,606	189,493	230,645	224,604	-
Long Guns	184,020	197,392	179,386	164,033	177,742	204,434	192,888	197,733	249,127	254,078	-
Total DROS transactions	365,815	359,301	335,953	300,648	326,293	374,558	367,494	387,226	479,772	478,682	-



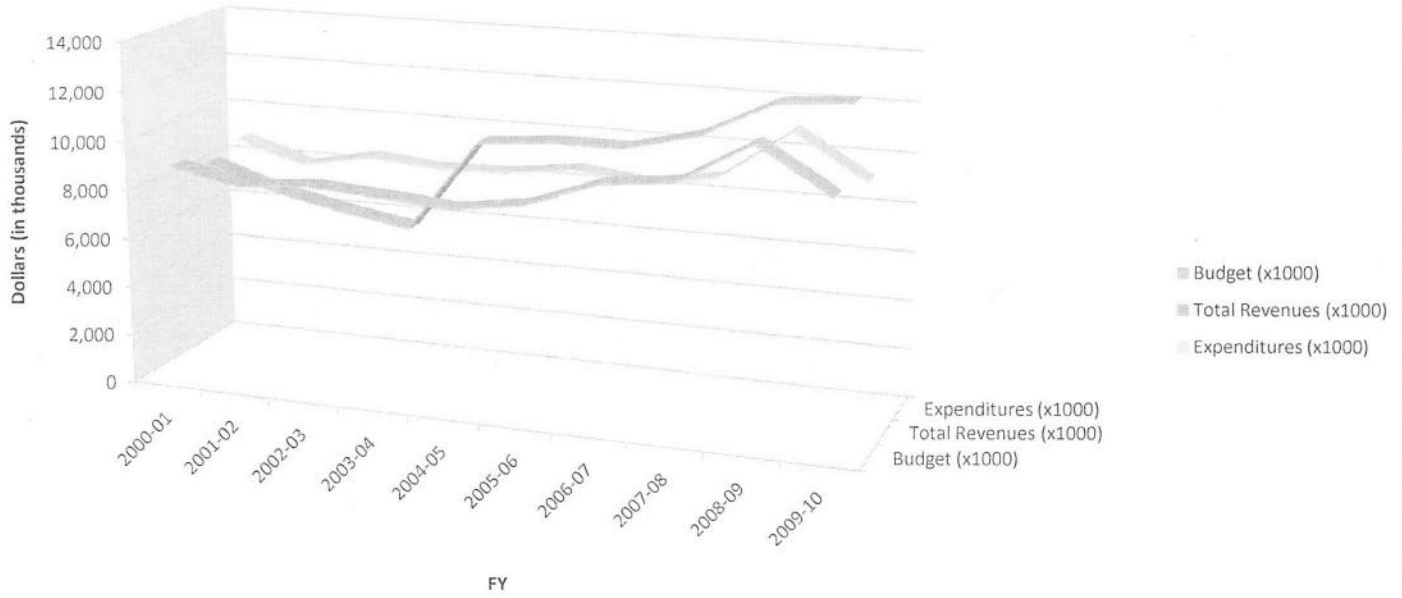
DROS FUNDS & TRANSACTIONS
FY 2000-2000 (including partial 2010)

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Budget (x1000)	8,930	8,345	8,595	8,425	8,198	8,627	9,673	10,010	11,693	9,929	11,237
Total Revenues (x1000)	8,416	7,471	6,907	6,425	10,175	10,441	10,438	11,146	12,597	12,844	13,936
Expenditures (x1000)	8,780	7,928	8,482	8,238	8,297	8,667	8,325	8,814	10,890	9,136	-
Handguns	181,795	161,909	156,567	136,615	148,551	170,124	174,606	189,493	230,645	224,604	-
Long Guns	184,020	197,392	179,386	164,033	177,742	204,434	192,888	197,733	249,127	254,078	-
Total DROS transactions	365,815	359,301	335,953	300,648	326,293	374,558	367,494	387,226	479,772	478,682	-



DROS FUNDS & TRANSACTIONS
FY 2000-2000 (including partial 2010)

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Budget (x1000)	8,930	8,345	8,595	8,425	8,198	8,627	9,673	10,010	11,693	9,929	11,237
Total Revenues (x1000)	8,416	7,471	6,907	6,425	10,175	10,441	10,438	11,146	12,597	12,844	13,936
Expenditures (x1000)	8,780	7,928	8,482	8,238	8,297	8,667	8,325	8,814	10,890	9,136	-
Handguns	181,795	161,909	156,567	136,615	148,551	170,124	174,606	189,493	230,645	224,604	-
Long Guns	184,020	197,392	179,386	164,033	177,742	204,434	192,888	197,733	249,127	254,078	-
Total DROS transactions	365,815	359,301	335,953	300,648	326,293	374,558	367,494	387,226	479,772	478,682	-



Department of Finance		Fund: 0460
STATE OF CALIFORNIA MANUAL OF STATE FUNDS		PAGE 1 Renumbered From:
<u>Legal Title</u> Dealers' Record of Sale Special Account		
<u>Legal Citation/Authority</u> Chapter 327 Statutes of 1982 Penal Code, Section 12076		
<u>Fund Classification</u> <u>GAAP Basis</u> Governmental/Special Revenue	<u>Fund Classification</u> <u>Legal Basis</u> Governmental/Other Governmental Cost Funds	
<u>Purpose</u> Administration of the registration program for fees imposed on firearm dealers for sales of firearms capable of being concealed.		
<u>Administering Agency/Org. Code</u> Organization Code – 0820/Department of Justice		
<u>Revenue Sources</u> Fees on sale of concealable firearms by a dealer.		
<u>Disposition of Funds (upon abolishment)</u> Pursuant to Government Code 16346, absent language that identifies a successor fund, any balance remaining in this fund upon abolishment shall be transferred to the General Fund.		
<u>Appropriation Authority</u> Section 12076 of the Penal Code provides that the money is available when appropriated by the Legislature.		
<u>State Appropriations Limit</u> Excluded – Revenues in this fund are not proceeds of taxes, however, when transferred, may become proceeds of taxes. These revenues are used to regulate the activities engaged in by the payers.		
<u>Historical Comments</u>		