

June 2, 2021

Via E-Mail

Honorable Members of the Board of Supervisors
Kenneth Hahn Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012

RE: Reversing Los Angeles Sheriff's Department's Denial of Event Permit for the Revolution Club

Honorable Members of the Board of Supervisors:

We write on behalf of Anthony Johnson, a member of the Revolution Club and organizer of the "Revolution, Nothing Less" event planned for June 12, 2021 in Westmont, an unincorporated community in Los Angeles. The Sheriff's Department (LASD) has summarily denied the event permit for reasons we find deeply problematic. We have grave concerns that LASD is violating Mr. Johnson and Revolution Club members' fundamental First Amendment rights to assemble and protest, and we urge the Board of Supervisors to intervene by considering Mr. Johnson's appeal and granting the permit at a special meeting of the Board of Supervisors this week.¹

Background and Event Permit Request

The "Revolution, No Less" event is a planned rally and march from Southwest College to the South Station of the LASD. As indicated in the permit application, the organizers planned start at Imperial Highway and Western Avenue, heading East on Imperial Highway to Normandie, where it would head North and then loop around to terminate at South Station on Imperial Highway. The event occurring in Los Angeles is part of a coordinated nation-wide series of marches occurring on the same day in several cities to protest police violence. Because the event is part of a national effort, the event's purpose and message would be forfeited if the organizers were to move it to a later date. The location of the planned march is significant because of the history of police killings and meeting protestors with excessive force (see below), and the marchers planned to pass through the site where LASD killed Dijon Kizzee. *Galvin v. Hay*, 374 F.3d 739, 749–50 (9th Cir. 2004) (recognizing First Amendment right to protest near object of concerns and in view of intended audience).

Mr. Johnson has sought and obtained at least six permits for similar events from Los Angeles Police Department over the last three years. Most recently, LA County Department of Parks and

¹ See Cal. Gov. Code §§ 54954.2, 54955.

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*deceased

Recreation granted permission to the Revolution Club to hold an event at Magic Johnson Park on May 1, 2021. This park is within LASD's jurisdiction, and LASD was copied on the correspondence granting that permission. Each of these events occurred without incident, with Mr. Johnson and participants abiding without exception to the conditions and requirements of the permit.

Mr. Johnson applied for an event permit on May 19, 2021. We include a copy of that application here as Attachment A. That same day, he met in person with LASD Detectives Tim Crise and Ezekiel Garcia. During that meeting, Mr. Johnson provided additional detail regarding the route the march would take, the estimated size, and where the march might potentially cause brief traffic interruptions.

LASD's Response and Denial

On May 19, LASD Lieutenant Monica Botello sent a brief e-mail to Mr. Johnson denying the permit without explanation. She stated only that "South Los Angeles Station will not provide road closures, escorts, barricades, etc., for this event." We include a true and correct copy of Lt. Botello's e-mail here as Attachment B.

On Tuesday, May 25, Ms. McKinney contacted Lt. Botello to gather more information about why she had denied Mr. Johnson's event permit. Lt. Botello noted that Los Angeles County Code section 15.88.050 sets forth permit issuance conditions, but she declined to state which criteria she was invoking in this particular denial and was unable to articulate specific facts about *this* event permit that prevent it from meeting the conditions set forth in section 15.88.050. *See* L.A. Cnty. Code § 15.88.050 ("The sheriff *shall* issue a permit for a parade, running event, or bicycle event if, from a consideration of the application, or such other information as the sheriff may otherwise obtain, or both, the sheriff finds that [listing conditions].") (emphasis added). During that conversation, Lt. Botello mentioned that one basis on which LASD can deny a permit is when the event is "reasonably likely to cause injury to persons or property." § 15.88.050(e).

When Ms. McKinney asked her what factual basis she had for concluding that Mr. Johnson's event was likely to cause injury to people or property, she responded, "what we have been dealing with and our experience over the last five to eight months."² This suggested to us that the denial was not based on particular aspects of Mr. Johnson's application, but instead a knee-jerk reaction to the past year's wave of protests.

Confirming our suspicions, on May 28, 2021, LASD sent a formal denial letter to Mr. Johnson, included here as Attachment C. This letter served only to underscore that LASD's denial of the permit for the June 12 event was arbitrary at best, and discriminatory at worst. The denial letter dedicates just four boilerplate sentences to explaining the reasons for denial, referencing without any further elaboration Los Angeles County Code sections 15.88.050(A), (B), (C), (E), (F). LASD does not point to a *single* fact from Mr. Johnson's permit application suggesting that any of these five conditions is not met. In its letter, LASD states that "South Los Angeles Station

² On the May 25 phone call, Ms. McKinney asked Lt. Botello if this meant that the South Station would be denying any and all permit applications. In response, Lt. Botello asserted that that was *not* the policy, but that there had been no other recent permit applications.

does not have a sufficient number of patrol deputies to properly police the line of movement and its adjacent areas without inhibiting normal police protection to the rest of the unincorporated region nearby,” but does not identify any concerns with the proposed “line of movement,” discuss the anticipated size of the event, or otherwise explain the reasons for concluding LASD does not have sufficient personnel to assist. This line is so broad as to be meaningless, as it could easily be invoked to deny *any* event permit LASD considers.

In the formal denial letter, LASD also doubled down on its especially disturbing point that the permit for this event should be denied because “[p]ast demonstrations within the last year at South Los Angeles Station became unruly, which ultimately resulted in injury to persons and property.” Even if this were true, prior “unruly” protests with some injuries or property damage cannot justify prohibiting this one. Even past protests that have involved violence cannot justify prohibiting future ones. *See Collins v. Jordan*, 110 F.3d 1363, 1372 (9th Cir. 1996). A contrary principle would allow LASD to deny *any* permit within the South Station’s jurisdiction—and if it does not, that raises serious concerns that LASD discriminates based on the content and viewpoint of the speech to determine whether injury to people or property is “reasonably likely” such that it should deny a permit.

This arbitrary and unreasoned denial is particularly suspect in the context of what appears to be growing and blatant anti-protest sentiment within LASD. In June 2020, sheriff’s deputies in riot gear used rubber bullets and pepper spray bombs to disperse reportedly peaceful crowds that had gathered to protest the killing of 18-year-old Andres Guardado by LASD.³ In September 2020, deputies used projectiles and tear gas against largely peaceful protestors—and arrested dozens of protestors—demonstrating against the LASD’s killing of Dijon Kizzee.⁴ We are concerned that this permit denial represents another effort to delegitimize and suppress protest and criticism of law enforcement, which the First Amendment unambiguously protects. *City of Houston, Tex. v. Hill*, 482 U.S. 451, 461 (1987) (First Amendment “protects a significant amount of verbal criticism and challenge directed at police officers”); *Collins*, 110 F.3d at 1371 (“demonstrations, protest marches, and picketing” clearly protected by First Amendment).

First Amendment Concerns

³ See Aída Chávez, *After Killing of 18-year-old Andres Guardado, LA Protestors Struggle Against the Limits of Police Reform*, THE INTERCEPT (June 25, 2020), <https://theintercept.com/2020/06/25/andres-guardado-los-angeles-police/>; Paul Vercammen & Hollie Silverman, *A march for a man shot and killed by police ended with protesters being shot by rubber bullets*, CNN (June 22, 2020), <https://www.cnn.com/2020/06/22/us/andres-guardado-protest-monday/index.html>; Josie Huang, *Tension As Peaceful March Takes Confrontational Turn In Protest of Fatal Shooting By Deputy*, LAIST (June 21, 2020), <https://laist.com/news/andres-guardado-march-gardena>.

⁴ Leila Miller and Alene Tchekmedyan, *Dozens arrested as protestors and deputies clash in Dijon Kizzee demonstrations in L.A.*, LA TIMES (Sept. 9, 2020), <https://www.latimes.com/california/story/2020-09-09/demonstrators-arrested-dijon-kizzee>; Josie Huang, *In South LA, March for Dijon Kizzee Turns Chaotic Outside Sheriff’s Station*, LAIST (Sept. 6, 2020), <https://laist.com/news/dijon-kizzee-south-la-los-angeles-sheriffs-department-deputies-march-110>.

LASD's suspect denial of this permit is particularly concerning given the fundamental nature of the First Amendment rights involved. As a threshold matter, a city may not require a permit to engage in speech unless an event is sufficiently large to "present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets or sidewalks." *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1039 (9th Cir. 2006) (emphasis in original). To comply with the First Amendment, the ordinances "(1) must not delegate overly broad discretion to a government official; (2) must not be based on the content of the message; (3) must be narrowly tailored to serve a significant governmental interest; and (4) must leave open ample alternatives for communication." *Id.* at 1037. "Advance notice or registration requirements drastically burden free speech." *Rosen v. Port of Portland*, 641 F.2d 1243, 1247, 1249 (9th Cir. 1981). The government therefore bears a heavy burden to justify any requirement to obtain a permit before engaging in speech in a public forum, especially political speech. *NAACP Western Region v. City of Richmond*, 743 F.2d 1346, 1355 (9th Cir. 1984). Any denial of a permit application must give precise and specific reasons for denial. *Seattle Affiliate of Oct. 22nd Coal. to Stop Police Brutality, Repression and Crim. of a Generation v. City of Seattle*, 550 F.3d 788, 800-801 (9th Cir. 2008); *see also* Cal. Code Civ. Pro. § 1094.8(d).

The Sheriff has failed to comply with these established rules. The only justifications—that some other demonstrations have apparently involved violence and that the Sheriff lacks the resources to allow this event—are insufficient. *See Collins*, 110 F.3d at 1372; *Serv. Emp. Int'l Union v. City of Los Angeles*, 114 F. Supp. 2d 966, 971 (C.D. Cal. 2000). The Sheriff's department has over 10,000 sworn deputies;⁵ the notion that it cannot accommodate a small parade is offensive to the First Amendment.

The Board of Supervisors Should Consider Mr. Johnson's Appeal in a Special Meeting

The applicable timeline for appealing the permit denial does not allow Mr. Johnson sufficient time to challenge the decision before the date of his event. Although section 15.88.040(A) requires that event organizers seek a permit only 15 days before the event, section 15.88.080 gives LASD 10 days from the date of the application to mail notice of and reasons for the denial. Then, section 15.88.090 gives the applicant five days to appeal to the Board of Supervisors for a hearing to occur at the next regularly scheduled meeting, which currently take place every two weeks.

At the same time, where the event will require road closures, section 15.88.125 requires LASD to post signs about the road closures at least 72 hours before the event. These time limits make it virtually impossible for an applicant who—well within the ordinance's requirements—applies for a permit 15 days before the event to appeal a negative determination in time for event to occur on the scheduled date. Here, to allow LASD to comply with the 72 hours' notice requirement, a final determination needs to be made by June 9. The next Board meeting is currently schedule for June 8. That would not give Mr. Johnson time to seek judicial relief should the Board affirm the Sheriff's permit denial.

⁵ *Sheriff's Department*, LA COUNTY, <https://lacounty.gov/residents/public-safety/sheriff/> (last visited June 2, 2021).

Honorable Members of the Board of Supervisors
June 2, 2021

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To ensure that Mr. Johnson has adequate time to appeal the arbitrary denial of his permit with sufficient time to prepare for the event itself, we urge the Board to convene a special meeting no later than this Friday, June 4. As the LASD has been unable to justify denial of the permit, the Board should grant it. We make this request in the hope of making exploring further legal options unnecessary.

Thank you for your consideration of these recommendations. Please feel free to contact us if you have any questions at zmckinney@aclusocal.org or szureiqat@aclusocal.org.

Sincerely,



Zoë McKinney
First Amendment and Democracy
Staff Attorney



Sari Zureiqat
Legal Fellow, First Amendment and
Democracy

Cc: Rodrigo A. Castro-Silva, County Counsel
Via E-mail

See attached

Attachment A

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

APPLICATION FOR PARADE/RUN/BIKE RIDE PERMIT

5/19/21

On 6/12/21 a Parade/Run/Bike Ride Permit is requested by Revolution Club

NAME OF ORGANIZATION

and Anthony Johnson 2716 S. Vermont #8 LACA 90007

NAME OF AUTHORIZED PERSON

ADDRESS

PHONE

Parade Chairman Anthony Johnson 2716 S. Vermont #8 LACA 90007

NAME

ADDRESS

PHONE

Event Date 6/12/21 Starting Time 1pm Ending Time 6pm

See attached

Estimated Number of Persons in Parade — Vehicles 1 Stage Truck Animals 0

Proposed Routes of Event Imperial Hwy/Western. Imperial Hwy East Bound (EB)

Normandie (WB), W 104th (EB) Budlong (SB), 110th (EB) S Vermont (SB)

112th (WB) Budlong (SB) Imperial Hwy (WB) to 1310 W Imp Hwy

Will the event require the whole width of the street? some streets no, residential streets yes

If not, what fraction of the street? one side of street on main streets

The proposed assembly area will utilize the following streets: Imperial Hwy east of Western s/s
Imperial Hwy at 1310 W Imperial Hwy

Time of assembly 1pm Time of disassembly 6pm

I hereby affirm that I have full knowledge of and will comply with the provisions of the Los Angeles County Code Chapter 15.88, Sections 15.88.010 through 15.88.140. I further affirm that I am authorized to apply for this parade permit on behalf of the listed organization.

Anthony Johnson
SIGNATURE OF AUTHORIZED PERSON

Person accepting application DEPUTY E. GARCIA Date 5-19-21

Parade Permit to be issued to REVOLUTION CLUB

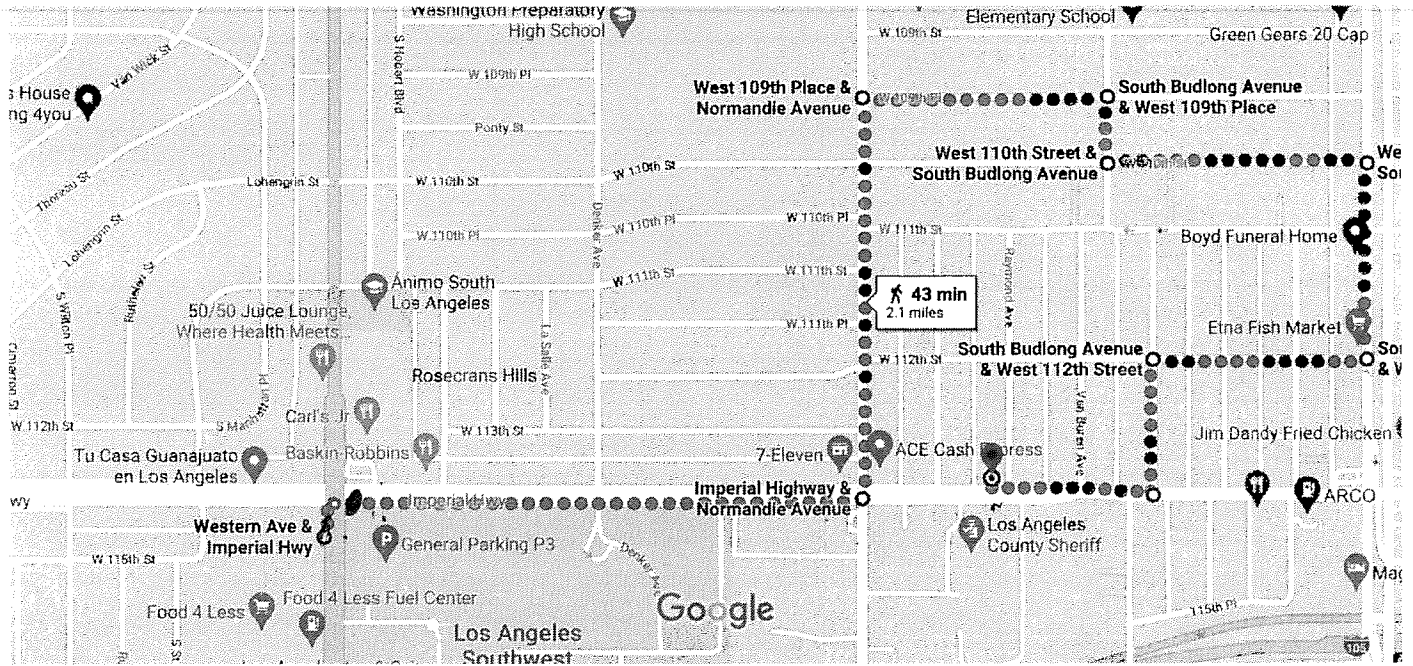
This Application Approved Disapproved

Reasons for Disapproval LACC 15.88 050, ATTACHED LETTER

SIGNATURE <u>H. Brown</u>	<u>406367</u> RANK <u>LIEUTENANT</u>	STATION <u>SOUTH LOS ANGELES STATION</u>	DATE <u>5/28/21</u>
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Google Maps

Western Ave & Imperial Hwy to 1309 W Imperial Hwy, Walk 2.1 miles, 43 min
Los Angeles, CA 90044



Map data ©2021 500 ft



via W Imperial Hwy

43 min

2.1 miles

Mostly flat



Special Event Permit Application

Date of Application: 5/19/21

Date of Event: 6/12/21

Name of Sponsoring Organization: Revolution Club

Address: 2716 S. Vermont Ave. #8; Los Angeles, CA 90007

Official of Sponsoring Organization and Applicant:

Anthony Johnson

2716 S. Vermont Ave. #8, Los Angeles, CA 90007

ascottjeducation@gmail.com

Title of Event: Revolution, Nothing Less

Type of Event: Demonstration - March and Rally

Assembly / Staging Area: Imperial Hwy and Western Ave. (South Side of Imperial Hwy; East of Western Ave 10-20 yards.)

Official Monitors in Assembly Area: 15

Route to be followed: Imperial Hwy East Bound (EB); Normandie Ave. NB; W. 109th Pl. EB; S. Budlong Ave. SB; W 110th St. EB; S. Vermont Ave. SB; W. 112th St. WB; S. Budlong SB; Imperial Hwy WB to 1310 W. Imperial Hwy – South Station LA Sheriffs

“Rolling Street Closures” requested.

Number of Monitors along route: 15

Disbanding Area: 1310 W. Imperial Hwy – South Station LA Sheriffs

Number of Monitors at Disbanding Area: 15

Assembly Time: 1pm

Event Start Time: 2pm

March/Parade Starting Time: 2:30-2:40pm

Ending Time: 5pm

Disbanding Time: 6pm

Describe in Detail How The Event Will Be Conducted; and notification efforts.

Event set up 1pm – 2pm with Stage Truck on SS of Imperial Hwy nr. (East of) Western. Stage truck for opening rally at 2pm. Stage Truck leads march beginning at 2:30 – 2:40pm to ending location. Truck stage on SS of 1310 W. Imperial Hwy at ending location for short closing rally. Amplified Sound (2 QSC 12 speakers). Bullhorns. One marching unit.

Water and First Aid shall be provided.

Notification efforts include flyers, posters, and social media.

Signature of Official Sponsoring Organization:

Signature of Applicant:

Attachment B

From: "Botello, Monica L." <MLBotell@lasd.org>
Date: May 19, 2021 at 2:29:39 PM PDT
To: "ascottjeducation@gmail.com"
<ascottjeducation@gmail.com>
Subject: Special Event Permit Application / Revolution Club
/ June 12, 2021
Good afternoon,

I am in receipt of the above-listed application for an event organized by you as part of the organization, Revolution Club. According to the application, the event will be held on June 12, 2021. Thank you for submitting the application and providing information about the event. South Los Angeles Station will not provide road closures, escorts, barricades, etc., for this event. Demonstrators are free to walk on public sidewalks. The expectation would be for demonstrators to be mindful of highway thoroughfares, passing motorists, and pedestrians.

Please let me know if you need additional information.

Thank you.

Lieutenant M. Botello
South Los Angeles Station
1310 W. Imperial Highway
Los Angeles, CA 90044
(323) 820-6700
(323) 820-6714

Attachment C



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



May 28, 2021

Anthony Johnson
Revolutionary Club
2716 South Vermont Avenue, Unit 8
Los Angeles, California 90007

SPECIAL EVENT PERMIT APPLICATION
"REVOLUTION, NOTHING LESS"
JUNE 12, 2021

South Los Angeles Station received your special event permit application on or May 19, 2021. The application sought a permit for a planned demonstration and rally along streets within the station's jurisdiction on June 12, 2021. The application indicated there would be a stage truck leading the march with amplified sound and bullhorns. The application sought rolling street closures along the demonstration route.

Los Angeles County Code Section 15.88.050(A)-(G), Permit – Issuance conditions, indicates the conditions for the denial of such a permit. Based on the conditions set forth within subsections (A), (B), (C), (E), and (F), the Department will not approve the permit for this event.

South Los Angeles Station does not have a sufficient number of patrol deputies to properly police the line of movement and its adjacent area without inhibiting normal police protection to the rest of the unincorporated region nearby. Past demonstrations within the last year at South Los Angeles Station became unruly, which ultimately resulted in injury to persons and property.

Pursuant to Los Angeles County Code 15.88.90(A)-(B), Appeal Procedure, you may appeal from the Department's decision to the Los Angeles County Board of Supervisors within five (5) days of the Department's determination. The appeal conditions are described within the section.

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

If there are any questions, please contact Lieutenant Monica Botello, at (323) 820-6714.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in cursive script that reads "Michael Modica".

Michael Modica, Acting Captain
South Los Angeles Station.

Attachments