

# Robert A. Gardner, CPP

Independent Security & Crime Prevention Advisor

March 13, 2016

Jeffrey I. Ehrlich  
The Ehrlich Law Firm  
16130 Ventura Boulevard, Suite 610  
Encino, CA 91436

Dear Mr. Ehrlich:

Per your request, I have reviewed the actions of Raymond Jennings on the evening of February 22, 2000 while he worked at a Park-and-Ride commuter parking lot in Palmdale, CA. Specifically, I was asked to offer opinions on the security standards of conduct related to Mr. Jennings' decision to not approach the victim's vehicle prior to the arrival of police. Based on my knowledge, training, and experience, in conjunction with my review of the available evidence, I am qualified to provide expert opinions about Mr. Jennings' actions.

My qualifications to render opinions in this matter include more than forty (40) years of combined security management and law enforcement experience. I am a Board Certified Security Manager with designation as a Certified Protection Professional (CPP) by ASIS International and as a Certified Security Professional (CSP) by the California Association of Licensed Investigators.

I am a Security Consultant and licensed Private Patrol Operator in the State of California. I am certified as both an Advanced and Supervisory Peace Officer. I am certified by the State of California to provide training to Security Guards and Proprietary Security Officers. I have attended numerous classes, seminars, and other formal and informal training; and have experience with regard to: Security Policies and Procedures, Security Officer Selection and Training, Security Officer Deployment and Management, and Private Patrol Best Practices. I have been retained by the State of California Bureau of Security and Investigative Services to serve as a Private Patrol subject matter expert to assist in the development of Private Patrol Licensee testing materials. I am Certified as a Firearm Training Instructor by the California Bureau of Security and Investigative Service and as a Firearm Safety Training Instructor by the California Department of Justice. During my law enforcement career I was a Police Firearm Instructor/Rangemaster and have extensive firearms training as a United States Army Officer.

Opinions and observations contained in this Declaration are based on the facts cited in the Second District Appellate Court review of Mr. Jennings' conviction and in a letter to the Los Angeles District Attorney's Conviction Review Unit prepared by the Ehrlich Law Firm dated October 2, 2015.

According the Prosecution theory, Mr. Jennings' refusal to approach the victim's vehicle upon the arrival of his supervisor (Malone) indicated that he was guilty of the homicide. In reality, Mr. Jennings' actions where consistent with sound officer safety practices and training mandated by the California Department of Consumer Affairs Bureau of Security and Investigative Services (BSIS). The actions of Malone were contrary to security industry best practices and reckless.

## California

### License

PI 6477  
PPO 10770

### Main Office

590 W. Main St.  
Suite 101  
Santa Paula, CA 93060  
(805) 659-4294

### Sacramento Office

1104 Corporate Way  
Sacramento, CA 95831  
(916) 668-6026

## Nevada

### License

Security Consultant  
PI/ PP 852

### Las Vegas Office

2620 Regatta Drive  
Suite 102  
Las Vegas, NV 89128  
(702) 733-8711

## Arizona

### License

PI 1003680

### Scottsdale Office

6619 N. Scottsdale Road  
Scottsdale, AZ 85250  
(480) 347-0211

## Email

[cpp@crimewise.com](mailto:cpp@crimewise.com)

## Website

[www.crimewise.com/expert](http://www.crimewise.com/expert)

Mr. Jennings had been trained in firearms use and safety by the National Guard. As such, he was aware that it would be unsafe to approach a location where gunfire had just occurred. The safest course of action would be to wait for armed police officers to arrive and ensure that the area was secure. Even an armed police officer arriving to a shooting scene will normally wait for back up officers to arrive and only then proceed with extreme caution to investigate the situation.

Mr. Jennings was also a trained security guard. As part of his training he was required to pass a written test mandated by BSIS. The test is based on the BSIS Power to Arrest Training Manual (POA) and requires a 100% passing score. The following statements are quoted from the POA Manual on which Mr. Jennings' training was based:<sup>1</sup>

- *It is important to remember:*

*As a security guard, you are NOT a peace officer!!!*

- *How are security guards DIFFERENT from peace officers?*

*Security guards do not have:*

- *The same job duties as peace officers;*
- *the same training; or*
- *the same powers as peace officers, according to the law.*

- *What should a security guard do if an incident/offense does occur?*

*If an offense occurs, a guard does not charge in. Instead, the security guard should:*

- *stay calm*
- *observe and remember events*
- *report to the police/or the security guard's supervisor (fellow employer policy).*

Based on the information available to me, it is my professional opinion that when Mr. Jennings refused to accompany his supervisor, Ms. Malone, to the crime scene before the police arrived, he was acting reasonably under the circumstances from an officer-safety standpoint, and in a manner that was consistent with the training provided to him by the State of California.

Best regards,



Robert A. Gardner, CPP

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<sup>1</sup> Bureau of Security and Investigative Services Power to Arrest Training Manual, Revised: December 1991