

1 KATHLEEN BALES-LANGE, #094765
 2 COUNTY COUNSEL OF THE COUNTY OF TULARE
 3 JULIA C. LANGLEY, #161035, Deputy
 4 2900 West Burrel
 5 Visalia, CA 93291
 6 Telephone: (559) 636-4950
 7 Facsimile: (559) 737-4319

8 Attorneys for Defendants

9
 10 **UNITED STATES DISTRICT COURT FOR THE**
 11 **EASTERN DISTRICT OF CALIFORNIA**
 12

13 GUSTAVO A. GARCIA,
 14 Plaintiff,
 15 vs.
 16 COUNTY OF TULARE, et al.
 17 Defendants.

18 Case No.: 1:08-cv-00940-AWI-SMS
 19 STIPULATED PROTECTIVE ORDER
 20 RE: COUNTY OF TULARE
 21 POLICIES & PROCEDURES,
 22 TRAINING MATERIALS and
 23 STATUTORILY PROTECTED PEACE
 24 OFFICER PERSONNEL RECORDS

25 WHEREAS, the parties believe, in good faith, that the following documents subject to
 26 discovery requests, contain information that is or may be: (a) confidential, sensitive, or
 27 potentially invasive of an individual’s privacy interests; (b) not generally known; and (c) not
 28 normally revealed to the public or third parties or, if disclosed to third parties, would require
 such third parties to maintain the information in confidence: Tulare County Sheriff’s Department
 Policies and Procedures and training material; and statutorily protected Tulare County Sheriff’s
 Department peace officer personnel records.

IT IS HEREBY STIPULATED, by, among and between the parties hereto through their
 counsel of record, that documents may be designated as “Confidential” by the parties and
 produced subject to the following Protective Order:

1. The disclosed documents shall be used solely in connection with the civil case of
 Gustavo A. Garcia v. County of Tulare; Case Number 1:08-CV-00940-AWI-SMS (Eastern
 District of California) and in the preparation and trial of the case, or any related proceeding. The

1 parties are not waiving any objections to the admissibility of the documents or portions of the
2 documents in future proceedings, including the trials of the matters.

3 2. A party producing confidential documents and materials may designate those
4 materials by affixing a mark labeling them as Confidential as set forth in paragraph 9. If any
5 Confidential materials cannot be labeled with the aforementioned marking, those materials shall
6 be placed in a sealed envelope or other container that is in turn marked Confidential as set forth
7 in paragraph 6.

8 3. Documents or materials designated under this Protective Order as “Confidential”
9 may only be disclosed to the following persons:

- 10 a) Counsel for the parties;
- 11 b) Paralegals and/or legal assistants regularly employed by counsel for the parties,
12 and stenographic deposition reporters or videographers retained in connection with this action.
- 13 c) Clerical and secretarial personnel regularly employed by counsel for the parties;
- 14 d) Court personnel including stenographic reporters or videographers engaged in
15 proceedings as are necessarily incidental to the preparation for the trial of the civil action;
- 16 e) Any expert, consultant or investigator retained in connection with this action;
- 17 f) The finder of fact at the time of trial, subject to the court’s rulings on in limine
18 motions and objections of counsel;
- 19 g) Any employee of COUNTY OF TULARE, described in paragraph 5 below; and
- 20 h) Outside litigation support services retained by counsel, to the extent necessary to
21 assist such counsel in this litigation, limited to copy services and scanning services.

22 4. Prior to the disclosure of any Confidential information to any person identified in
23 paragraph 3, sections (e), (f), (g), and (h) each such recipient of Confidential information shall be
24 provided with a copy of this Stipulated Protective Order, which he or she shall read. Upon
25 reading this Stipulated Protective Order, such person shall acknowledge in writing or on the
26 record that he or she has read this Stipulated Protective Order and shall abide by its terms. Such
27 person must also consent to be subject to the jurisdiction of the United States District Court,
28

1 Eastern District of California, with respect to any proceeding related to enforcement of this
2 Protective Order, including without limitation, any proceeding for contempt. Provisions of this
3 Protective Order, insofar as they restrict disclosure and use of the material, shall be in effect until
4 further order of this Court. Receiving counsel shall be responsible for internally tracking the
5 identities of those individuals to whom copies of documents marked Confidential are given. The
6 producing party may not request the identities of said individuals, however, until the final
7 termination of the litigation or if it is able to demonstrate a good faith basis that the receiving
8 party, or an agent thereof, has breached the Stipulated Protective Order.

9 5. Nothing herein shall limit a party's ability to use Confidential information to
10 examine or cross-examine witnesses who are current or former officers or employees who took
11 part in or have knowledge relating of the creation and/or implementation of the confidential
12 documents, including any witness designated under FRCP 30(b)(6) by THE COUNTY OF
13 TULARE.

14 6. All documents or materials designated as Confidential pursuant to this Protective
15 Order, and all papers or documents containing information or materials designated as
16 Confidential, that are filed with the Court for any purpose, shall be filed and served under seal,
17 pursuant to Local Rule 39-141.

18 7. The designation of information as Confidential, and the subsequent production
19 thereof, is without prejudice to the right of any party to oppose the admissibility of the
20 designated information.

21 8. A party may apply to the Court for an order that information or materials labeled
22 Confidential are not, in fact, confidential. Prior to so applying, the party seeking to reclassify
23 Confidential information shall meet and confer with the producing party. Until the matter is
24 resolved by the parties or the Court, the information in question shall continue to be treated
25 according to its designation under the terms of this Order. The producing party shall have the
26 burden of establishing the propriety of the Confidential designation. A party shall not be
27
28

1 obligated to challenge the propriety of a confidentiality designation at the time made, and a
2 failure to do so shall not preclude a subsequent challenge thereto.

3 9. Copies of Confidential Documents

4 The following procedures shall be utilized by the parties in production of documents and
5 materials designated Confidential:

6 a) The receiving party's counsel shall not furnish, disclose, or otherwise
7 divulge any information contained in the confidential documents to any individual other than
8 those specifically authorized herein without further order of the Court or authorization from
9 counsel for the producing party.

10 b) Defendants shall produce documents and materials designated
11 Confidential to plaintiff with a marking on each page labeled:

12 "CONFIDENTIAL MATERIAL SUBJECT TO PROTECTIVE ORDER

13 Gustavo A. Garcia v. County of Tulare, et al.

14 USDC, Eastern District, Case No. 1:08-CV-00940-AWI-SMS

15 Tulare County Counsel, Attorneys for Defendants"

16 c) If any document or information designated as Confidential pursuant to this
17 Protective Order is used or disclosed during the course of a deposition, that portion of the
18 deposition record reflecting such material shall be stamped with the appropriate designation and
19 access shall be limited pursuant to the terms of this Protective Order. The Court reporter for the
20 deposition shall mark the deposition transcript cover page and all appropriate pages or exhibits,
21 and each copy thereof, in accordance with paragraph 9(b) of this Protective Order. Only
22 individuals who are authorized by this Protective Order to see or receive such material may be
23 present during the discussion or disclosure of such material.

24 10. Notwithstanding the provisions of paragraph 3, confidential information produced
25 pursuant to this Protective Order may not be delivered, exhibited or otherwise disclosed to any
26 reporter, writer or employee of any trade publication, newspaper, magazine or other media
27 organization.

1 11. Should any information designated as confidential be disclosed, through
2 inadvertence or otherwise, to any person or entity not authorized to receive it under this
3 Protective Order, the disclosing person(s) shall promptly

4 (a) inform counsel for the producing party of the recipient(s) and the
5 circumstances of the unauthorized disclosure; and

6 (b) use reasonable efforts to bind the recipient(s) to the terms of this Protective
7 Order.

8 No information shall lose its Confidential status because it was disclosed to a person not
9 authorized to receive it under this Protective Order.

10 12. After the conclusion of this litigation, all documents and materials, in whatever
11 form stored or reproduced, containing Confidential information will remain Confidential, and if
12 filed with the Court, shall remain under seal. No later than 30 days following settlement or of
13 receiving notice of the entry of an order, judgment, or decree terminating this action, all persons
14 having received the Confidential documents shall destroy said documents. Within 30 days of
15 destruction of the Confidential documents, counsel for the receiving party shall provide counsel
16 for the producing party with a declaration setting forth the number of copies that were made
17 during the litigation, the number of copies destroyed at the end of litigation, the manner in which
18 the documents were destroyed, and the date of destruction. This declaration shall be signed
19 under penalty of perjury by counsel for the receiving party. The conclusion of this litigation
20 means a termination of the case following trial or settlement.

21 13. If any party appeals a jury verdict or order terminating the case, counsel for the
22 receiving party shall retain possession of all Confidential documents pending final outcome of
23 the appeal after which they shall be destroyed by the receiving party's counsel, pursuant to the
24 terms set out in paragraph 12.

25 14. This Stipulated Protective Order shall remain in full force and effect and shall
26 continue to be binding on all parties and affected persons after this litigation terminates, subject
27 to any subsequent modifications of this Stipulated Protective Order for good cause shown by this
28

1 Court or any Court having jurisdiction over an appeal of this action. After this action terminates,
2 any party may seek to modify or dissolve this Stipulated Protective Order by Court order for
3 good cause shown or by the parties' stipulation.

4 15. The Court shall retain jurisdiction, even after this lawsuit terminates, (a) to make
5 such amendments, modifications and additions to this Protective Order as it may from time to
6 time deem appropriate upon good cause shown and (b) to adjudicate any dispute respecting
7 improper use or disclosure of confidential material.

8
9 Dated: August 20, 2009

KATHLEEN BALES-LANGE
Tulare County Counsel

10
11 By /s/ Julia Langley
12 Julia Langley
13 Deputy County Counsel
14 Attorneys for Defendants

15 Dated: August 20, 2009

JAMES C. HOLLAND

16
17 By /s/ James C. Holland (as authorized 8/20/09)
18 James C. Holland
19 Attorney for Plaintiff

20 IT IS SO ORDERED.

21 DATED: 8/24/2009

/s/ Sandra M. Snyder
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28