

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LUZ HERNANDEZ,

No. C-09-02782 EDL

Plaintiff,

**ORDER GRANTING UNOPPOSED
MOTION FOR IN CAMERA REVIEW
OF LAW ENFORCEMENT RECORDS**

v.

CITY OF NAPA, et al.,

Defendants.


Plaintiff has subpoenaed the personnel records of former peace officer Donald Green from his employer Napa State Hospital, which is administered by the California Department of Mental Health (“DMH”). DMH has filed this motion requesting in camera review of the subpoenaed law enforcement personnel records and the issuance of a protective order if information and/or documents are disclosed. DMH argues that the production would impose an undue burden and expense on DMH and would require the production of privileged or other protected matter. DMH seeks an in camera review of the materiality and relevance of the information and documents contained in such records, and requests that the Court modify the subpoena to allow it to submit responsive personnel records under seal for an in camera review by the Court rather than directly to the issuing attorney. Plaintiff does not oppose the motion. According to DMH’s unopposed motion, Plaintiff has agreed to limit the scope of the subpoena to the DMH’s Internal Affairs investigation of the April 1, 2008 incident and the citizen’s complaint submitted to DMH against Mr. Green as a result of the incident.

1 Pursuant to Federal Rule of Civil Procedure 45(c)(3)(A), the Court “must” quash or modify a
2 subpoena that requires the disclosure of privileged or other protected matter, or subjects a person to
3 undue burden. DMH argues that the privacy interest in police records such as those in question must
4 be balanced against the interests of the party seeking discovery to determine if a right to privacy
5 exists.

6 The Court finds good cause for granting DMH’s Motion without the need for oral argument,
7 and hereby Orders DMH to lodge the responsive documents directly with this Court (i.e, by hand
8 delivery) by no later than Monday, June 21, 2010 so that the Court may conduct an in camera
9 review. Following the Court’s review, it will determine which, if any, of the documents should be
10 produced and rule on DMH’s request for a protective order at that time.

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12 **IT IS SO ORDERED.**

13 Dated: June 17, 2010



ELIZABETH D. LAPORTE
United States Magistrate Judge