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 15 LUKE SMITH

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA

18 LUKE SMITH,
 19 Plaintiff,
 20 vs.

21 CITY AND COUNTY OF SAN FRANCISCO
 22 POLICE and SHERIFF'S DEPARTMENTS,
 municipal corporations; HEATHER FONG in
 23 her capacity as chief of police for CITY AND
 COUNTY OF SAN FRANCISCO, MICHAEL
 24 HENNESSEY, in his capacity as sheriff for
 CITY AND COUNTY OF SAN
 25 FRANCISCO, 1-100, inclusive; individually
 and in their capacities as POLICE OFFICERS
 26 and SHERIFF'S DEPUTIES for the CITY
 AND COUNTY OF SAN FRANCISCO.

27 Defendants.
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Case No. CV-10-3544 EDL

**[PROPOSED] STIPULATED ORDER
 AUTHORIZING DISCOVERY OF
 CONFIDENTIAL CRIMINAL HISTORY
 INFORMATION IN THE POSSESSION OF
 DEFENDANT CITY AND COUNTY OF SAN
 FRANCISCO**

Judge: Judge Laporte

Trial Date: None Set

1 **STIPULATION**

2 Pursuant to Federal Rule of Civil Procedure 26(c) the parties have met and conferred and
3 stipulate as follows:

4 1. Good cause exists for the Court to authorize the parties to this action to receive certain
5 “state summary criminal history information,” as defined in California Penal Code section 11105(a), in
6 the possession of the City and County of San Francisco. Namely:

7 2. Plaintiff Luke Smith contends, *inter alia*, that the Defendant City and County of San
8 Francisco erroneously allowed an arrestee to assume the identity of Mr. Smith, which ultimately led to
9 the issuance of a bench warrant for Mr. Smith when the impostor did not appear for his prosecution
10 under Mr. Smith’s name in San Francisco Superior Court. Plaintiff Luke Smith further contends that
11 the City and County of San Francisco erred when Mr. Smith was later arrested pursuant to the same
12 bench warrant and that the City and County of San Francisco failed to timely determine that Mr. Smith
13 was not the correct person wanted pursuant to the bench warrant.

14 3. In connection with the arrest and booking process in San Francisco, various documents
15 are generated that contain information such as unique identifying information based on fingerprints
16 and criminal histories. This information is used in connection with making identification and custody
17 decisions and it is therefore relevant to Mr. Smith’s claims in this action. However, at least some of
18 the information contained in these documents is or could be considered “state summary criminal
19 history information,” is subject to protection under California law. Section 11142 of the California
20 Penal Code makes it a misdemeanor to disclose state summary criminal history information to a
21 person who is not authorized to receive such information. However, under section 11140 of the
22 California Penal Code, a court may authorize persons to receive such information. Because good
23 cause exists for discovery of the state summary criminal history information that was generated in
24 connection with the subject arrests and bookings in this action, the parties respectfully request that the
25 Court authorize San Francisco to disclose that information in discovery.

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