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14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

17
 18 GLENN E. HARPER,
 19 Plaintiffs,

20 v.

21 CITY OF SAN JOSE; the SAN JOSE
 POLICE DEPARTMENT; and ROBERT
 22 DAVIS, individually and in his official
 capacity as Chief of the SAN JOSE
 23 POLICE DEPARTMENT,

24 Defendants.

Case Number: C09-05758 JW
**ORDER RE
 STIPULATION FOR *IN CAMERA*
 REVIEW OF RECORDS**

(MODIFIED BY THE COURT)

25 The parties to this action, by and through their attorneys of record, hereby enter into
 26 this Stipulation in order to resolve a dispute concerning production of, and testimony
 27 regarding "all internal affairs files and complaints regarding Glenn Harper." Defendants
 28

1 object to the production of the subpoenaed information as it involves confidential personnel
2 matters, implicates the privacy rights of third parties, is protected by the official information
3 privilege and includes information not reasonably calculated to lead to the discovery of
4 admissible evidence.

5 On or about December 8, 2010, Plaintiff served the San Jose Police Department
6 Internal Affairs Unit with a subpoena for “all internal affairs files and complaints regarding
7 Glenn Harper.” Defendants have objected to the production of Internal Affairs file and any
8 related tape recorded statements, summaries of statements and any testimony from San
9 Jose Police Officers regarding the substance of the Internal Affairs investigations
10 contained therein.

11 In order to resolve this dispute, the parties have agreed to submit the Internal
12 Affairs Division report to the Court for *in camera* review. The parties further agree to the
13 following briefing schedule in association with the above in camera review:

14 January 10, 2011:	Opening Briefs—both sides
15 January 18, 2011	Opposition Briefs—both sides

16 Simultaneous with the filing of the Opposition briefs, defendants shall submit the
17 subpoenaed materials to the Court for review. The parties stipulate that Defendants shall
18 disclose to Plaintiff only such documents and/or recorded statements as are ordered
19 produced by the Court following its review. The parties further stipulate and agree that any
20 and all documents produced as a result of any order issued by this Court following the
21 above-referenced in camera review shall be disclosed subject to a protective order, which
22 shall include the following terms:

- 23 1. Documents and/or recorded statements produced by Defendants that contain
24 information from Police Officer personnel files, training files, Internal Affairs
25 files, Internal Affairs reports, or any other material personal to said Officers
26 are considered confidential, and are to be used for the purpose the above
27 captioned litigation only. Accordingly, the documents and/or their contents
28

1 contents may only be disclosed by the receiving party on as needed basis
2 and may be disclosed for the purposes of this litigation only. Confidential
3 documents shall not be disseminated to third parties unrelated to this case
4 and shall not be used in any other litigation, civil or criminal. Photocopies of
5 such documents could be made as is necessary for the litigation of this case.
6 However, such copies will also be subject to paragraph 2 below. Counsel
7 will advise persons given access to confidential documents and/or recorded
8 statements of the confidentiality of said documents and/or statements.

- 9 2. Upon the conclusion of this litigation by final judgment, dismissal, or
10 settlement, all such confidential documents and/or statements shall be
11 returned to the producing party, except for copies of materials submitted to the
12 court and made part of the court's records.

13 Dated: December 17, 2010

Respectfully submitted,



THOMAS K. BOURKE

Attorney for Plaintiff,
GLENN HARPER

17 Dated: December 21, 2010

Respectfully submitted,

RICHARD DOYLE, City Attorney

By: /s/ Michael J. Dodson

MICHAEL J. DODSON
Deputy City Attorney

Attorney for Defendant, CITY OF SAN
JOSE

23 **AS MODIFIED BY THE COURT,
PURSUANT TO STIPULATION, IT IS SO ORDERED.**

25 Dated: January 3, 2011



HONORABLE HOWARD R. LLOYD
United States Magistrate Judge