

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH SAAD, Individually, ZIHRA SAAD,
Individually,

Plaintiffs,

CASE NO: 2:11-cv-10103-SJM-MAR

v.

HON. PATRICK J. DUGGAN
MAGISTRATE JUDGE MARK A. RANDON

CITY OF DEARBORN HEIGHTS, SCOTT
KELLER, Individually and in his official
capacity; CARRIE CATES, Individually and
in her official capacity; RESERVE OFFICER
NASON, Individually and in his official capacity;
GREG GONDEK, Individually and in his
official capacity; JERRY SKELTON, individually
and in his official capacity; and JOHN DOE
OFFICERS I-XXX, Individually and in their
official capacities,

Defendants.

HADOUSCO. PLLC

By: NEMER N. HADOUS (CA: 264431) (AZ: 027529)
Admitted to the United States District Court,
Eastern District of Michigan
16030 Michigan Avenue, Suite 200
Dearborn, Michigan 48126
(313)846-6300

PUCKETT & FARAJ, P.C.

By: HAYTHAM FARAJ (P-72581)
P.O. Box 1016
Dearborn Heights, Michigan 48127
(760)521-7934

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

By: JEFFREY R. CLARK (P-33074)
Attorneys for City of Dearborn Heights, Scott Keller,
Carrie Cates, Officer Nason, Greg Gondek and Jerry Skelton
33900 Schoolcraft Road
Livonia, Michigan 48150
(734)261-2400

ORDER GRANTING IN PART/DENYING IN PART PLAINTIFFS' MOTION TO COMPEL (DKT NO. 24) AND GRANTING DEFENDANTS COUNTER-MOTION FOR PROTECTIVE ORDER (DKT. NO 32).

This matter is before the Court on Plaintiffs' motion to compel discovery (Dkt No. 24), and Defendants' response and counter-motion for a protective order (Dkt No. 32). The Court having reviewed Plaintiffs' motion and Defendants' response and counter-motion, and being otherwise fully advised following a hearing on November 17, 2011:

IT IS ORDERED that Defendant, the City of Dearborn Heights, shall produce, in redacted form revealing only factual information, the two citizen complaints against Officer Keller, within fourteen (14) days of the entry of this Order.

IT IS FURTHER ORDERED that Defendants shall produce the insurance policy identified in their prior discovery responses.

IT IS FURTHER ORDER that Defendant, the City of Dearborn Heights, shall state, as part of its documents production regarding the citizen complaints, that no other citizen complaints exist, and that in the event any citizen complaints are subsequently discovered, those will also be produced in accordance with the obligation to supplement discovery responses.

IT IS FURTHER ORDERED that Defendant, the City of Dearborn Heights, request for a protective order is granted, and the City of Dearborn Heights shall produce only those Police Department Policies and Procedures, designated by Plaintiffs at the November 17, 2011 hearing, within fourteen (14) days from the entry of this Order, subject to the following terms and conditions:

1. Production of the policies and procedures of the Dearborn Heights Police Department does not constitute a waiver of Defendants' objections to their use, applicability or admissibility in this litigation or any other litigation.

2. The production of the policies and procedures of the Dearborn Heights Police Department is for discovery purposes in this litigation only, shall be maintained in confidence by counsel, except as set forth in Paragraph 4, and shall be used only for the purpose of this litigation and no other purpose.

3. The production of the policies and procedures of the Dearborn Heights Police Department does not waive or limit Defendants' ability to pursue subsequent motions in limine, motion for protective order, or motion for summary judgment regarding these documents, their applicability or admissibility in this litigation or any other litigation.

4. The policies and procedures of the Dearborn Heights Police Department may be used as necessary by Plaintiff's Counsel in this case, including at depositions, filings with the court, court proceedings and at trial to the extent admissible. Plaintiff's Counsel may also disclose such information to his staff, to Plaintiff, and to expert witnesses in this litigation. Plaintiff's Counsel shall advise such individuals of the substance of this Protective Order and that they are bound by its terms.

5. Plaintiff, her attorneys, and experts are bound by these terms through stipulation of Plaintiff's counsel to this Order and each agrees that all copies are to be returned to counsel for the City of Dearborn Heights by plaintiff's attorney upon conclusion of this litigation, including all appeals.

Dated: _____

MARK A. RANDON
U.S. MAGISTRATE JUDGE

APPROVED AS TO FORM:

By: with consent of /n/hadous
NEMER N. HADOUS, for Plaintiffs

By: /p/sturdy (57466)
PATRICK R. STURDY (P57466) for Defendants

EXHIBIT A

NOVEMBER 17, 2011, DESIGNATED LIST OF DEARBORN HEIGHTS POLICE DEPARTMENT'S POLICIES AND PROCEDURES

Chapter 1: Administration & Organization

- Section 1. Organization
- Section 2. Job Responsibilities
- Section 3. Organizational Chart
- Section 4. Issuance of Orders

Chapter 2: General Duty Responsibilities

- Section 1. General Responsibilities
- Section 2. Duty Responsibilities
- Section 3. Accountability
- Section 4. Assuming Responsibility
- Section 15. Transportation of Prisoners
- Section 16. Patrol Vehicle Crews to Occupant Front Seat
- Section 17. Crime and Accident Investigation
- Section 18. Writing Report When Necessary
- Section 19. Service Reporting
- Section 21. Enforcement of City Ordinances
- Section 22. Patrol Response
- Section 24. Patrol Unit Personnel
- Section 25. Emergency Transportation
- Section 26. Operation of Patrol Units
- Section 27. Care of Patrol Units
- Section 28. Care of Department Property

Chapter 3: Personal Conduct

- Section 1. General Conduct
- Section 2. Chain of Command
- Section 3. Truthfulness
- Section 4. Respect Toward Other Members
- Section 5. Obedience to Orders
- Section 6. Unlawful Orders
- Section 7. Obedience to Unlawful Orders
- Section 8. Obedience to Unjust or Improper Orders
- Section 9. Conflicting Orders

- Section 10. Insubordination
- Section 11. Condemning Orders
- Section 12. Criticism of City or Department
- Section 13. Criticism of Officers

- Section 14. Obedience of Laws and Regulations
- Section 15. Misconduct Toward Prisoners
- Section 16. Availability While On Duty
- Section 17. Official Information
- Section 32. Wilful Disobedience of Rules, Orders, Policy or Procedures
- Section 33. Conduct Unbecoming an Officer
- Section 34. Disrespect to a Superior Officer
- Section 35. Neglect of Duty
- Section 36. Inattention to Duty
- Section 37. Incompetence
- Section 41. Ignorance of Rules, Regulations, Policy or Procedures
- Section 42. Failure to Report Known Violation
- Section 43. Seizing Property
- Section 46. Abuse of Authority

Chapter 4: Disciplinary Procedures

- Section 1. Persons Subject to Disciplinary Action
- Section 2. Departmental Authority to Discipline
- Section 3. Emergency Suspensions
- Section 4. Initiation of Disciplinary Process
- Section 5. Elements of a Report on Reprimand
- Section 6. Distribution of Report on Reprimand
- Section 7. Departmental Investigations
- Section 8. Interfering With Disciplinary Process or Departmental Investigation
- Section 9. Establishing Elements of Violation
- Section 10. Disposition Reports

Chapter 5: Station and Supervisory Policies

Internal Affairs Management
Notification for Critical Incident
Warrant Arrests

Chapter 7: Officer Response Policies

Domestic Violence Response
Reporting Nuisance Alarm Complaints

Response to Aggression/Resistance (Use of Force)

Chapter 9: Electronics and Technology Policies

Use of Electronic Systems and Tools

Mobile Video Recording Equipment

Recording Devices

Tampering with Electronic Equipment

Chapter 10: Investigative Bureau Policies

Criminal and Traffic Case Processing

Chapter 11: General Policies

Radio Procedures