

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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|--|---|-----------------------------|
| JEROME TATE |) | |
| |) | |
| Plaintiff, |) | Judge David H. Coar |
| |) | |
| v. |) | Magistrate Judge Cox |
| |) | |
| CITY OF CHICAGO, a municipal corporation, |) | |
| LOUIS JONES, Star Number 11648, |) | |
| |) | |
| Defendants. |) | |

MOTION FOR ENTRY OF A PROTECTIVE ORDER

_____ Defendant City of Chicago, by its attorney Mara S. Georges, Corporation Counsel for the City, and with the agreement of individual defendant Louis Jones, through his attorney Christopher Wallace, move this Court pursuant to Fed.R.Civ.P. 26(c), for entry of a protective order regarding records in this matter. In support thereof, the defendants state as follows:

1. Documents pertaining to the parties and non-parties will be sought and produced in this matter, including, but not limited to, the production of personnel files and information such as disciplinary histories, Complaint Registers, and medical records and information.

2. Complaint Registers contain personnel record information regarding party and non-party police officers (including, but not limited to, personnel files and information, disciplinary documents, personal identifiers of officers and their families, and financial information) and personal identifiers of non-party civilian witnesses. In some circumstances, these records also include medical information protected by federal law. The *Illinois Personnel Records Review Act*, 820 ILCS 40/0.01, protects the disclosure of employee personnel files, disciplinary histories and related information. These records are also protected from

dissemination by the *Illinois Freedom of Information Act*, 5 ILCS 140/1 *et. seq.*, which exempts personnel files and documents appropriately contained in personnel files (i.e., disciplinary records) from disclosure, and by and Rule 3.6 of the Illinois Supreme Court Rules of Professional Conduct and Rule 83.53.6 of the Northern District Local Rules¹, which prevent lawyers from making extrajudicial statements the lawyer knows or reasonably should know is likely to be disseminated by public media, and, if so disseminated, would pose a serious and imminent threat to the fairness of an adjudicative proceeding.

3. Furthermore, medical and psychological records are protected under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), codified primarily at 18, 26 & 42 U.S.C. (2002), and attending regulations at 45 C.F.R. §§ 160 & 164 (2000).

4. The proposed Protective Order would govern the pre-trial discovery stage of this litigation, and would prohibit the use of the specifically identified confidential information for any purpose other than litigation of this case. The order would further prohibit the dissemination of this specifically identified material, and information contained therein, to parties outside this litigation, and requires their return to the producing party following the resolution of this case. Such an order ensures the protection of private and confidential information of all the parties. At the same time, it facilitates the seamless compliance with production requests during the discovery phase of litigation. The defendants' proposed Protective Order, attached as Exhibit 1, is, thus, consistent with the principles of federal and Illinois law and protects against unfairness

¹The Committee Comments to the Local Rules acknowledge that it is "difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression." The Committee explains that "[p]reserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where a trial by jury is involved."

in the litigation process.

6. For the foregoing reasons, good cause is established for entry of the proposed protective order.

WHEREFORE, Defendants respectfully request that this Court enter the attached Protective Order.

DATED: July 9, 2008

Respectfully submitted,

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