UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

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JAMES WITHAM	
v.	CIV. NO. 3:04CV1784 (JCH)
CITY OF NEWINGTON, ET AL	

DISCOVERY RULING

A settlement conference was held on July 14, 2005. At the conclusion of the conference, the parties discussed the outstanding discovery to be completed and defendants' counsel requested <u>in camera</u> review of the personnel files of the four defendant police officers as sell as internal affairs investigations involving the officers. The submission was made in camera on August 22, 2005.

Defendants object to the disclosure of the police officers' personnel files as privileged information and irrelevant to the issue in this case which deals with excessive force during arrest.

Defendants state that they will produce and testify to: (a) any citizen complaints concerning the use of excessive force or wrongful arrest; (b) any internal affairs investigations concerning the use of excessive force or wrongful arrest; (c) any arrest on felony or misdemeanor charges in the past ten (10) years; and (d) any motor vehicle arrests in the past ten (10) years.

To date, defendants' attorney has not turned over any

documents pursuant to this agreement.

After careful review, the Court rules as follows:

Defendants will produce copies of any citizen complaints concerning the use of excessive force or wrongful arrest by any of the individual defendants. If none exist, defendants will state this in writing.

Defendants will produce copies of any internal affairs investigations concerning the use of excessive force or wrongful arrest by any of the individual defendants. If none exist, defendants will state this in writing.

Defendants will disclose any arrest on felony or misdemeanor charges in the past ten (10) years. If none exist, defendants will state this in writing.

Defendants will disclose any motor vehicle arrests in the past ten (10) years. If none exist, defendants will state this in writing.

The Court has reviewed the personnel files of the individual defendants and finds that payroll evaluations, performance reviews and the initial applications and background investigations are not discoverable. This ruling is without prejudice to plaintiff's renewing his discovery request with a more specific showing. The personnel files contained no references to use of excessive force in this or in any other matter.

Defendants will comply with this order within ten (10) days.

This is not a recommended ruling. This is a discovery ruling and order which is reviewable pursuant to the "clearly

erroneous" statutory standard of review. 28 U.S.C. § 636 (b)(1)(A); Fed. R. Civ. P. 6(a), 6(e) and 72(a); and Rule 2 of the Local Rules for United States Magistrate Judges. As such, it is an order of the Court unless reversed or modified by the district judge upon motion timely made.

ENTERED at Bridgeport this 3^{rd} day of November 2005.

/s/ HOLLY B. FITZSIMMONS UNITED STATES MAGISTRATE JUDGE