

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

KEENAN R. ELLSBERRY,

Plaintiff,

v.

CITY OF DETROIT, et al,

Defendants.

Case Number: 12-10934

District Judge Gerald E. Rosen

Magistrate Judge Mark A. Randon

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**ORDER DENYING PLAINTIFF'S MOTION FOR ORDER TO SHOW  
CAUSE (DKT. 14) AND QUASHING SUBPOENA TO WAYNE COUNTY  
PROSECUTOR AND GRANTING-IN-PART PLAINTIFF'S MOTION  
TO COMPEL DISCOVERY FROM DEFENDANTS (DKT. 25)**

Two motions are pending: (1) Plaintiff's motion for an order to show cause why non-party Wayne County Prosecutor should not be held in contempt of court for her failure to comply with a subpoena for production of documents (Dkt. No. 14); and (2) Plaintiff's motion to compel discovery and the deposition of all individual defendants (Dkt. No. 25). The Court has read the submissions of the parties (Dkt. Nos. 14, 25, 33) and the response of non-party, Wayne County Prosecutor (Dkt. No. 29); a hearing on the motions was held on July 24, 2012.

As to Plaintiff's motion for order to show cause, for the reasons stated on the record,

**IT IS ORDERED** that Plaintiff's motion is **DENIED** and the subpoena directed to the Wayne County Prosecutor is **QUASHED** at this time subject to being re-filed – if necessary – before the close of discovery.

As to Plaintiff's motion to compel, the Court finds that Plaintiff's discovery and deposition notices were prematurely served upon Defendants, on March 13, 2012<sup>1</sup> – before the

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<sup>1</sup> Plaintiff's discovery requests were improperly served upon Defendants with Plaintiff's Summons and Complaint.

parties had conferred as required by rule 26(f) and before Judge Rosen's scheduling conference on June 6, 2012. However, for the reasons stated on the record,

**IT IS ORDERED** that on or before August 21, 2012, Defendants shall produce to Plaintiff the Detroit Police Department's Internal Investigation file regarding the incident at issue in this lawsuit.

**IT IS FURTHER ORDERED** that Plaintiff must re-serve any request for Defendants' psychiatric records and re-serve any deposition notices.

s/Mark A. Randon  
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MARK A. RANDON  
UNITED STATES MAGISTRATE JUDGE

Dated: July 31, 2012

*Certificate of Service*

*I hereby certify that a copy of the foregoing document was served on the parties of record on this date, July 31, 2012, by electronic and/or first class U.S. mail.*

s/Melody R. Miles  
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Case Manager to Magistrate Judge Mark A. Randon  
(313) 234-55420