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8 Attorneys for Petitioner McClatchy Newspapers, Inc.,

9 SUPERIOR COURT OF CALIFORNIA - COUNTY OF SACRAMENTO

10 McClatchy Newspapers, Inc.,

11 Petitioner,

12 vs.

13 The Regents Of The University Of
14 California

15 Respondent.

No.

**DECLARATION OF STEPHEN J. BURNS
IN SUPPORT OF MCCLATCHY
NEWSPAPERS, INC.'S, PETITION FOR
WRIT OF MANDATE**

Date:

Time:

Dept:

Complaint Filed:

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I, Stephen J. Burns, declare:

1. I am the Assistant General Counsel of McClatchy Newspapers, Inc., Petitioner herein. I have personal knowledge of the matters stated herein, and could and would competently testify to them if called as a witness.

2. On December 8, 2000, and again on December 12, 2000, I called the University's Campus Counsel Steven A. Drown to ascertain the status of Reporter Terri Hardy's October 31, 2000 request for specified police reports. On both these occasions, I was informed that the police reports requested would be forthcoming within a few days, probably with only minor redactions.

3. On December 15, 2000, over a month and a half after Ms. Hardy's original October 31, 2000 request for police reports, the University denied the Bee access to those reports and denied access to any information of the type required to be extracted from those reports under Government Code Section 6254(f)(1), (f)(2) and (f)(3). The sole basis for the University's denial of access was its contention that since the information sought was no longer current information about contemporaneous police activity pertaining to individuals presently in the criminal justice system, it was exempt from the disclosure requirements of Section 6254(f)(1), (f)(2) and (f)(3). A true and correct copy of this December 15, 2000 letter from the University's Campus Counsel Steven A. Drown to me is attached hereto as Exhibit A.

4. The University has not responded to the Ms. Hardy's December 8, 2000 request for additional police records, other than to state in its December 15, 2000 denial letter that "[t]he University plans to follow the standards described above in evaluating other Public Records Act requests for police records." Id. at 7

1 5. On December 22, 2000, in an attempt to informally resolve the
2 impasse reached between the Bee and the University over the police reports
3 contained in Ms. Hardy's October 31, 2000 request and her December 8, 2000
4 request, I wrote to Steven A. Drown explaining, among other things, that there could
5 be no time limitations on production of police report information where, as here, the
6 University is independently obligated to produce the records under the Education
7 Code and presently relies on the police reports to meet its ongoing reporting and
8 disclosure requirements under the California Education Code and the federal Clery
9 Act. Additionally, I gave the University until January 3, 2001 to consider my letter and
10 to conduct any further analysis regarding its position. A true and correct copy of my
11 December 22, 2000 letter to Steven A. Drown is attached hereto as Exhibit B.

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13 6. On December 28, 2000, I talked with Steven A. Drown and gave
14 him more time to consider my December 22, 2000 letter. He informed me that the
15 University would respond in writing by January 8, 2001.

16
17 7. On January 4, 2001, I exchanged voice mails with Steven A.
18 Drown wherein we both provided further input on our previously stated positions.

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20 8. On January 9, 2001, I received Mr. Drown's letter. In that letter,
21 Mr. Drown made clear that the University would hold to its position that access to
22 police reports, or any information from those reports, pertaining to closed criminal
23 investigations would not be granted. Specifically, he explained that unless the
24 information pertained to "contemporaneous police activity concerning persons
25 currently within the criminal justice system" the University was not required to grant
26 access and would not grant access to police reports, or any other information
27 regarding closed investigations. A true and correct copy of the January 9, 2001 letter
28 from Steven A. Drown to me is attached hereto as Exhibit C.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this ____ day of January, 2001, at Sacramento, California.

Stephen J. Burns