

1 Angeles has agreed to produce copies of the following documents following the
2 issuance of a protective order in this matter:

3 **a) The LAPD's Internal Affairs Investigation Report and the attached**
4 **addenda relating to any citizen's complaint for fraud, racial profiling and perjury**
5 **within the last five years.**

6 **b) Plaintiff may purchase duplicate recordings of any recorded statement**
7 **taken in connection with the investigations referred to Paragraph 1(b) herein at a**
8 **cost of \$10.00 per CD-rom if those recordings can be located by the LAPD's**
9 **Professional Standards Bureau.**

10 2. The Los Angeles Police Department conducts internal administrative
11 investigations of Officer Involved Uses of Force and Complaint Investigations
12 (hereinafter "Administrative Investigations") and also maintains a personnel file on its
13 officers which includes personnel training information. Once an Administrative
14 Investigation is initiated, a formal investigation number is prepared. Such investigations
15 are reviewed by appropriate command officers in the Department. This review has
16 several purposes: (1) to determine whether the involved officers violated any
17 Department policies or procedures; (2) to determine whether administrative discipline
18 and/or retraining of the involved officers is necessary; and (3) to ascertain if police
19 policies and procedures in such areas as supervision, training, tactics, policies, etc.
20 should be modified. Administrative Investigations are an essential aid to providing
21 critical evaluation of Department officers and policies, and to determine the most
22 effective way to serve the citizens of Los Angeles.

23 3. The Department strives to maintain the confidentiality of an officer's
24 personnel package and Administrative Investigations, and the information contained
25 therein, in recognition of the protections granted pursuant to Penal Code § § 832.5,
26 832.7, and 832.8 and 1040 et al. of the California Evidence Code. Just as officer's
27 personnel package is maintained as confidential, so too are the Administrative
28 Investigations involving a particular officer(s). Administrative Investigations, like an

1 officer's personnel package, include information which is both personal in nature and
2 could potentially impact the liberty interests of the involved police officers and/or
3 civilians named within. The information obtained from personnel packages and
4 Administrative Investigations can, and have been used to initiate disciplinary action
5 against officers, as well as evidence in disciplinary proceedings where the officer's
6 conduct was considered to be contrary to Department policy. At this time, the parties
7 have agreed that certain Administrative Investigation information will be provided
8 pursuant to the terms set forth in this Protective Order. As a result, the parties have
9 agreed to this Proposed Protective Order covering these records for the following Good
10 Cause reasons:

11 4. Administrative Investigations are maintained as confidential reports and are
12 considered part of the individual officers' personnel record. Administrative
13 Investigations include information which is both personal in nature and could potentially
14 impact the liberty interests of the involved police officers and/or civilians named within.
15 The information obtained from Administrative Investigations can and have been used to
16 initiate disciplinary action against officers and as evidence in disciplinary proceedings
17 where the use of force or tactics used were considered to be contrary to Department
18 policy.

19 5. Unfettered release of Administrative Investigations have the potential for
20 untold negative results. In terms of societal interests, it would inhibit the Department's
21 ability to frankly engage in critical self-analysis. Public exposure of many
22 Administrative Investigations could severely threaten the safety and well-being of the
23 individuals, their families and associates. Many Administrative Investigations include
24 embarrassing facts. At a minimum, disclosure of an entire Administrative Investigation
25 would cause needless intrusion of privacy rights and have a negative effect on the
26 Department's effort to conduct these important investigations. Indeed, for all of these
27 reasons, persons interviewed by Investigators are advised that their statements are being
28 taken for the confidential use of the Department.

1 6. The materials and interview statements of Administrative Investigations are
2 maintained in protected files in order to maintain their confidentiality. They are not
3 routinely shown to other city departments. Even then, information which is not clearly
4 relevant to the rationale governing the request is redacted to ensure the utmost regard for
5 the privacy rights of the mentioned within a given report. The reports are not available
6 to the general public except by court order. In all instances, the Department requests in
7 camera hearing to determine the relevance for releasing all or part of a given report,
8 again to ensure the constitutionally protected privacy rights of those named or otherwise
9 identified within the body of the report.

10 7. In each case involving court-ordered disclosure of information from an
11 Administrative Investigation sought in state or federal court, it is Department policy to
12 seek a protective order limiting use of the information to the case at trial and identifying
13 those persons who may properly be granted access to the information. Absent a
14 protective order, it becomes unrealistic to conceive that the large numbers of attorneys,
15 secretaries, law clerks, paralegals and witnesses involved in many cases will be able to
16 maintain proper confidence of personal, private material absent an order which clearly
17 delineates their responsibilities. The orders further request that said records be returned
18 to the Department after the case has terminated, either by final judgment or otherwise.
19 This request serves to ensure that intrusion into the privacy and employment rights of
20 those involved is limited to the particular case in which the facts are relevant.

21 8. Even with a carefully written protective order, the release of portions of an
22 Administrative Investigation, without prior judicial review to determine relevancy and
23 assess privacy concerns, ignores the constitutional protection given to individual privacy
24 under the United States and California Constitutions and which a third-party such as the
25 Department is obligated to assert. The issuance of an appropriate protective order
26 makes certain that these privacy concerns are not compromised beyond that degree
27 necessary to the issues before the court. Accordingly, on behalf of the Los Angeles
28 Police Department and those persons identified within a given Administrative

1 Investigation, the Defendants respectfully request these procedural protections in the
2 instant case.

3 9. Accordingly, the parties hereby stipulate that the above-referenced Internal
4 Affairs Investigation is confidential in nature and is appropriately produced pursuant to
5 a protective order. (See *Soto v. City of Concord*, 162 F.R.D. 603, 616 (N.D. Cal.
6 1995.))

7 **TERMS OF THE PROTECTIVE ORDER**

8 10. If the Protective Order is issued, Defendants will produce the above-
9 referenced documents wherein the documents will be marked in one of the following
10 ways: “Confidential,” “Confidential Documents,” “Confidential Material,” “Subject to
11 Protective Order” or words of similar effect. Documents, writings, or other tangible
12 items, so designated, and all information derived therefrom (hereinafter, collectively
13 referred to as “Confidential Information”), shall be treated in accordance with the terms
14 of this stipulation and protective order.

15 11. Confidential Information may be used by the persons receiving such
16 information only for the purpose of this litigation.

17 12. Subject to the further conditions imposed by this stipulation, Confidential
18 Information may be disclosed only to the following persons:

19 (a) Counsel for the parties, parties, and to experts, investigators, paralegal
20 assistants, office clerks, secretaries and other such personnel working under their
21 supervision.

22 (b) Such other parties as may be agreed by written stipulation among the parties
23 hereto, or by Court order.

24 13. Prior to the disclosure of any Confidential Information to any person
25 described in paragraph 12(a) or 12(b), counsel for the party that has received and seeks
26 to use or disclose such Confidential Information shall first provide any such person with
27 a copy of this stipulation, and shall cause him or her to execute, on a second copy which
28 counsel shall thereafter serve on the other party the following acknowledgment:

1 “I understand that I am being given access to Confidential Information
2 pursuant to the foregoing stipulation and order. I have read the Order and agree to be
3 bound by its terms with respect to the handling, use and disclosure of such Confidential
4 Information.

5 Dated: _____/s/_____”

6 14. Upon the final termination of this litigation, including any appeal pertaining
7 thereto, all Confidential Information and all copies thereof shall be returned to the
8 Defendants City of Los Angeles through the City Attorney’s Office.

9 15. If any party who receives Confidential Information receives a subpoena or
10 other request seeking Confidential Information, he, she or it shall immediately give
11 written notice to the Defendants’ counsel, identifying the Confidential Information
12 sought and the time in which production or other disclosure is required, and shall object
13 to the request or subpoena on the grounds of this stipulation so as to afford the
14 Defendants an opportunity to obtain an order barring production or other disclosure, or
15 to otherwise respond to the subpoena or other request for production or disclosure of
16 Confidential Material. Other than objecting on the grounds of this stipulation, no party
17 shall be obligated to seek an order barring production of Confidential Information,
18 which obligation shall be borne by the Defendants. However, in no event should
19 production or disclosure be made without written approval by the Defendants’ counsel
20 unless required by court order arising from a motion to compel production or disclosure
21 of Confidential Information.

22 16. Any pleadings, motions, briefs, declarations, stipulations, exhibits or other
23 written submissions to the Court in this litigation which contain, reflect, incorporate or
24 refer to Confidential Information shall be submitted with an application that the
25 document be filed and maintained under seal either pursuant to Ex Parte Application and
26 Order of the Court or Stipulation of the parties and Order of the Court. (Local Rule 79-
27 5, et seq.) and in accordance with the District Court’s existing Pilot Program for the
28 filing of sealed documents. Good cause for the under seal filing must be shown. If a

1 document or pleading submitted to the Court, as described in this paragraph, makes only
2 a general reference to any document or information contained therein covered by this
3 protective order, but does not quote or describe its contents in any specific way, and
4 does not include the protected document itself, then the party or parties need not enter
5 into a Stipulation or otherwise seek an order to file the documents under seal. In
6 entering into a Stipulation for the filing of Confidential Information under seal, neither
7 one of the parties waives its right to object to the admissibility of said information in
8 connection with that proceeding or to move to exclude said information prior to or
9 during the time of trial.

10 17. The parties agree that the spirit of confidentiality as protected in this order
11 will apply to all proceedings. To that end, before any protected document or any
12 information derived therefrom is to be put forward, admitted into evidence, discussed in
13 detail or otherwise publicized in Court, the party raising the protected document will
14 inform the other parties and allow for a motion to the Court to close the proceedings to
15 the public.

16 18. Nothing herein shall prejudice any party's rights to object to the introduction
17 of any Confidential Information into evidence, on grounds including but not limited to
18 relevance and privilege.

19 19. During the course of depositions, when counsel makes an objection to a
20 question concerning a protected document or information contained therein, which is the
21 subject of this Stipulation and protective order, or concerning a general area that counsel
22 believes should be covered by the scope of this Stipulation and protective order, those
23 witnesses (as identified in Paragraph 3(a) herein) may answer the question, without
24 waiving the objections, and the questions and answers to those questions will be sealed
25 and covered by the terms of this protective order. Counsel and the parties reserve the
26 right to object to the disclosure of confidential or private information which is not the
27 subject of this Stipulation and protective order. Any documents deemed confidential
28 pursuant to this protective order will be sealed, if they are used as exhibits in any

1 deposition. This agreement does not waive any objections counsel may make, including
2 objections unrelated to the reasons for this protective order.


3 20. Each person receiving or reviewing Confidential Information must consent
4 to the jurisdiction of the United States District Court for the Central District of
5 California, including the Magistrate Judge assigned to this case, with respect to any
6 proceeding relating to enforcement of this Order, including, without limitation, any
7 proceeding for contempt and/or monetary sanctions

8 21. This Protective Order survives until the time the commencement of trial.
9 The parties hereto, however, may make a request to the District Judge, in advance of
10 trial, that the Confidential Information disclosed pursuant to the Protective Order remain
11 confidential and/or be kept and maintained pursuant to the terms of the Protective Order.

12 22. This Stipulation may be signed in sub-parts and may be transmitted by
13 facsimile as if it was the original document. Defendants will lodge this executed
14 Stipulation with the Court for approval.

15
16 ***IT IS SO ORDERED.***

17 DATED: April 28, 2017

18 
19 **HONORABLE JOHN E. MCDERMOTT**
20 **UNITED STATES DISTRICT JUDGE**