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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DONALD LIESS, individually and as
Successor-in-Interest to Darren Liess
and CAROL LIESS, individually and
as Successor-in-Interest to Darren
Liess,

Plaintiffs,

vs.

CITY OF LOS ANGELES, a public
entity; CITY OF TORRANCE, a
public entity; and DOES 1 through
100, inclusive.

Defendants

CASE NO.: CV14-4374 PA (FFMx)

Assigned to: Judge Percy Anderson
Courtroom: 15 - Spring Street

Assigned to: Magistrate Frederick F. Mumm
Courtroom: E - 9th Floor

DEFENDANT CITY OF LOS ANGELES AND PLAINTIFFS' [Proposed] STIPULATED PROTECTIVE ORDER RE FORCE INVESTIGATION DIVISION RECORDS - FID RECORDS

NOTE: CHANGES MADE BY
THE COURT

PROTECTIVE ORDER FORCE INVESTIGATION DIVISION REPORTS

After the Plaintiffs DONALD LIESS, individually and as Successor-in-Interest to Darren Liess and CAROL LIESS, individually and as Successor-in-Interest to Darren Liess, (hereinafter referred to as "Plaintiffs"), by and through their attorneys of record, TAYLOR & RING, by Louanne Masry and Defendants CITY OF LOS ANGELES, a local public entity (hereinafter referred to as "Defendants"), by and through their attorneys of record, Michael N. Feuer, City Attorney, Cory M. Brente, Supervising Assistant City Attorney and Christian R. Bojorquez conferred regarding the Production of the Force Investigation Records in the above-entitled case,

1 **IT IS HEREBY STIPULATED AND AGREED** between the parties hereto, by
2 their undersigned counsel of record, that the following Protective Order, and its terms
3 shall govern documents and things in this matter:

4 For purposes of this Order, Confidential Materials include, but are not limited to:

5 1. Force Investigation Division Investigation Records;
6 2. Any and all documents, interviews, Officer Statements and/or writings
7 created during the Investigation, which include, but are not limited to, the following:

8 A. Force Investigation Division Records- No. F-019-13

- 9 ● Interviews;
10 ● Officer Statements, whether written or recorded;
11 ● Legend w/diagram;
12 ● Pictures - Which coincide with an Officer(s) compelled
13 statement which were intended to reflect the Officer's stated or perception of events;
14 ● Investigative Narrative;
15 ● All addenda

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17 ***I. GOOD CAUSE STATEMENT***

18 The Force Investigation Division (hereinafter "FID") of the Los Angeles Police
19 Department conducts internal administrative investigations of categorical officer-
20 involved uses of force. In this above-captioned matter an FID Investigation was
21 conducted. As a result, the Parties have agreed to this Proposed Protective Order
22 covering the Investigation and its contents. Defendants contend that a Protective Order is
23 appropriate for the following Good Cause reasons:

24 a. Once completed, an investigation report (hereafter "FID reports") is
25 prepared. Such reports are reviewed by appropriate command officers in the Department
26 and by the Board of Police Commissioners. This review has several purposes: (1) to
27 determine whether the involved officers violated any Department policies or procedures;
28

1 (2) to determine whether administrative discipline and/or retraining of the involved
2 officers is necessary; (3) to ascertain if police policies and procedures in such areas as
3 supervision, training, tactics, policies, etc.; should be modified. In sum, FID reports are
4 an essential aid to providing critical self evaluation of Department officers and policies
5 and to determine the most effective way to serve the citizens of Los Angeles.

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7 **II. TERMS OF THE PROTECTIVE ORDER**

8 1. Defendants and Plaintiffs have agreed that the below-listed documents shall
9 be designated confidential documents and/or writings because Defendants believe, in
10 good faith, that these documents and/or writings are privileged, confidential, private or
11 sensitive nature. This will be accomplished by affixing to such document or writing a
12 legend, such as “Confidential,” “Confidential Documents,” “Confidential Material
13 Subject to Protective Order” or words of similar effect. Documents and writings so
14 designated, and all information derived therefrom (hereinafter, collectively, “Confidential
15 Information”), shall be treated in accordance with the terms of this stipulation/protective
16 order.

17 For purposes of this Order, Confidential Materials include, but are not limited to:

18 1. Force Investigation Division Investigation Records;
19 2. Any and all documents, interviews, Officer Statements and/or writings
20 created during the Investigation, which include, but are not limited to, the following:

21 A. Force Investigation Division Records- No. F-019-13

- 22 ● Interviews;
- 23 ● Officer Statements, whether written or recorded;
- 24 ● Legend w/diagram;
- 25 ● Pictures - Which coincide with an Officer(s) compelled
26 statement which were intended to reflect the Officer’s stated or perception of events;

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- Investigative Narrative;
- All addenda

B. The Confidential Documentation being provided pursuant to this Protective Order will be accomplished by affixing to such document or writing a legend, such as “Confidential,” “Confidential Documents,” “Confidential Material Subject to Protective Order” or words of similar effect. The documents and writings so designated, and all information derived therefrom (hereinafter, collectively, “Confidential Information”), shall be treated in accordance with the terms of this stipulation/protective order.

2. Confidential Information may be used by the persons receiving such information only for the purpose of this above-captioned litigation .

3. Subject to the further conditions imposed by this stipulation/protective order, Confidential Information may be disclosed only to the following persons:

a. Counsel for the parties and to experts, investigators, paralegal assistants, office clerks, secretaries and other such personnel working under their supervision, **and the Court and its personnel (FFM);**

b. Such other parties as may be agreed by written stipulation among the parties hereto, or by Court Order.

4. Prior to the disclosure of any Confidential Information to any person described in paragraph 3(a), or 3(b), *with the exception of all Court Personnel*, counsel for the party that has received and seeks to use or disclose such Confidential Information shall first provide any such person with a copy of this protective order, and shall cause him or her to execute the following acknowledgment:

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

5 Dated: _____/s/ _____”

6 Once this is completed, Counsel for Plaintiffs will serve a copy of the acknowledgment
7 upon Defendants.

8 5. Upon the final termination of this litigation, including any appeal pertaining
9 thereto or in the event this case is remanded to State Court, all Force Investigation
10 Division materials that were designated as confidential, as well as any other Court
11 Ordered Documents provided pursuant to this Protective Order and all copies thereof,
12 shall be returned to the Offices of the Los Angeles City Attorney’s Office, 6th Floor, City
13 Hall East, Los Angeles, California 90012. All Confidential documentation provided to
14 any person or party, pursuant to any provision hereof, also shall be returned to the City
15 Attorney’s Office.

16 6. If any party who receives Confidential Information receives a subpoena or
17 other request seeking Confidential Information, he, she or it shall immediately give
18 written notice to counsel for defendants, identifying the Confidential Information sought
19 and the time in which production or other disclosure is required, and shall object to the
20 request or subpoena on the grounds of this stipulation/protective order so as to afford
21 defendants an opportunity to obtain an order barring production or other disclosure, or to
22 otherwise respond to the subpoena or other request for production or disclosure of
23 Confidential Material. In no event should production or disclosure be made **prior to the**
24 **ruling on any motion to quash or for protective order timely made by defendants**
25 ~~without written approval by defendant’s counsel unless required by Court Order arising~~
26 ~~from a motion to compel production or disclosure of Confidential Information. (FFM)~~

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1 7. Any pleadings, motions, briefs, declarations, stipulations, exhibits or other
2 written submissions to the Court in this litigation which contain, reflect, incorporate or
3 refer to Confidential Information shall first be accompanied by an application to request
4 that the papers, or the confidential portion thereof, be lodged under seal.

5 8. Counsel for the parties hereto agree to request that any motions, applications
6 or other pre-trial proceedings which could entail the discussion or disclosure of
7 Confidential Information be heard by the Court outside the presence of the jury, unless
8 the Court orders otherwise. Counsel for the parties further agree that, during any portion
9 of the trial of this action which could entail the discussion or disclosure of Confidential
10 Information, that Defendants will have an opportunity to request that access to the
11 courtroom be limited to parties, their counsel and other designated representative, experts
12 or consultants who agreed to be bound by this stipulation/protective order, and court
13 personnel.

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

17 10. The fact that Plaintiffs have entered into this stipulation does not waive any
18 of Plaintiffs' rights to challenge the Defendants' designation of materials as confidential.
19 Nevertheless, Plaintiffs understand and acknowledge that material contained within the
20 Force Investigation, such as interviews, tape recordings and summaries are being
21 provided pursuant to this Protective Order and that they are to remain protected by this
22 Order. In the event that there is some "good faith" disagreement as to whether certain
23 documents and/or information provided by Defendants that were labeled as
24 "confidential" should be treated as confidential, the parties agree to make informal
25 attempts to resolve such issues. Nevertheless, if those informal attempts prove
26 unsuccessful, then Plaintiffs will have the ability to file the necessary motion so that the
27 Court can make the appropriate ruling. It should be noted however, that Plaintiffs
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1 understand that any challenge they may have with respect to the materials contained
2 within the Force Investigation must be based upon impracticability and necessity.

3 **As to the above-listed Terms of the Stipulated Protective Order, IT**
4 **IS SO ORDERED:**

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6 Dated: December 1, 2014

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8 /S/ FREDERICK F. MUMM
9 HON. FREDERICK F. MUMM
10 *United States Magistrate Judge*
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