

1
2
3
4
5
6
7
8 SAMUEL BONNER,

9 Plaintiff,

10 vs.

11 CITY OF LONG BEACH; COUNTY OF
12 LOS ANGELES; WILLIAM
13 COLLETTE; ESTATE OF WILLIAM
14 COLLETT; JOHN HENRY MILLER;
15 ESTATE OF JOHN HENRY MILLER;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 2:22-cv-02819-CAS-MAA

Honorable Maria A. Audero

**STIPULATED PROTECTIVE
ORDER**

Complaint Filed: April 27, 2022

Trial Date: None

16
17 **1. PURPOSES AND LIMITATIONS**

18 Discovery in this action is likely to involve production of confidential,
19 proprietary, or private information for which special protection from public disclosure
20 and from use for any purpose other than prosecuting this litigation may be warranted.
21 Accordingly, the parties hereby stipulate to and petition the Court to enter the
22 following Stipulated Protective Order. The parties acknowledge that this Stipulated
23 Protective Order does not confer blanket protections on all disclosures or responses
24 to discovery and that the protection it affords from public disclosure and use extends
25 only to the limited information or items that are entitled to confidential treatment
26 under the applicable legal principles. The parties further acknowledge, as set forth in
27 Section 13.3 below, that this Stipulated Protective Order does not entitle them to file
28 confidential information under seal; Local Rule 79-5 sets forth the procedures that
must be followed and the standards that will be applied when a party seeks permission

1 from the Court to file material under seal.

2 **2. GOOD CAUSE STATEMENT**

3 Though Plaintiff may be entitled, in certain limited circumstances, to examine
4 and receive information in police officers' personnel files and internal affairs files, to
5 the extent that they are relevant to their claims in the above-captioned action, the City
6 of Long Beach ("City") and the Long Beach Police Department (the "Department")
7 contend that a protective order is necessary to prevent random distribution of such
8 information. Furthermore, this proposed protective order was created for the purpose
9 of protecting certain information that may be subject to the official information
10 privilege, law enforcement privilege, and the right to privacy, as protected by the
11 California and United States Constitution, balanced with Plaintiff's right to discovery
12 in this litigation.

13 The City, Department, and Defendants herein contend that they have an interest
14 in protecting their privacy rights relating to information in City officers' personnel
15 files as well as the privacy rights of third parties and other related information.

16 It is the policy of the Department not to disclose information contained in
17 background investigations about its employees, or other information contained in
18 confidential police personnel files unless ordered to do so by a court of competent
19 jurisdiction. Further, it is the policy of the Department not to disclose information
20 contained in police reports to those other than the parties involved in the incident,
21 their representatives, prosecutors, etc. unless ordered to do so by a court of competent
22 jurisdiction.

23 Within the Department, access to personnel files is restricted to those on a
24 "need to know" basis. Controlled access to the files is regarded by the Department as
25 essential in order to assure the integrity and security of such files. The Department
26 contends that uncontrolled disclosure of such information can disrupt the
27 Department's vital, day-to-day operations, erode the integrity and security of the
28 confidential personnel and related files, affect the morale of Department's personnel,

1 and frustrate the legitimate purposes of gathering the information in these files,
2 including adversely impacting disciplinary procedures within the Department.

3 With respect to police reports, unfettered access is not granted to the public.
4 Instead, access is restricted to those investigating the incident, involved in the incident
5 or their representatives, those who are prosecuting and/or defending those involved,
6 and those who maintain the records. The Department contends that controlled access
7 is necessary to not only assure the integrity and security of said files, but also to ensure
8 the privacy rights of those involved especially third-party witnesses and minors are
9 protected. Permitting uncontrolled disclosure can disrupt the Department's day-to-
10 day operations, including but not limited to adversely impacting the Department's
11 ability to thoroughly investigate incidents.

12 Further, the Department contends that information contained in the requested
13 material case files is gathered and maintained in confidence by the Department. The
14 information gathered in these case files generally includes the statements of third-
15 party witnesses collected in confidence. Witnesses are told that the confidentiality of
16 their statement will be protected and that they are for the confidential use of the
17 Department. The Department believes that uncontrolled release of this information
18 would cause needless intrusion into and violation of privacy rights.

19 In light of the nature of the claims and allegations in this case and the parties'
20 representations that discovery in this case will involve the production of confidential
21 records, and in order to expedite the flow of information, to facilitate the prompt
22 resolution of disputes over confidentiality of discovery materials, to adequately
23 protect information the parties are entitled to keep confidential, to ensure that the
24 parties are permitted reasonable necessary uses of such material in connection with
25 this action, to address their handling of such material at the end of the litigation, and
26 to serve the ends of justice, a protective order for such information is justified in this
27 matter. The parties shall not designate any information/documents as confidential
28 without a good faith belief that such information/documents have been maintained in

a confidential, non-public manner, and that there is good cause or a compelling reason why it should not be part of the public record of this case.

3. DEFINITIONS

3.1 Action: 2:22-cv-02819-CAS-MAA, *Samuel Bonner vs. City of Long Beach, et al.*

3.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Stipulated Protective Order.

3.3. “CONFIDENTIAL” Information or Items: Information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

3.4. Counsel: Outside Counsel of Record and In-House Counsel (as well as their support staff).

3.5. Designating Party: A Party or Nonparty that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

3.6. Disclosure or Discovery Material: All items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that is produced or generated in disclosures or responses to discovery in this matter.

3.7. Expert: A person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

3.8. In-House Counsel: Attorneys who are employees of a party to this Action. In-House Counsel does not include Outside Counsel of Record or any other outside counsel.

3.9. Nonparty: Any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

1 3.10. Outside Counsel of Record: Attorneys who are not employees of a party
2 to this Action but are retained to represent or advise a party to this Action and have
3 appeared in this Action on behalf of that party or are affiliated with a law firm which
4 has appeared on behalf of that party, and includes support staff.

5 3.11. Party: Any party to this Action, including all of its officers, directors,
6 employees, consultants, retained experts, In-House Counsel, and Outside Counsel of
7 Record (and their support staffs).

8 3.12. Producing Party: A Party or Nonparty that produces Disclosure or
9 Discovery Material in this Action.

10 3.13. Professional Vendors: Persons or entities that provide litigation support
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or
12 demonstrations, and organizing, storing, or retrieving data in any form or medium)
13 and their employees and subcontractors.

14 3.14. Protected Material: Any Disclosure or Discovery Material that is
15 designated as “CONFIDENTIAL.”

16 3.15. Receiving Party: A Party that receives Disclosure or Discovery Material
17 from a Producing Party.

18 **4. SCOPE**

19 The protections conferred by this Stipulated Protective Order cover not only
20 Protected Material, but also (1) any information copied or extracted from Protected
21 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
22 and (3) any testimony, conversations, or presentations by Parties or their Counsel
23 that might reveal Protected Material.

24 Any use of Protected Material at trial shall be governed by the orders of the
25 trial judge. This Stipulated Protective Order does not govern the use of Protected
26 Material at trial.

27 **5. DURATION**

28 Even after final disposition of this litigation, the confidentiality obligations

1 imposed by this Stipulated Protective Order shall remain in effect until a Designating
2 Party agrees otherwise in writing or a court order otherwise directs. Final disposition
3 shall be deemed to be the later of (1) dismissal of all claims and defenses in this
4 Action, with or without prejudice; and (2) final judgment herein after the completion
5 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
6 including the time limits for filing any motions or applications for extension of time
7 pursuant to applicable law.

8 **6. DESIGNATING PROTECTED MATERIAL**

9 6.1. Exercise of Restraint and Care in Designating Material for Protection.

10 Each Party or Nonparty that designates information or items for
11 protection under this Stipulated Protective Order must take care to limit any
12 such designation to specific material that qualifies under the appropriate
13 standards. The Designating Party must designate for protection only those parts
14 of material, documents, items, or oral or written communications that qualify
15 so that other portions of the material, documents, items, or communications for
16 which protection is not warranted are not swept unjustifiably within the ambit
17 of this Stipulated Protective Order.

18 Mass, indiscriminate, or routinized designations are prohibited.
19 Designations that are shown to be clearly unjustified or that have been made
20 for an improper purpose (*e.g.*, to unnecessarily encumber the case development
21 process or to impose unnecessary expenses and burdens on other parties) may
22 expose the Designating Party to sanctions.

23 6.2. Manner and Timing of Designations.

24 Except as otherwise provided in this Stipulated Protective Order (*see*,
25 *e.g.*, Section 6.2(a)), or as otherwise stipulated or ordered, Disclosure or
26 Discovery Material that qualifies for protection under this Stipulated Protective
27 Order must be clearly so designated before the material is disclosed or
28 produced.

1 Designation in conformity with this Stipulated Protective Order requires
2 the following:

3 (a) For information in documentary form (*e.g.*, paper or electronic
4 documents, but excluding transcripts of depositions or other pretrial or
5 trial proceedings), that the Producing Party affix at a minimum, the
6 legend “CONFIDENTIAL” to each page that contains protected
7 material. If only a portion or portions of the material on a page qualifies
8 for protection, the Producing Party also must clearly identify the
9 protected portion(s) (*e.g.*, by making appropriate markings in the
10 margins).

11 A Party or Nonparty that makes original documents available for
12 inspection need not designate them for protection until after the
13 inspecting Party has indicated which documents it would like copied and
14 produced. During the inspection and before the designation, all of the
15 material made available for inspection shall be deemed
16 “CONFIDENTIAL.” After the inspecting Party has identified the
17 documents it wants copied and produced, the Producing Party must
18 determine which documents, or portions thereof, qualify for protection
19 under this Stipulated Protective Order. Then, before producing the
20 specified documents, the Producing Party must affix the legend
21 “CONFIDENTIAL” to each page that contains Protected Material. If
22 only a portion or portions of the material on a page qualifies for
23 protection, the Producing Party also must clearly identify the protected
24 portion(s) (*e.g.*, by making appropriate markings in the margins).

25 (b) For testimony given in depositions, that the Designating Party identify
26 the Disclosure or Discovery Material on the record, before the close of
27 the deposition, all protected testimony.

28 (c) For information produced in nondocumentary form, and for any other

1 tangible items, that the Producing Party affix in a prominent place on the
2 exterior of the container or containers in which the information is stored
3 the legend “CONFIDENTIAL.” If only a portion or portions of the
4 information warrants protection, the Producing Party, to the extent
5 practicable, shall identify the protected portion(s).

6 6.3. Inadvertent Failure to Designate.

7 If timely corrected, an inadvertent failure to designate qualified
8 information or items does not, standing alone, waive the Designating
9 Party’s right to secure protection under this Stipulated Protective Order
10 for such material. Upon timely correction of a designation, the Receiving
11 Party must make reasonable efforts to assure that the material is treated
12 in accordance with the provisions of this Stipulated Protective Order.

13 7. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

14 7.1. Timing of Challenges.

15 Any Party or Nonparty may challenge a designation of
16 confidentiality at any time that is consistent with the Court’s Scheduling
17 Order.

18 7.2. Meet and Confer.

19 The Challenging Party shall initiate the dispute resolution process,
20 which shall comply with Local Rule 37.1 et seq., and with Section 4 of
21 Judge Audero’s Procedures (“Mandatory Telephonic Conference for
22 Discovery Disputes”).

23 7.3 Burden of Persuasion.

24 The burden of persuasion in any such challenge proceeding shall
25 be on the Designating Party. Frivolous challenges, and those made for
26 an improper purpose (*e.g.*, to harass or impose unnecessary expenses and
27 burdens on other parties) may expose the Challenging Party to sanctions.
28 Similarly, frivolous or improper confidential designations may likewise

subject the Designating Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

8. ACCESS TO AND USE OF PROTECTED MATERIALS

8.1. Basic Principles.

A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Nonparty in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Stipulated Protective Order. When the Action reaches a final disposition, a Receiving Party must comply with the provisions of Section 14 below.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Stipulated Protective Order.

8.2. Disclosure of "CONFIDENTIAL" Information or Items.

Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

- (a) The Receiving Party's Outside Counsel of Record, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;
- (b) The officers, directors, and employees (including In-House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;
- (c) Experts of the Receiving Party to whom disclosure is reasonably

necessary for this Action and who have signed the
“Acknowledgment and Agreement to Be Bound” (Exhibit A);

- (d) The Court and its personnel;
- (e) Court reporters and their staff;
- (f) Professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary or this Action and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A);
- (g) The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;
- (h) During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (i) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (ii) the witness will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound,” unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and
- (i) Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

**9. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION**

1 If a Party is served with a subpoena or a court order issued in other litigation
2 that compels disclosure of any information or items designated in this Action as
3 “CONFIDENTIAL,” that Party must:

- 4 (a) Promptly notify in writing the Designating Party. Such notification shall
5 include a copy of the subpoena or court order;
- 6 (b) Promptly notify in writing the party who caused the subpoena or order
7 to issue in the other litigation that some or all of the material covered by
8 the subpoena or order is subject to this Stipulated Protective Order. Such
9 notification shall include a copy of this Stipulated Protective Order; and
- 10 (c) Cooperate with respect to all reasonable procedures sought to be pursued
11 by the Designating Party whose Protected Material may be affected.

12 If the Designating Party timely seeks a protective order, the Party served with
13 the subpoena or court order shall not produce any information designated in this action
14 as “CONFIDENTIAL” before a determination by the Court from which the subpoena
15 or order issued, unless the Party has obtained the Designating Party’s permission. The
16 Designating Party shall bear the burden and expense of seeking protection in that court
17 of its confidential material and nothing in these provisions should be construed as
18 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
19 directive from another court.

20 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
21 **PRODUCED IN THIS LITIGATION**

22 10.1. Application.

23 The terms of this Stipulated Protective Order are applicable to
24 information produced by a Nonparty in this Action and designated as
25 “CONFIDENTIAL.” Such information produced by Nonparties in
26 connection with this litigation is protected by the remedies and relief
27 provided by this Stipulated Protective Order. Nothing in these provisions
28 should be construed as prohibiting a Nonparty from seeking additional

1 protections.

2 ///

3 10.2. Notification.

4 In the event that a Party is required, by a valid discovery request,
5 to produce a Nonparty's confidential information in its possession, and
6 the Party is subject to an agreement with the Nonparty not to produce the
7 Nonparty's confidential information, then the Party shall:

- 8 (a) Promptly notify in writing the Requesting Party and the Nonparty
9 that some or all of the information requested is subject to a
10 confidentiality agreement with a Nonparty;
11 (b) Promptly provide the Nonparty with a copy of the Stipulated
12 Protective Order in this Action, the relevant discovery request(s),
13 and a reasonably specific description of the information requested;
14 and
15 (c) Make the information requested available for inspection by the
16 Nonparty, if requested.

17 10.3. Conditions of Production.

18 If the Nonparty fails to seek a protective order from this Court
19 within fourteen (14) days after receiving the notice and accompanying
20 information, the Receiving Party may produce the Nonparty's
21 confidential information responsive to the discovery request. If the
22 Nonparty timely seeks a protective order, the Receiving Party shall not
23 produce any information in its possession or control that is subject to the
24 confidentiality agreement with the Nonparty before a determination by
25 the Court. Absent a court order to the contrary, the Nonparty shall bear
26 the burden and expense of seeking protection in this Court of its
27 Protected Material.

28 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

1 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
2 Protected Material to any person or in any circumstance not authorized under this
3 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
4 writing the Designating Party of the unauthorized disclosures, (2) use its best efforts
5 to retrieve all unauthorized copies of the Protected Material, (3) inform the person or
6 persons to whom unauthorized disclosures were made of all the terms of this
7 Stipulated Protective Order, and (4) request such person or persons to execute the
8 “Acknowledgment and Agreement to be Bound” (Exhibit A).

9 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
10 **PROTECTED MATERIAL**

11 When a Producing Party gives notice to Receiving Parties that certain
12 inadvertently produced material is subject to a claim of privilege or other protection,
13 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
14 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
15 may be established in an e-discovery order that provides for production without prior
16 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
17 parties reach an agreement on the effect of disclosure of a communication or
18 information covered by the attorney-client privilege or work product protection, the
19 parties may incorporate their agreement in the Stipulated Protective Order submitted
20 to the Court.

21 **13. MISCELLANEOUS**

22 13.1. Right to Further Relief.

23 Nothing in this Stipulated Protective Order abridges the right of
24 any person to seek its modification by the Court in the future.

25 13.2. Right to Assert Other Objections.

26 By stipulating to the entry of this Stipulated Protective Order, no
27 Party waives any right it otherwise would have to object to disclosing or
28 producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to
2 object on any ground to use in evidence of any of the material covered
3 by this Stipulated Protective Order.

4 13.3. Filing Protected Material.

5 A Party that seeks to file under seal any Protected Material must
6 comply with Local Rule 79-5. Protected Material may only be filed
7 under seal pursuant to a court order authorizing the sealing of the specific
8 Protected Material at issue. If a Party's request to file Protected Material
9 under seal is denied by the Court, then the Receiving Party may file the
10 information in the public record unless otherwise instructed by the Court.

11 **14. FINAL DISPOSITION**

12 After the final disposition of this Action, within sixty (60) days of a written
13 request by the Designating Party, each Receiving Party must return all Protected
14 Material to the Producing Party or destroy such material. As used in this subdivision,
15 “all Protected Material” includes all copies, abstracts, compilations, summaries, and
16 any other format reproducing or capturing any of the Protected Material. The
17 Receiving Party must submit a written certification to the Producing Party (and, if not
18 the same person or entity, to the Designating Party) by the 60-day deadline that (1)
19 identifies (by category, where appropriate) all Protected Material that was received
20 during the pendency of this Action, (2) certifies that all Protected Material was either
21 returned or destroyed, and (3) affirms that the Receiving Party has not retained any
22 copies, abstracts, compilations, summaries or any other format reproducing or
23 capturing any of the Protected Material. Notwithstanding this provision, Counsel is
24 entitled to retain an archival copy of all pleadings; motion papers; trial, deposition,
25 and hearing transcripts; legal memoranda; correspondence; deposition and trial
26 exhibits; expert reports; attorney work product; and consultant and expert work
27 product, even if such materials contain Protected Material. Any such archival copies
28 that contain or constitute Protected Material remain subject to this Stipulated

Protective Order as set forth in Section 5.

15. VIOLATION

Any violation of this Stipulated Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: November 17, 2022

/s/ Gregory Peacock

Attorneys for Plaintiff
SAMUEL BONNER

DATED: November 17, 2022

/s/ Matthew M. Peters

Attorneys for Defendant
CITY OF LONG BEACH

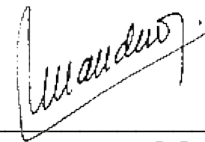
DATED: November 17, 2022

/s/ James Sargent

Attorneys for Defendant
COUNTY OF LOS ANGELES

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: November 18, 2022



Maria A. Audero
United States Magistrate Judge

ATTESTATION OF CONCURRENCE FROM ALL SIGNATORIES

In compliance with Local Rule 5-4.3.4(a)(2)(i), I, Matthew M. Peters, hereby attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

DATED: November 17, 2022

By: /s/ Matthew M. Peters

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
_____ [address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the United
States District Court for the Central District of California on _____
[date] in the case of _____
[case name and number]. I agree to comply with and to be bound by all the terms of
this Stipulated Protective Order, and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that
is subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Stipulated Protective Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ [full name]
of _____ [address and telephone number]
as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Stipulated Protective Order.

Signature: _____
Printed Name: _____
Date: _____
City and State Where Sworn and Signed: _____