



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>DAVID FLOYD, et al.</p> <p>Plaintiffs,</p> <p>-against-</p> <p>CITY OF NEW YORK</p> <p>Defendant.</p>	<p>08 Civ. 1034 (AT)</p>
<p>KELTON DAVIS, et al.</p> <p>Plaintiffs,</p> <p>-against-</p> <p>CITY OF NEW YORK, et al.</p> <p>Defendants.</p>	<p>10 Civ. 0699 (AT)</p>
<p>JAENEAN LIGON, et al.</p> <p>Plaintiffs,</p> <p>-against-</p> <p>CITY OF NEW YORK, et al.</p> <p>Defendants.</p>	<p>12 Civ. 2274 (AT)</p> <p>CONFIDENTIALITY ORDER</p>

WHEREAS, this Court ordered the creation of a study of police conduct that follows social-science research standards as an essential part of implementing the remedial order entered in the above-captioned actions;

WHEREAS, this Court deemed the Monitor's proposed study to satisfy that order, and ordered the adoption of that study in the above-captioned actions;

WHEREAS, this Order is vital to the success of the study;

WHEREAS, the study requires that those being studied give their informed consent to participate in the study;

WHEREAS, issuance of this Order will substantially further the ability to obtain informed consent;

WHEREAS, candid communication between the officers being observed in the study and the study's observers will be furthered by the entry of this Order;

WHEREAS, the observers require confidentiality protection in order to do their jobs without fear of becoming witnesses against those they observe;

WHEREAS, the information made confidential by this Order would not exist without the study, and the purpose of creating that information is to serve the purposes of the study;

NOW, THEREFORE, upon the Application of Peter L. Zimroth, Independent Monitor, and for good cause, it is hereby ORDERED on this 12 day of August 2019:

1. The following definitions shall apply to this Confidentiality Order unless otherwise specified:

- a. "Confidential Information" shall mean all information that any Observer obtains or creates through participation in the Study, including, but not limited to, everything that the Observer sees and hears while accompanying NYPD officers and all materials that the Observer creates or receives that the Observer would not create or receive but for the Observer's participation in the Study.

- b. “Observer” shall mean any person who has begun training for, or been hired to, engage in observational data collection for the Study, as described in the ordered study proposal located at ECF No. 687-1 on the *Floyd* docket.
- c. “Study” shall mean the study outlined in the proposal located at ECF No. 687-1 on the *Floyd* docket.
- d. “Monitor” shall mean Peter L. Zimroth, the members of the team that advise and assist him with the work of monitorship in the above-captioned actions, and any consultant retained by him to assist in the work of the monitorship, including Professor Stephen Mastrofski and the staff of the Institute for State and Local Governance of the City University of New York. “Monitor” shall not mean any person to whom the definition of “Observer” applies; that person is an Observer.
- e. “Class Representatives” shall mean the Named Plaintiffs in each of the above-captioned actions, as further defined in their respective proceedings.
- f. “Class Members” shall mean the class defined by the court in *Floyd* and *Davis* and the class agreed upon by the parties in *Ligon*, as further defined in the proceedings in the above-captioned actions.
- g. “Plaintiffs’ Counsel” shall mean any attorney assigned to represent the Class Representatives and Class Members in the above-captioned actions in any capacity, regardless of whether that attorney is an

attorney of record in any of the above-captioned actions, their employers, and personnel of their employers.

h. “City” shall mean the City of New York, and for purposes of this Confidentiality Order, shall be construed to specifically include the New York City Law Department (“Law Department”) and the New York City Police Department (“NYPD”) unless otherwise noted herein.

2. No Observer may share Confidential Information in any way, except to the Monitor or this Court, or persons approved to receive Confidential Information by this Court. This prohibition includes, but is not limited to, disclosure of Confidential Information in any testimony or in any response to any subpoena or other legal process.
3. Every recipient of Confidential Information may not share that information with any person or entity other than the Monitor and this Court, in the manner approved by the Monitor or this Court. This prohibition includes, but is not limited to, disclosure of Confidential Information to Plaintiffs’ Counsel or the City, or in any testimony or in any response to any subpoena or other legal process. The Monitor may publish Confidential Information in his discretion, but all published Confidential Information shall be altered, if necessary, to avoid revealing the identity of any employee of the NYPD or any Observer. Once the Monitor publishes Confidential Information, it shall cease to be Confidential Information.

4. Confidential Information may be disclosed upon order of this Court to a person or entity if that person or entity demonstrates to this Court an extraordinary circumstance or compelling need for the Confidential Information within the meaning of Second Circuit law. The person or entity must petition this Court to determine whether the extraordinary circumstance or compelling need exists, and shall not have the ability to review the Confidential Information unless and until the Court finally determines that the extraordinary circumstance or compelling need exists. This Court will review Confidential Information *in camera*. Once Confidential Information is disclosed to a person or entity through this process, it shall cease to be Confidential Information.
5. The Monitor, the City, Plaintiffs' Counsel, officers of the NYPD, and Observers shall have the right to petition this Court to enforce the terms of this Confidentiality Order.
6. Every Observer must agree to the terms of this Confidentiality Order to participate in the Study in any way.
7. This Confidentiality Order augments but does not revoke, supersede, or modify any prior confidentiality orders from this Court or written agreements among the parties.
8. This Confidentiality Order will survive the termination of the monitorship and this Court's jurisdiction in the above-captioned actions, and will continue to be binding upon all persons with Confidential Information.

9. During the monitorship and thereafter, this Court shall retain jurisdiction over all persons subject to this Confidentiality Order to the extent necessary to enforce any obligations arising hereunder. Additionally, this Court reserves the right, in its sole discretion, to modify this Confidentiality Order at any time.

Dated: New York, New York
August 12, 2019

SO ORDERED:



HONORABLE ANALISA TORRES
United States District Judge