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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 SARA OCHOA, BRANDEN COSTA,  
12 JAJUAN JOHNSON, ANTONIO  
13 MAY, and MICHAEL PERR, KIVON  
14 WILLIAMS, GADSEEL QUINONEZ,  
and JOSE QUINONEZ, individually  
situated persons,

15  
16 Plaintiffs,

17 v.  
18

19 CITY OF LOS ANGELES, a legal  
subdivision of the State of California;  
20 BRAXSTON SHAW; MICHAEL  
21 COBLENTZ; NICOLAS MARTINEZ;  
and DOES 1 through 10, inclusive,

22  
23 Defendants.  
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Case No. 2:20-CV-06963-AB (AGRx)

**ORDER GRANTING IN PART  
OFFICER DEFENDANTS' MOTION  
TO DISMISS**

1 Before the Court is Defendants Braxton Shaw, Michael Coblenz, and Nicolas  
2 Martinez’s (collectively “Officer Defendants”) Motion to Dismiss, or in the  
3 alternative Stay the Proceedings as to Plaintiffs’ Second Amended Class Action  
4 Complaint (“Motion”). (Dkt. No. 47.) Plaintiffs Sara Ochoa, Branden Costa, JaJuan  
5 Johnson, Antonio May, Michael Perr, Kivon Williams, Gadseel Quinonez, and Jose  
6 Quinonez (collectively “Plaintiffs”) filed an opposition (“Opp’n”). (Dkt. No. 50.)  
7 Officer Defendants filed a reply (“Reply”). (Dkt. No. 51.) The Court heard oral  
8 argument regarding the Officer Defendants’ Motion on October 29, 2021. For the  
9 reasons stated above, the Court **STAYS** this case pending the criminal cases against  
10 the Officer Defendants, and the motion to dismiss is **DENIED** as moot, without  
11 prejudice.

## 12 13 **I. BACKGROUND**

14 On January 6, 2021, Plaintiffs filed their Second Amended Complaint (“SAC”),  
15 the operative complaint. (Dkt. No. 22, “SAC.”) The SAC asserts the following  
16 causes of action: (1) Fourth Amendment violations (42 U.S.C. § 1983); (2) Fourteenth  
17 Amendment violations – Substantive Due Process (42 U.S.C. § 1983); (3) First  
18 Amendment violations (42 U.S.C. § 1983); (4) Fourteenth Amendment violations –  
19 Equal Protection (42 U.S.C. § 1983); (5) Municipal Liability (*Monell*) (42 U.S.C. §  
20 1983); (6) Tom Bane Act violations (Civil Code § 52.1); (7) Negligence; (8)  
21 Defamation; (9) Torts in Essence; and (10) Injunctive Relief. (*Id.*) Plaintiffs assert  
22 these claims against the City of Los Angeles and the three Officer Defendants. (*Id.*)

23 Plaintiffs are suing on behalf of themselves and a class of similarly situated  
24 individuals throughout Los Angeles who have been “victims of [Los Angeles Police  
25 Department (“LAPD”)] officers who filed fraudulent reports, lied under oath, and  
26 abused [the CalGangs] database systems and whose actions were condoned, approved  
27 and ratified by the LAPD. . . .” (*Id.* at ¶ 42.) Plaintiffs seek damages, injunctive  
28 relief, an order requiring the LAPD “to purge any and all gang databases or similar

1 records of the false information concerning Plaintiffs and the members of the putative  
2 class,” publicly clearing their names, and “taking all reasonable and necessary actions  
3 to prevent these abuses from occurring, including enjoining LAPD officers from  
4 making gang identifications during field interviews and other encounters.” (*Id.* at ¶  
5 8.)

6 **A. CalGangs Database and the Criminal Case**

7 The SAC alleges that “CalGangs is [a database] used by law enforcement  
8 agencies across the state of California to store the names and personal details of nearly  
9 eighty thousand (80,000) people suspected of being active gang members or possibly  
10 associating with [active gang members].” (SAC ¶ 35.) The LAPD records account  
11 for about “25% of all CalGangs entries.” (*Id.* at 32.) In June 2020, “the California  
12 Department of Justice announced it was suspending the use of CalGangs, citing  
13 questions about its accuracy and the desire to ‘avoid any adverse impact on  
14 individuals, particularly in communities of color.’” (*Id.* at ¶ 35.)

15 During oral argument, counsel for Defendants stated that once an individual is  
16 added to the database, they are notified of their inclusion in the database pursuant to  
17 California Penal Code § 186.34. In response, Plaintiffs asserted that several  
18 individuals included in the database are unaware of their inclusion because of they  
19 never received the required notice.

20 On July 10, 2020, “an LAPD memorandum confirmed that a total of twenty-  
21 four (24) LAPD officers are under investigation for falsifying police reports and  
22 misclassifying civilians as gang members or gang associates.” (*Id.* at ¶ 35.)

23 On July 14, 2020, the California Department of Justice revoked LAPD’s access  
24 to the CalGangs database. (*Id.* at ¶ 33.)

25 On July 9, 2020, the Los Angeles County District Attorney’s Office filed a  
26 criminal complaint asserting fifty-nine counts against the Officer Defendants. (*Id.* at ¶  
27 34.) “The criminal complaint accuses [the Officer Defendants] of conspiring to file  
28 false police reports, fabrication of false court documents, falsification of [field

interview (“FI”)] cards, and the fabrication of non-existent people as gang members.” (*Id.* at ¶ 34.) The criminal complaint names three of the named Plaintiffs in this civil action, Gadseel Quinonez, Jose Quinonez, and Kivon Williams, as victims of the Officer Defendants. (*Id.*) As of the date of this Order, the criminal case against the Officer Defendants has not been set for trial, but a preliminary hearing is scheduled for January 14, 2022. During oral argument, counsel for Defendants noted that the criminal case is expected to be set for trial in the first or second quarter of 2022.

### **B. The Named Plaintiffs**

As to the named Plaintiffs, the SAC asserts the following interactions with LAPD officers, including the Officer Defendants, and their inclusion in the CalGangs database. Notably, the SAC does not include any specific allegations as to Plaintiff Antonio May and Plaintiff Michael Perr. (*See generally* SAC.)

#### *i. Plaintiffs Gadseel Quinonez and Jose Quinonez*

Plaintiffs Gadseel Quinonez and Jose Quinonez are “brothers who live [and work] in South Los Angeles, California,” which is an area “patrolled by the Metropolitan Division of the [LAPD].” (SAC at ¶ 3.) Plaintiffs are “young Latino men,” whom Officer Shaw and Officer Martinez, in or around 2018, “wrote an FI card falsely documenting [them] as MS-13 gang members.” (*Id.*) The SAC does not assert any additional allegations as to Plaintiffs Gadseel Quinonez and Jose Quinonez.

#### *ii. Plaintiff Sara Ochoa*

Plaintiff Sara Ochoa is a “young Latina woman from East Los Angeles.” (SAC at ¶ 4.) Ms. Ochoa was a California correctional officer until “she became a victim of LAPD officers on January 18, 2020 when Ms. Ochoa was misclassified as a ‘gang associate’ simply for going back to visit her childhood neighborhood.” (*Id.*) Ms. Ochoa was also “subjected to an unreasonable detention by being handcuffed on the street in public display for approximately twenty (20) minutes while her vehicle and belongings in her vehicle were ransacked by LAPD officers.” (*Id.*)

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1                                    *iii. Plaintiff JaJuan Johnson*

2            On January 13, 2019, Plaintiff JaJuan Johnson, a recent high school graduate  
3 with no criminal record, “was a passenger in a car being driven in Los Angeles when  
4 LAPD officers pulled over the vehicle, ostensibly for tinted windows.” (SAC at ¶ 5.)  
5 According to the SAC, the officers “concocted a pretense to search the car, and then  
6 blatantly lied in the police report they authored by contending that [Mr. Johnson] was  
7 a member of a Blood street gang” because Mr. Johnson’s cousin was an alleged gang  
8 member. (*Id.*) “As a result, Mr. Johnson is currently being prosecuted by the Los  
9 Angeles City Attorney’s Office pursuant to a fabricated gang allegation under Penal  
10 Code Section 186.22,” which has caused a loss of employment to Mr. Johnson and  
11 harm to “his reputation and severe depression.” (*Id.*) Although Mr. Johnson has  
12 “consistently denied any gang membership, “[i]f convicted, Mr. Johnson will be  
13 required to register as a gang member.” (*Id.*)

14                                    *iv. Plaintiff Branden Costa*

15            Plaintiff Branden Costa, a young Black man and a recent high school graduate,  
16 “was returning home from visiting a friend at the California Hospital in Downtown  
17 Los Angeles” when “LAPD officers falsely accused Mr. Costa of being the shooter” at  
18 a shooting that occurred at a park approximately twenty minutes from the hospital.  
19 (SAC at ¶ 6.) However, the “[t]ime-verified security footage from the hospital  
20 showed Mr. Costa exiting the lobby ten minutes before the shooting.” (*Id.*)  
21 According to the SAC, “[i]n an effort to unlawfully convict Mr. Costa, LAPD officers  
22 prepared and submitted false police reports claiming Mr. Costa was a gang member,  
23 even though LAPD officers had no credible evidence to support this claim.” (*Id.*)  
24 Indeed, “Mr. Costa expressly told LAPD officers he was not a gang member.” (*Id.*)  
25 Mr. Costa was ultimately acquitted of all charges, but continues to suffer based on the  
26 “falsely contrived gang identification.” (*Id.*)

27                                    *v. Plaintiff Kivon Williams*

28            Plaintiff Kivon Williams is a “young Black man who lives in South Los

1 Angeles.” (SAC at ¶ 37.) In or around 2018, Officer Shaw and Officer Coblentz  
 2 “wrote an FI card falsely document [Plaintiff Williams] as a ‘77 Swan’ gang  
 3 member.” (*Id.*) The FI card falsely stated that Plaintiff was known by the moniker of  
 4 “Dub Bird” and had the two gang-related tattoos on his neck (*i.e.*, “Swan’s” and  
 5 “77”). (*Id.*) The SAC does not assert any additional allegations as to Plaintiff  
 6 Williams.

## 7 II. LEGAL STANDARD

8 “[T]he power to stay proceedings is incidental to the power inherent in every  
 9 court to control the disposition of the causes on its docket with economy of time and  
 10 effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248,  
 11 254 (1936). “A trial court may ... enter a stay of an action before it, pending  
 12 resolution of independent proceedings which bear upon the case.” *Leyva v. Certified*  
 13 *Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). However, “[t]he  
 14 Constitution does not ordinarily require a stay of civil proceedings pending the  
 15 outcome of criminal proceedings.” *Keating v. Office of Thrift Supervision*, 45 F.3d  
 16 322, 324 (9th Cir. 1995). “In the absence of substantial prejudice to the rights of the  
 17 parties involved, [simultaneous] parallel [civil and criminal] proceedings are  
 18 unobjectionable under our jurisprudence.” *Id.* (quoting *Sec. & Exch. Comm’n v.*  
 19 *Dresser Indus., Inc.*, 628 F.2d 1368, 1374 (D.C. Cir. 1980)) (alterations in original).

20 The decision whether to grant a stay is committed to the sound discretion of the  
 21 district court and where, as here, the inquiry involves deciding whether to stay civil  
 22 proceedings in the face of a related criminal action, the inquiry “should be made ‘in  
 23 light of the particular circumstances and competing interests involved in the case,’”  
 24 which will be affected by the granting or refusal to grant a stay. *Id.* (quoting *Fed. Sav.*  
 25 *& Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989)); *CMAX, Inc. v.*  
 26 *Hall*, 300 F.2d 265, 268 (9th Cir. 1962). The Court should generally consider the  
 27 following factors: (1) the interest of the plaintiffs in proceeding expeditiously with  
 28 this litigation or any particular aspect of it, and the potential prejudice to plaintiffs of a

1 delay; (2) the burden which any particular aspect of the proceedings may impose on  
2 defendants; (3) the convenience of the court in the management of its cases, and the  
3 efficient use of judicial resources; (4) the interests of persons not parties to the civil  
4 litigation; and (5) the interest of the public in the pending civil and criminal litigation.  
5 *Keating*, 45 F.3d at 324–25.

### 6 **III. DISCUSSION**

7 Defendants request a stay of the entire matter pending the outcome of the  
8 pending criminal case against the Officer Defendants. Specifically, Defendants assert  
9 that the stay is necessary because the Officer Defendants’ Fifth Amendment rights are  
10 implicated by the parallel criminal case involving the same legal issues and factual  
11 allegations. Moreover, the Officer Defendants assert the stay would not prejudice  
12 Plaintiffs as the criminal case is expected to proceed to trial in 2022 and the civil case  
13 is still in the early stages of litigation. (*See* Motion at 19:11-20:9; *see also* Reply at  
14 12:1-13:5.) During oral argument, Plaintiffs confirmed they would be agreeable to a  
15 partial stay, but not to a complete stay of the matter. Specifically, Plaintiffs are  
16 agreeable to staying the matter as to the Officer Defendants that are currently named  
17 in the criminal case, including discovery-related to these Officers, but do not agree to  
18 the stay the matters as to Defendant City of Los Angeles. Plaintiffs explained that a  
19 limited stay would allow them to proceed with receiving information regarding other  
20 putative class members that is necessary for their investigation<sup>1</sup> and possible  
21 settlement discussions.

22 The Court has considered the *Keating* factors and finds that in totality, these  
23 factors weigh in favor of granting a stay of the entire matter pending the resolution of  
24 the related and parallel criminal case involving the Officer Defendants.

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28 <sup>1</sup> Indeed, the parties have a pending motion seeking a protective order based on Plaintiffs’ request  
for information regarding putative class members before the Magistrate Judge. (*See* Dkt. No. 38.)

1                   **A. Plaintiffs' Interest and Potential Prejudice**

2           Plaintiffs claim delay as the primary prejudice because there is no set trial date  
3   in the criminal case and there are inherent risks as to the availability of witnesses and  
4   evidence. (*See Opp'n* at 20:21-21:3.) Although Plaintiffs undoubtedly have an  
5   interest in the prompt resolution of their case, the Court does not find that a stay  
6   would unduly prejudice Plaintiffs nor would Plaintiffs' interest in having the matter  
7   expeditiously litigated be substantially implicated under the present circumstances.  
8   First, as confirmed by the Officer Defendants during oral argument, the stay would  
9   not be indefinite as the trial is expected to commence in 2022. Second, because the  
10   subject matter of the criminal case and this civil action is closely related, which  
11   Plaintiffs do not dispute, the relevant evidence will be preserved through the criminal  
12   case. (*Compare*, Dkt. 47, RJN Ex. A, *with* SAC.) Third, the civil action has not  
13   significantly progressed as demonstrated by Defendants' Motion to Dismiss the SAC  
14   and the parties still being engaged in non-expert discovery, which is not set to close  
15   until March 4, 2022. (Dkt. No. 27.) Last, a stay may align with Plaintiffs' interests as  
16   the resolution of the criminal case may assist in streamlining the claims, discovery,  
17   and potential privilege issues in this matter. Accordingly, this factor does not weigh  
18   against the implementation of a stay.

19                   **B. Officer Defendants' Fifth Amendment Rights**

20           When deciding whether to grant a stay of civil proceedings, the Court must  
21   consider "the extent to which the defendant's [F]ifth [A]mendment rights are  
22   implicated." *Keating*, 45 F.3d at 324 (citation and internal quotations omitted). A  
23   stay is warranted where a grand jury returns a criminal indictment and where there is a  
24   large degree of overlap between the facts involved in both cases. *See S.E.C. v.*  
25   *Dresser Indus., Inc.*, 628 F.2d at 1375-76 ("[T]he strongest case for deferring civil  
26   proceedings until after completion of criminal proceedings is where a party under  
27   indictment for a serious offense is required to defend a civil or administrative action  
28   involving the same matter.").

1 Here, the Los Angeles County District Attorney's Office filed a criminal  
2 complaint asserting fifty-nine counts against the Officer Defendants accusing them of  
3 "conspiring to file false police reports, fabrication of false court documents,  
4 falsification of [field interview ("FI")] cards, and the fabrication of non-existent  
5 people as gang members." (SAC at ¶ 34.) It is undisputable that the Officer  
6 Defendants have been indicted for serious offenses.

7 Furthermore, neither party disputes that the subject matter of the criminal case  
8 and this civil action are based on the same legal issues and factual allegations.  
9 (*Compare*, Dkt. 47, RJN Ex. A, with SAC.) Indeed, the criminal complaint names  
10 three of the named Plaintiffs in this instant action as victims of the Officer  
11 Defendants. (*See* Dkt. 47, RJN Ex. A.) Because the Officer Defendants have been  
12 indicted for a serious offense involving the same subject matter as this civil action, the  
13 Court is unpersuaded that Plaintiffs' proposed limited stay is possible or efficient. For  
14 example, it is entirely unclear how the Court would be able to carve-out the Officer  
15 Defendants from the civil litigation when the SAC is premised upon the Officer  
16 Defendants' indictment (*see* SAC at ¶¶ 1, 42, 63-64) and the majority of the  
17 allegations in the SAC are asserted against these Officer Defendants (*see* SAC at ¶ 2,  
18 37, 36 ). If the civil matter were to proceed simultaneously as the criminal matter, the  
19 Officer Defendants would have to choice between waiving their rights against self-  
20 incrimination and potentially exposing themselves to criminal liability, or asserting  
21 their rights against self-incrimination and "thereby inviting prejudice in the civil  
22 case." *Wroth v. City of Rohnert Park*, No. 17-CV-05339-JST, 2018 WL 888466, at \*2  
23 (N.D. Cal. Feb. 14, 2018) (quoting *Jones v. Conte*, No. C045312S1, 2005 WL  
24 1287017, at \*1 (N.D. Apr. 19, 2005)). "If the [Officer Defendants] exercise their Fifth  
25 Amendment rights, this may be used against them as 'the Fifth Amendment does not  
26 forbid adverse inferences against parties to civil actions....'" *Id.* (quoting *Baxter v.*  
27 *Palmigiano*, 425 U.S. 308, 318 (1976)).

28 Accordingly, because there is a pending criminal case against the Officer

1 Defendants that revolves and focuses on the exact same facts as this civil matter, this  
2 factor significantly weighs in favor of granting the stay. *See eBay, Inc. v. Digital*  
3 *Point Sols., Inc.*, No. C 08-4052 JF (PVT), 2010 WL 702463, at \*3 (N.D. Cal. Feb.  
4 25, 2010) (“When simultaneous civil and criminal proceedings involve the same or  
5 closely related facts, the Fifth Amendment concerns may be sufficient to warrant a  
6 stay.”) (internal quotation marks omitted).

### 7 **C. Judicial Efficiency**

8 Here, neither party disputes that the criminal case and the civil matter focus on  
9 the same legal issues and factual allegations. If a stay is not implemented, then both  
10 the state court and this Court would have to simultaneously reach factual and legal  
11 findings as to the Officer Defendants’ liability. This duplicative usage of resources in  
12 two different forums is inefficient and could possibly result in conflicting rulings.  
13 Moreover, it is likely that the resolution of the criminal case will clarify and delimitate  
14 the claims and issues in this case. Accordingly, considerations of judicial economy  
15 weigh in favor of granting the stay.

### 16 **D. Interests of Non-Parties and the Public**

17 Plaintiffs assert that non-parties and the public have an interest in the civil  
18 action because of the Defendants’ unconstitutional custom and practice of  
19 misidentifying individuals as gang members or gang associates, which has affected  
20 “hundreds, if not thousands” of individuals. (Opp’n at 22:10-11.) In response,  
21 Defendants argue that the public has an overriding interest in preserving the integrity  
22 of the criminal prosecution and any non-parties that have allegedly been affected can  
23 seek recourse through the California Penal Code § 186.34(e). The Court is persuaded  
24 by Defendants arguments.

25 Although the Court acknowledges that non-parties and the public have a strong  
26 interest in the prosecution of the civil matter since it involves officer activities that  
27 appear to have serious consequences to individuals affected, this interest is overridden  
28 by the non-parties and public’s interest in the criminal prosecution of the Officer

1 Defendants. Even a partial stay, as requested by Plaintiffs, could interfere with the  
 2 progression and integrity of the criminal case as there is likely to be a great deal of  
 3 overlap between the victims and witnesses in the criminal case and the civil case.  
 4 Indeed, three of the named Plaintiffs here are three of the named victims in the  
 5 criminal case.

6 Plaintiffs' concerns are also partially eased by the fact that on July 14, 2020, the  
 7 California Department of Justice revoked LAPD's access to the CalGangs database.  
 8 (*See* SAC at ¶ 33.) In addition, while the criminal case is pending, potential victims  
 9 may seek recourse through California Penal Code § 186.34(e), which allows a "person  
 10 designated or to be designated as a suspected gang member, associate, or affiliate" to  
 11 contest their designation by submitting written documentation to the local law  
 12 enforcement agency.<sup>2</sup> Accordingly, these two *Keating* factors weigh in favor of  
 13 granting the stay.

14 In sum, the Court finds that Plaintiffs will not suffer significant prejudice if a  
 15 stay is entered, and that the hardship to the Officer Defendants of not entering a stay is  
 16 significant.

#### 17 **IV. CONCLUSION**

18 For the reasons stated above, the Court **STAYS** this case pending the criminal  
 19 case against the Officer Defendants, and the motion to dismiss is **DENIED** as moot,  
 20 without prejudice. All upcoming dates and deadlines are **VACATED**. Furthermore,  
 21 the Parties are **ORDERED** to file a joint report on the status of the criminal case  
 22 against the Officer Defendants commencing on January 17, 2021 and continuing every  
 23 ninety (90) days thereafter, and within ten (10) days of the criminal case being  
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25  
 26 <sup>2</sup> In their Motion to Dismiss, Defendants assert that Plaintiffs failed to exhaust their administrative  
 27 remedies before filing this civil matter because they did not request to be removed from the database  
 28 pursuant to California Penal Code § 186.34(e). Because the civil matter is being stayed in its  
 entirety pending the criminal case, the Court makes no finding as to whether this argument is  
 meritorious.

1 resolved. Any report upon the resolution of the criminal case must set forth the  
2 Parties' position as to that case's impact on this matter and whether the stay should be  
3 maintained or lifted.

4  
5 **IT IS SO ORDERED.**

6 Dated: December 29, 2021

  
HONORABLE ANDRÉ BIROTTE JR.  
UNITED STATES DISTRICT COURT JUDGE