

# Exhibit A

**From:** Larkin, Arthur  
**Sent:** Wednesday, January 26, 2011 4:37 PM  
**To:** 'Darius Charney'  
**Cc:** Hoffman, Taylor; Grossman, Heidi; Brandes, Ronnie; Publicker, Suzanna  
**Subject:** RE: Floyd v. City of New York-Plaintiffs Expert Document Production

**Attachments:** Stipulation - coding instructions.pdf  
Thank you – signed order attached.

Arthur G. Larkin, Esq.  
Senior Counsel  
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100 Church Street, Room 3-180  
New York, New York 10007  
212-788-1599 (tel.)  
212-788-9776 (fax)

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**From:** Darius Charney [mailto:DCharney@ccrjustice.org]  
**Sent:** Wednesday, January 26, 2011 4:27 PM  
**To:** Larkin, Arthur  
**Cc:** Hoffman, Taylor; Grossman, Heidi; Brandes, Ronnie; Publicker, Suzanna  
**Subject:** RE: Floyd v. City of New York-Plaintiffs Expert Document Production

Mr Larkin-

I made the change you requested. See attached.

Darius Charney | Center for Constitutional Rights | 666 Broadway, 7th Fl. | New York, NY  
10012 | 212.614.6475 | www.ccrjustice.org

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**From:** Larkin, Arthur [mailto:ALarkin@law.nyc.gov]  
**Sent:** Wednesday, January 26, 2011 3:11 PM  
**To:** Darius Charney  
**Cc:** Hoffman, Taylor; Grossman, Heidi; Brandes, Ronnie; Publicker, Suzanna  
**Subject:** RE: Floyd v. City of New York-Plaintiffs Expert Document Production

At this time, we will sign the proposed stipulation, but I would ask that plaintiffs delete the last "WHEREAS" clause which provides that we "agree" the information is confidential. Not having seen the coding instructions, we are not in a position to accept Professor Fagan's (or counsel's) representations that they are proprietary.

By signing the attached stipulation, of course, we agree that the coding instructions are to be treated as confidential under the stipulation and protective order unless the court were to direct otherwise.

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**From:** Darius Charney [mailto:DCharney@ccrjustice.org]  
**Sent:** Wednesday, January 26, 2011 12:53 PM  
**To:** Larkin, Arthur  
**Cc:** Hoffman, Taylor; Grossman, Heidi; Brandes, Ronnie; Publicker, Suzanna  
**Subject:** RE: Floyd v. City of New York-Plaintiffs Expert Document Production

Mr Larkin-

In order for Plaintiffs to produce the coding instructions used by Professor Fagan in his statistical analyses, Plaintiffs require that Defendants agree to treat such instructions as confidential, meaning they will not be shared with anyone outside of Defendants, Defense Counsel, and Defendants' experts, and to return the instructions at the conclusion of this litigation. Thus, Plaintiffs ask that Defendants sign the attached confidentiality stipulation under which the parties would agree to apply the confidentiality restrictions of the Court's October 29, 2008 protective order to these coding instructions. Once Defendants have signed this stipulation, Plaintiffs will produce the coding instructions.

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10012 | 212.614.6475 | [www.ccrjustice.org](http://www.ccrjustice.org)

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**From:** Larkin, Arthur [mailto:ALarkin@law.nyc.gov]  
**Sent:** Tuesday, January 25, 2011 2:00 PM  
**To:** Darius Charney  
**Cc:** Hoffman, Taylor; Grossman, Heidi; Brandes, Ronnie; Publicker, Suzanna  
**Subject:** RE: Floyd v. City of New York-Plaintiffs Expert Document Production

Darius --

I've received the CD and reviewed it briefly. PL-EX0008 appears to be the first page of a multi-page e-mail thread. Would you please forward the remaining pages when you have a moment? Thank you.

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**From:** Darius Charney [mailto:DCharney@ccrjustice.org]  
**Sent:** Monday, January 24, 2011 10:22 PM  
**To:** Larkin, Arthur  
**Cc:** 'Hoffman, Taylor'  
**Subject:** Floyd v. City of New York-Plaintiffs Expert Document Production

Mr Larkin-

Attached please find the cover letter to Plaintiffs' first production of expert-related documents, which was delivered on a CD to Corporation Counsel's offices earlier this evening. In addition, attached is a copy of the log

of redacted documents contained in this production.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
FLOYD, *et al.*,

Plaintiffs,

STIPULATION

08 Civ. 01034 (SAS)

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.  
----- x

WHEREAS, defendants have sought discovery of all coding instructions used by Plaintiffs' expert Jeffrey Fagan in performing the statistical analyses reflected in his two expert reports submitted in this action;

WHEREAS, notwithstanding their objections, plaintiffs agree to produce such coding instructions;

WHEREAS, plaintiffs deem such coding instructions confidential, have treated them as such, and object to the production of such coding instructions unless appropriate protection for their confidentiality is assured;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:**

1. The coding instructions used by Plaintiffs' expert Jeffrey Fagan in performing the statistical analyses reflected in his two expert reports submitted in this action (Bates Nos. PL-EX 00852-853) shall be deemed to be "Confidential Materials" as defined in the October 29, 2008 Stipulation and Protective Order entered in this case (*see* Dkt # 52) and shall be subject to all of the terms and conditions of the October 29, 2008 Stipulation and Protective Order.

Dated: New York, New York  
January \_\_\_\_, 2011

CENTER FOR CONSTITUTIONAL  
RIGHTS

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BY: \_\_\_\_\_  
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BY:  \_\_\_\_\_  
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