



1 apply in the event of a retrial of all or any portion of Defendant's case. By its terms, the  
2 parties could request modification or vacation of this Protective Order upon entry of final  
3 judgment in the present action.

4 On October 24, 2008, judgment was entered in this matter. On June 17, 2009 the  
5 parties governed by this Protective Order, the California Department of Corrections and  
6 Rehabilitation and the Office of the Public Defender, San Diego County, stipulated to a  
7 modification of the Protective Order. Accordingly, and good cause there for appearing, the  
8 Protective Order is modified as set forth below.

## 9 **II. Protective Order Regarding Inmate Probation Reports**

### 10 Access to Data

11 1. The probation reports provided by CDCR in this matter may in turn be provided to  
12 prosecution and defense trial, appellate and habeas counsel in capital cases where defense  
13 counsel has challenged, or intends to challenge, the constitutionality of the California death  
14 penalty. The probation reports so provided may be viewed by the attorneys and any expert  
15 consultants and/or witnesses retained by them to analyze the data.

16 2. All use of the probation reports provided by CDCR in this matter shall be governed by  
17 the terms of this protective order. All persons seeking to obtain and use this data shall be  
18 provided with a copy of this order and must agree to its terms before they may obtain and  
19 make us of this data. This includes all prosecution and defense trial, appellate and habeas  
20 counsel and any expert consultants and/or witnesses retained by them to analyze this data.

### 21 Disclosure of Data

22 3. Unless ordered to do so by a court of competent jurisdiction, no person who has viewed  
23 the probation reports shall disclose data contained in the reports to anyone, except that  
24 statistical analyses of the data may be disclosed subject to the conditions set forth in the  
25 following paragraphs.

26 4. The analyses will refer to the inmates by numeric code, rather than by name, and  
27 prosecution and defense counsel, and those working under their direction and control, will not  
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1 reveal the names, monikers or any other identifying information of the inmates whose reports  
2 are the subject of the analyses.

3 5. The analyses shall not reveal any information from which the identities of any of the  
4 other participants in the crimes or the investigation of the crimes may be determined. Such  
5 persons include, but are not limited to any co-defendants; the victim(s); the witnesses; family  
6 members; and the investigating or arresting officers.

7 6. Such identifying information will include, but not be limited to, the names, monikers,  
8 addresses, dates of birth, gang affiliations, social security numbers, badge numbers, case  
9 numbers or dates of judgment.


10 7. The analyses shall not disclose any other confidential information obtained by the  
11 probation officer from the defendant, the defendant's family, the victim's family, the witnesses  
12 or any other person or source.

13 8. All future use of the materials provided by CDCR in this matter shall be governed by the  
14 terms of this protective order. All persons seeking to obtain and use this data shall be  
15 provided with a copy of this order and must agree to its terms before they may obtain and  
16 make use of the data described above. This includes all trial, appellate and habeas counsel,  
17 defense and prosecution counsel and all experts retained by them to analyze this material.  
18 This Protective Order shall continue in effect until further order of this Court.


19 We have read the above modifications and agree to stipulate to the Protective Order  
20 as modified.

21 SO STIPULATED:

22  
23 Dated: 6/23/09

By:   
JULIANA B. HUMPHREY  
Attorney for Defendant LEWIS

24  
25  
26 Dated: 6/23/09

By:   
EDGAR R. NIELD, ESQ.  
Nield Law Group APC  
Attorney for CALIFORNIA DEPT. OF  
CORRECTIONS AND REHABILITATION

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**ORDER**

Based upon the foregoing stipulation and good cause appearing therefore, the Protective Order is now modified as set forth above.

**IT IS SO ORDERED.**

Dated: JUN 24 2009

/s/ John S. Einhorn, Judge  
**JOHN S. EINHORN**  
**JUDGE OF THE SUPERIOR COURT**



**CLERK'S CERTIFICATE**

The foregoing document, consisting of 4 page(s), is a full, true, and correct copy of the  original  copy on file in this office.

Clerk of the Superior Court

6-24-09  
Date

by [Signature]  
Deputy