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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS GOOLSBY,
Plaintiff,
vs.
M. CARRASCO, et al.,
Defendants.

Case No. 1:09-cv-01650 JLT (PC)
ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF’S MOTION
TO COMPEL
(Doc. 45)

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s claim that Defendant Gonzales failed to provide him adequate out-of-cell exercise time and facilities in violation of the Eighth Amendment. Now pending before the Court is Plaintiff’s motion to compel, filed January 11, 2011, seeking interrogatory responses and the production of documents. Defendant has opposed the motion,¹ and Plaintiff has filed a reply. For the reasons discussed below, Plaintiff’s motion to compel is **GRANTED IN PART** and **DENIED IN PART**.

I. LEGAL STANDARDS

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense. Fed. R. Civ. P. 26(b)(1). Relevant information for the purposes of discovery is any

_____ ¹ Defendant filed an opposition to the pending motion to compel on January 27, 2011 (Doc. 46), and an amended opposition one day later (Doc. 47). The Court will accept the amended opposition and will consider it for the purpose of evaluating the pending motion to compel.

1 information that is “reasonably calculated to lead to the discovery of admissible evidence.” Brown Bag
2 Software v. Symantec Corp., 960 F.2d 1465, 1470 (9th Cir. 1992). District courts have broad discretion
3 in determining relevancy for discovery purposes. Survivor Media, Inc. v. Survivor Prods., 406 F.3d
4 625, 635 (9th Cir. 2005).

5 A party may propound interrogatories relating to any matter that may be inquired into under
6 Federal Rule of Civil Procedure 26(b). Fed. R. Civ. P. 33(a). In turn, the responding party is obligated
7 to respond to the interrogatories to the fullest extent possible, see Fed. R. Civ. P. 33(b)(3), and any
8 objections must be stated with specificity. Fed. R. Civ. P. 33(b)(4). The responding party shall use
9 common sense and reason in its responses; hyper-technical, quibbling, or evasive objections will not be
10 viewed favorably by the court. Haney v. Saldana, No. 1:04-cv-5935-AWI-SMS PC, 2010 U.S. Dist.
11 LEXIS 93447, at *9 (E.D. Cal. Aug. 24, 2010).

12 A party may also serve on any other party a request to produce “any designated documents . . .
13 which are in the possession, custody or control of the party upon whom the request is served.” Fed. R.
14 Civ. P. 34(a). Documents are in the “possession, custody, or control” of the served party if “the party
15 has actual possession, custody, or control, or has the legal right to obtain the documents on demand.”
16 In re Bankers Trust Co., 61 F.3d 465, 469 (6th Cir. 1995). The party to whom the request is directed
17 must respond in writing that inspection will be permitted as requested, or must state an objection to the
18 request, including the reasons. Fed. R. Civ. P. 34(b)(2).

19 If the party requesting discovery is dissatisfied with any of the responses, the party may move
20 to compel further responses by informing the court “which discovery requests are the subject of [the]
21 motion to compel, and, for each disputed response, inform the [c]ourt why the information sought is
22 relevant and why [the opposing party’s] objections are not justified.” Ellis v. Cambra, No. CIV F-02-
23 5646 AWI SMS PC, 2008 U.S. Dist. LEXIS 109050, at *11 (E.D. Cal. Mar. 27, 2008). See also Randle
24 v. Franklin, No. CV 1-08-0845-JAT, 2010 U.S. Dist. LEXIS 89905, at *5-6 (E.D. Cal. Aug. 3, 2010)
25 (explaining the Eastern District of California’s minimum standards on a motion to compel); Brooks v.
26 Alameida, No. CIV S-03-2343 JAM EFB P, 2009 U.S. Dist. LEXIS 9568, at *5-6 (E.D. Cal. Feb. 10,
27 2009) (noting that unless the court is informed which responses the moving party seeks to compel or on
28 what grounds, the court cannot grant the motion to compel).

1 **II. PLAINTIFF’S MOTION TO COMPEL**

2 Plaintiff seeks a court order compelling Defendant Gonzales to (1) fully answer interrogatory
3 numbers 2, 3, 5, 6, 7, 8, 9, 10, and 11;² (2) produce documents responsive to sixteen different requests;
4 and (3) pay the reasonable expenses incurred by Plaintiff in filing the instant motion to compel. (Doc.
5 45, Pl’s Mot. to Compel, at 1-2.) The Court discusses each of Plaintiff’s requests below.

6 **A. Interrogatory Responses**

7 1. Interrogatory Nos. 2, 3, and 7

8 Plaintiff seeks further responses to interrogatory numbers 2, 3, and 7 but has not explained why
9 Defendant’s current responses are deficient or why Defendant’s objections are baseless. As indicated
10 above, it is Plaintiff’s burden as the moving party on a motion to compel to provide the Court at least
11 some explanation as to why a particular response to a discovery request is inadequate. See Williams v.
12 Flint, No. CIV S-06-1238 FCD GGH P, 2007 WL 2274520, at *1 (E.D. Cal. Aug. 6, 2007). “It is not
13 enough [for Plaintiff] to generally argue that all responses are incomplete.” Id. Accordingly, Plaintiff’s
14 motion to compel further responses to interrogatory numbers 2, 3, and 7 is **DENIED**.

15 2. Interrogatory No. 5

16 **ROG 5:** When custody staff run yard describe how inmates are escorted to yard, the yard
17 “modules” themselves, how long inmates are given, and how they are returned to their
18 cells.

18 **Defendant’s Response:** Objection. This interrogatory is vague as to time, and vague and
19 ambiguous as to “how,” “run yard” and “inmates.” This interrogatory is also overbroad
20 to the extent that it seeks information regarding the exercise and movement of any
21 inmates other than Plaintiff; to that extent, it is not reasonably calculated to lead to the
22 discovery of admissible evidence. Without waiving said objections, Defendant responds
23 as follows:

22 Inmates [are] housed in the SHU program in a manner consistent with their individual
23 case factors. Some inmates are assigned to Individual Exercise Modules, and some are
24 assigned to exercise yard. SHU inmates are escorted individually by a minimum of two
25 custody staff. Some are escorted with at least one other inmate and more than two
custody staff. SHU inmates are always escorted while in mechanical restraints. SHU
inmates are not removed from their cells until the restraints are secure, and the restraints
are not removed until SHU inmates are securely in their cells. The time SHU inmates

26 ² In the introduction of his motion to compel, Plaintiff requests further responses to interrogatory numbers 2, 3, 6,
27 7, 8, 9, 10, and 11. (Doc. 45 at 1.) However, in the body of the motion of compel, Plaintiff only addresses interrogatory
28 numbers 5, 6, 8, 9, 10, and 11. (Id. at 3-7.) Plaintiff explains in his reply that there is a discrepancy between the two sections
of his motion because he “was unable to write out all interrogatories in time.” (Doc. 49 at 1.) To be thorough, the Court will
address all the interrogatories listed by Plaintiff in the motion to compel.

1 are given for out-of-cell exercise varies with the safety and security considerations of the
2 institution, as well as inclement weather conditions and unforeseeable circumstances.

3 **Defendant's Supplemental Response:**³ The individual exercise modules consist of a
4 concrete floor approximately 12'x12', enclosed by four walls and a ceiling made of metal
5 fencing, with a roof designed to provide protection from the elements. There is a toilet
6 in each individual module, as well as a source for drinking water.

7 Defendant provided the most accurate and thorough response possible as to the time that
8 inmates are provided for yard. It is impossible for Defendant to provide exact times that
9 'inmates' have been provided "for yard."

10 The Court finds Defendant's response, notwithstanding his objections, adequate in answering
11 the interrogatory. Defendant provided the protocol for transferring SHU inmates from their cells to the
12 exercise yard, a detailed description of an individual exercise module, and the prison's general policy
13 for exercise times. To the extent Plaintiff seeks the *exact* times that all inmates were *ever* provided yard
14 time, the Court agrees with Defendant that the interrogatory, as currently phrased by Plaintiff, is overly
15 broad and, based thereon, irrelevant and burdensome. Accordingly, Plaintiff's motion to compel a
16 further response to interrogatory number 5 is **DENIED**.

17 3. Interrogatory No. 6

18 **ROG 6:** What is the annual budget for CCI for 2008, 2009, and 2010? Please describe
19 what if any expenses paid to construct exercise facilities, when and where it happened.

20 **Defendant's Response:** Objection. This interrogatory is overbroad with respect to
21 "annual budget" in that it seeks information not reasonably calculated to lead to the
22 discovery of admissible evidence. This interrogatory is burdensome in that it seeks
23 comprehensive information generated by multiple agencies, some of which is not in the
24 possession, custody or control of Defendant. Without waiving said objection, Defendant
25 responds as follows: Investigation is ongoing, and further responses will be served once
26 this information is obtained.

27 **Defendant's Supplemental Response:** CCI Annual Budget for 2008: \$176,386,013;
28 CCI Annual Budget for 2009: \$153,744,926; CCI Annual Budget for 2010:
\$162,903,934. In 2008, no funds were allocated to the construction of exercise facilities
at C.C.I. In 2009, no funds were allocated to the construction of exercise facilities at
C.C.I. In 2010, no funds were allocated to the construction of exercise facilities at C.C.I.

29 The Court finds Defendant's response, notwithstanding his objections, adequate in answering
30 the interrogatory. Plaintiff has not explained why this response is in any way deficient in responding to
31 the interrogatory. Accordingly, Plaintiff's motion to compel a further response to interrogatory number
32 6 is **DENIED**.

³ In his amended opposition, Defendant provides supplemental responses for some interrogatories.

1 4. Interrogatory No. 8

2 **ROG 8:** List in detail every incident where an inmate assaulted or attempted to assault
3 another inmate or correctional officer while being escorted to yard or while in a[n] I.E.M.
4 cage? Attach any incident report.

5 **Defendant's Response:** Objection. This interrogatory is overbroad in that it seeks
6 information pertaining to other inmates and therefore is not reasonably calculated to lead
7 to the discovery of admissible evidence. This interrogatory also seeks information that,
8 if disclosed, presents a threat to the safety and security of the institution.

9 Plaintiff argues in his motion to compel that this information is relevant in showing that the
10 prison's concern for institutional security when transporting Plaintiff and other inmates to the exercise
11 yard is overblown. Defendant, on the other hand, stands by his objection, placing particular emphasis
12 on the fact that detailed disclosure of all the inmate assaults at the prison poses an acute threat to the
13 safety and security of the institution.

14 The Court agrees with Defendant. The interrogatory is overly broad in the sense that it does not
15 limit its request to a specific time period or a specific housing unit. Moreover, because the overly broad
16 interrogatory seeks information that, if disclosed, could pose a serious threat to institutional safety and
17 security due to its confidential nature, the Court also finds that the interrogatory is unduly burdensome.
18 Accordingly, for all these reasons, Plaintiff's motion to compel a further response to interrogatory
19 number 8 is **DENIED**.

20 5. Interrogatory No. 9

21 **ROG 9:** State the most time in any week between January 2008 to January 2010 that
22 IEM inmates received at yard at IV B Shu? State the same for 5 Block IV A yard?

23 **Defendant's response:** Objection. This interrogatory is overbroad in that it seeks
24 information pertaining to other inmates and therefore is not reasonably calculated to lead
25 to the discovery of admissible evidence.

26 Plaintiff argues in the pending motion that he seeks this information to show that there was a
27 blanket policy to deny inmates housing in Block IV-B sufficient access to out-of-cell exercise. Plaintiff
28 also explains that he seeks to prove that inmates housed in Block IV-A received double the amount of
out-of-cell exercise as the inmates housed in Block IV-B. Defendant, on the other hand, reasserts that
this information is not reasonably calculated to lead to the discovery of admissible evidence. Defendant
notes that this is not a class action, nor is there an equal protection claim at stake. Thus, in Defendant's
view, the amount of out-of-cell exercise time afforded to other inmates is irrelevant.

1 The Court agrees with Defendant that this interrogatory is overbroad. This action is proceeding
2 on Plaintiff's claim that he himself was not provided adequate out-of-cell exercise time and facilities.
3 The extent to which other inmates in other housing units received out-of-cell exercise is not on-point
4 with the claims asserted in this case. Accordingly, Plaintiff's motion to compel a further response to
5 interrogatory number 9 is **DENIED**.

6 6. Interrogatory No. 10

7 **ROG 10:** Name which prison official's [sic] have the power to cancel I.E.M. yard for any
8 reason? Please provide name, rank, address?

9 **Defendant's response:** Objection. This interrogatory is overbroad as to "any reason."
10 Without waiving said objection, Defendant responds as follows: Facility Administrator
11 or Manager or Highest Level Supervisor, depending on the circumstances requiring
12 cancellation.

11 Plaintiff argues in the motion to compel that he was only provided the rank and not the names
12 or addresses of the officers with the power to cancel yard time. Defendant counters in his opposition
13 that it is impossible to provide further information without Plaintiff first identifying a relevant time
14 period.

15 Defendant's objections are well-taken. Moreover, Plaintiff has made no effort to narrow the
16 scope of his discovery request by indicating a relevant time period or housing unit. Therefore, the
17 interrogatory as it now stands is overly broad. Accordingly, Plaintiff's motion to compel a further
18 response to interrogatory number 10 is **DENIED**.

19 7. Interrogatory No. 11

20 **ROG 11:** State the name and address or otherwise locate any person who to your
21 knowledge or your attorney's knowledge, claims to know, or does know about I.E.M.
22 cage yard program and its functioning from January 2008 to January 2010."

22 **Defendant's Response:** Objection. This interrogatory is vague, ambiguous and
23 overbroad as to "know about I.E.M. cage yard program" and "its functioning." This
24 interrogatory also calls for speculation by Defendant; he does not necessarily know what
25 knowledge other individuals have. Without waiving said objections, Defendant responds
26 as follows: Inmates assigned to I.E.M. yard, custody staff assigned to I.E.M. yard search
27 and escort, and any other C.C.I. staff member whose duties require him or her to "know
28 about I.E.M. cage yard program."

26 Plaintiff contends in the motion to compel that he needs the names and addresses of specific
27 individuals so that he may call them as witnesses. Defendant counters that in light of Plaintiff's vague
28 and overbroad language, it is impossible to provide an exhaustive list of all the individuals who "know

1 about the I.E.M. cage yard program.”

2 The Court agrees with Defendant. The interrogatory is vague, ambiguous, overbroad, and calls
3 for speculation. There is no reasonable way Defendant can ascertain every person who has knowledge
4 of the I.E.M. cage yard program. Defendant’s objections are therefore sustained, and Plaintiff’s motion
5 to compel a further response to interrogatory number 11 is **DENIED**.

6 **B. Production of Documents**

7 1. Request for Production No. 1

8 **POD 1:** A roster of every inmate who was assigned to IEM cage yard at CCI state prison
9 from January 2008 to January 2010, complete with their current housing location and
address.

10 **Defendant’s Response:** Objection. This Request seeks documents that, if disclosed,
11 present a threat to the safety and security of the institution. This Request also violates
the privacy rights of every inmate assigned to an IEM cage yard. This Request also is
12 overbroad in that it seeks documentation unrelated to the issues in this matter – i.e.,
Plaintiff’s time for out-of-cell exercise – and is therefore not reasonably calculated to
13 lead to the discovery of admissible evidence. This Request is oppressive and
burdensome in that it requires Defendant to review literally thousands of documents from
14 thousands of inmates’ central files, although the only inmate involved in this case is
Plaintiff.

15 Plaintiff argues in his motion to compel that these inmates are witnesses to Plaintiff’s yard time
16 and are relevant to Defendant’s state of mind. In his opposition, Defendant reiterates that the location
17 and program status of other inmates are private; the information is sensitive and its disclosure presents
18 a security risk in of itself; and Plaintiff’s request is burdensome because it would require Defendant to
19 review the central files of every inmate incarcerated at California Correctional Institution from 2008 to
20 2010 to determine whether they were assigned to I.E.M. status for any part of that period.

21 The Court finds that Plaintiff’s request is burdensome and not reasonably calculated to lead to
22 the discovery of admissible evidence. The fact that Plaintiff believes that these inmates could serve as
23 witnesses for a vague purpose does not outweigh the burden that Defendant would be saddled with if
24 he were compelled to produce these documents. Accordingly, Plaintiff’s request for the production of
25 documents number 1 is **DENIED**.

26 2. Request for Production No. 2

27 **POD 2:** All 128-G classification chrono’s [sic] for every inmate assigned IEM cage yard
28 from [J]anuary 2008 to [J]anuary 2010. Names and CDCR #s may be redacted IF
needed.”

1 **Defendant's Response:** Objection. This Request seeks documents that, if disclosed,
2 present a threat to the safety and security of the institution. This Request also violates
3 the privacy rights of every inmate assigned to an I.E.M. cage yard. This Request is also
4 overbroad in that it seeks documentation unrelated to the issues in this matter—i.e.,
5 Plaintiff's time for out-of-cell exercise—and is therefore not reasonably calculated to lead
6 to the discovery of admissible evidence. This Request is oppressive and burdensome in
7 that it requires Defendant to review literally hundreds of documents from hundreds of
8 inmates' central files, although the only inmate involved in the claims in this case is
9 Plaintiff.

10 If redacted, the privacy objection may be mitigated, but redaction exponentially increases
11 the oppressiveness and burdensome of this Request because not only would Defendant
12 need to review the documents, but the additional work of redacting them would outweigh
13 by far any probative value that Plaintiff would argue that these documents would offer.

14 As to Plaintiff's own 128-G documents, those are available to him through a review of
15 his central file.

16 Plaintiff argues in his motion to compel that he needs this information to show that Defendant
17 allowed inmates, who were far more dangerous than he, full I.E.M. cage yard time. However, the Court
18 agrees with Defendant that this request is oppressive and burdensome. It appears that an inmate's yard
19 status is determined based upon a myriad of factors including disciplinary history and custody level.
20 Any comparison between Plaintiff and other inmates would therefore amount to mere speculation. The
21 burden on Defendant in producing these documents, however, is very real. Accordingly, Plaintiff's
22 request for the production of documents number 2 is **DENIED**.

23 3. Request for Production No. 3

24 **POD 3:** Confidential Memorandum dated 4-6-09 used to keep me on I.E.M. cage yard
25 at ICC on 9-30-09.

26 **Defendant's Response:** Objection. This Request seeks documents that, if disclosed,
27 present a threat to the safety and security of the institution. This Request also unduly
28 violates the privacy rights of third parties.

29 Plaintiff's request for production of documents number 3 is relevant as to why Plaintiff was kept
30 on restrictive out-of-cell yard status at California Correctional Institution. Meanwhile, Defendant's
31 vague objection based on institutional security is not persuasive. Defendant fails to detail how or why
32 this document, which seems to control Plaintiff's assignment to an exercise yard, poses a threat to the
33 internal security of the institution. Moreover, the objection does not demonstrate that redaction of
34 references to security measures and third party information would not alleviate the risks to security that
35 production of the document poses. Thus, the Court has no basis to conclude that redaction would not be

1 sufficient to alleviate any serious safety concern or that redaction would render the document entirely
2 useless. Accordingly, Plaintiff's request for the production of documents number 3 is **GRANTED**.
3 Defendant may redact the document to remove any names or other identification information that could
4 pose a substantial threat to institutional security.

5 4. Request for Production No. 4

6 **POD 4:** The complete C.C.I. Budget for years 2008, 2009, and 2010.

7 **Defendant's Response:** Objection. This Request is vague and ambiguous as to
8 "complete." This Request seeks documents that are public record and therefore equally
9 available to Plaintiff by a Public Records Request. The Request is also overbroad to the
10 extent that it seeks documents pertaining to fact not at issue in this matter – i.e., every
11 aspect of the complete budget that does not pertain to out-of-cell exercise. This Request
12 is also oppressive and burdensome in that the budget is generated by multiple different
13 offices and/or government agencies; as such, C.C.I. is not in custody and control of any
14 aspects of that budget.

15 Plaintiff contends in his motion to compel that he needs this information in order to show that
16 Defendant had the resources to build more I.E.M. cages. Defendant counters that any information in the
17 budget that is relevant to this case has already been disclosed to Plaintiff in Defendant's supplemental
18 response to interrogatory number 6. There, Defendant revealed the prison's total budget and the funds
19 allocated to the construction of new exercise facilities in 2008, 2009, and 2010.

20 The Court agrees with Defendant. Notably, the only defendant in this case is Defendant
21 Gonzales, the warden. Whether the CDCR could have or should have spent money in 2008, 2009 and
22 2010, is not a fact that would establish that Gonzales should be held liable to Plaintiff. In his complaint,
23 Plaintiff does not allege that Gonzales had the authority to control how the budget is spent and, instead,
24 alleges only that he develops the policies related to the exercise yards. (Doc. 1 at 6) Likewise, even if
25 there was a huge surplus of money during these years, this would not establish that Plaintiff has suffered
26 a constitutional injury or any element thereof. Thus, the information sought is irrelevant.

27 On the other hand, the Court agrees that the request is overly broad. At most, the pertinent
28 information would be the amount of budgeted funds that could have been spent in Gonzales' discretion
for exercise yard improvements. Accordingly, Plaintiff's request for the production of documents
number 4 is **DENIED**.

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1 of documents number 6 is improper and is **DENIED**.

2 7. Request for Production No. 7

3 **POD 7:** All regulations, policys [sic] and memorandum that concerns yard policy in any
4 way.

5 **Defendant's Response:** Objection. This Request is vague as to time and ambiguous as
6 to "that concerns yard policy in any way." This Request is also equally available to
7 Plaintiff by review of California Code of Regulations, Title 15 and the California
8 Department of Corrections and Rehabilitation Operations Manual (DOM). This Request
is overbroad in that it seeks documents unrelated to the claims in this matter and is
therefore not reasonably calculated to lead to the discovery of admissible evidence. This
Request also seeks information that, if disclosed, presents a threat to the safety and
security of the institution.

9 Plaintiff argues in his motion to compel that it is his belief that CDCR has a policy that every
10 inmate is entitled to a minimum of five hours of out-of-cell exercise per week. Be that as it may, the
11 Court agrees with Defendant that this request is vague as to time and vague as to "that concerns yard
12 policy in any way." The scope of this request is potentially limitless. In the absence of any attempt to
13 narrow the scope of this discovery request, Plaintiff's request for the production of documents number
14 7 is **DENIED**.

15 8. Request for Production No. 8

16 **POD 8:** Each buildings [sic] (1-8 4B yard, 5 4A yard) log book of inmate movement
17 from [J]anuary 2008 to [J]anuary 2010.

18 **Defendant's Response:** Objection. This Request seeks information that, if disclosed,
19 presents a threat to the safety and security of the institution. This Request also violates
20 the privacy rights of third parties. Furthermore, this Request is overbroad because it
seeks information beyond what is at issue in this case and is therefore not reasonably
calculated to lead to the discovery of admissible evidence.

21 Plaintiff argues in his motion to compel and in his reply that these logbooks are *critical* to verify
22 his own records regarding how much out-of-cell exercise he was provided. Because this information
23 is directly relevant to Plaintiff's claims and Defendant offers no argument as to why *Plaintiff's* logbook
24 should not be produced, Plaintiff's request for the production of documents number 8 is **GRANTED**
25 **IN PART**. Defendant shall produce the logbook containing Plaintiff's out-of-cell exercise times at the
26 California Correctional Institution from January 30, 2008 through May 23, 2008 and February 11, 2009
27 through January 20, 2010, to the extent that such documentation exists. Any information that does not
28 concern Plaintiff's out-of-cell exercise times and which may pose a risk to institutional security may be

1 redacted.

2 9. Request for Production No. 9

3 **POD 9:** Name's [sic], rank, and address's [sic] of all custody staff that worked the
4 following buildings during the specific dates: 4B-1 Block [J]anuary[] 2008 to May 23,
5 2008; 4B-6 Block February 11, 2009 to May 30, 2009; 4B-8 Block [J]une 1st, 2009 to
6 [J]anuary 31st, 2010; 4A-5Block [J]anuary 2008 to January 2010.

7 **Defendant's Response:** Objection. This Request seeks information that, if disclosed,
8 presents a threat to the safety and security of the institution. This Request is also
9 overbroad in that it seeks documents regarding information not at issue in this case; the
10 identities of the officers assigned to particular buildings is not reasonably calculated to
11 lead to the discovery of admissible evidence. This Request is oppressive and
12 burdensome because it seeks approximately thirty (39) months of rosters which would
13 amount to between fifteen (15) and twenty (20) thousand documents.

14 Plaintiff argues in his motion to compel that these documents are needed because he would like
15 to call these prison officials as witnesses as to the conditions of the I.E.M. yard cages and how prison
16 officials escorted inmates to the yard cages. However, the Court agrees with Defendant that this request
17 for documents is oppressive and burdensome. Plaintiff already has information regarding these issues
18 and therefore his need for such is minimal. On the other hand, Defendant would be burdened with the
19 task of determining the names of prison officials who worked certain housing units over the course of
20 two years. Accordingly, in the absence of any attempt to narrow the scope of this discovery request,
21 Defendant's burden far outweighs Plaintiff's need for this information. As such, Plaintiff's request for
22 the production of documents number 9 is **DENIED**.

23 10. Request for Production No. 10

24 **POD 10:** All documents which you have in your possession or control relating to the
25 following subjects: yard program, safety and security issues at C.C.I.

26 **Defendant's Response:** Objection. This Request is vague as to time, and it is vague and
27 ambiguous as to "relating to" and "safety and security." This Request is overbroad in
28 that nearly every operation in the institution is designed to protect the safety and security
of the institution; therefore, this request is also oppressive and burdensome. It is also
duplicative to requests 3, 5, and 7. Finally, documents that relate to the safety and
security of the institution are often confidential and not for inmate publication, as they
may provide inmate information on which to base escape attempts, assaults or other
criminal behavior.

Defendant's objections are well-taken, and Plaintiff does not provide any reason for the Court
to find otherwise. Plaintiff merely states in the pending motion to compel that, "I would like this info."
This is not a sufficient basis to compel production. Accordingly, Plaintiff's request for the production

1 of documents number 10 is **DENIED**.

2 11. Request for Production No. 12

3 **POD 12:** Attach a full and complete copy of incident attempted murder by inmate at 4B
4 occurring on January 25, 2008 (PSR #CCI-IVB-08-008) including documents,
memorandum, electronic or paper referring to this incident in any way.

5 **Defendant's Response:** Objection. This request calls for confidential documentation
6 that, if disclosed, presents a threat to the safety and security of the institution. This
7 Request is also overbroad in that it seeks documentation that is unrelated to any claim
in this case and is therefore overbroad. This Request is also ambiguous as to "in any
way."

8 Plaintiff argues that he needs the incident report on this matter because Defendant cites this as
9 the reason why the prison was placed under lockdown in 2008 and why Plaintiff's out-of-cell yard time
10 was curtailed. Defendant, on the other hand, stands by his objections. In particular, Defendant stresses
11 that the incident report at issue in this request contains substantial confidential information regarding
12 investigations of other inmates.

13 The Court is at a loss to understand how Plaintiff believes these documents in their entirety
14 would bear on whether he received sufficient yard time. Without an allegation that Gonzales
15 manufactured reasons to lock down the prison (and Plaintiff does not so allege in his complaint), the fact
16 that Plaintiff may believe that this incident was not sufficient to justify the prison lockdown is irrelevant.
17 On the other hand, the *fact* that this incident occurred *is* relevant because Defendant *relies* upon it as
18 grounds for denying Plaintiff exercise time. Plaintiff is entitled to verify that, in fact, the incident
19 occurred.

20 Accordingly, Plaintiff's request for the production of documents number 12 is **GRANTED IN**
21 **PART**. Defendant shall produce a copy of the January 25, 2008 Incident Report prepared by the first
22 officer on the scene. If multiple officers were the "first" on the scene, Defendant shall produce the most
23 complete incident report of these officers who prepared reports. Defendant may redact any information
24 that may pose a threat to the safety and security of the institution and that information contained in the
25 report that is related to third parties.

26 12. Request for Production No. 13

27 **POD 13:** Attach a full and complete copy of incident attempted murder on a correctional
28 officer on April 3, 2008 (PSR #CCI-IVA-08-021) including all documents, records,
memorandum referring to this incident in any way.

1 **Defendant’s Response:** Objection. This request calls for confidential documentation
2 that, if disclosed, presents a threat to the safety and security of the institution. This
3 Request is also overbroad in that it seeks documentation that is unrelated to any claim
4 in this case and is therefore overbroad. This Request is also ambiguous as to “in any
5 way.”

6 Plaintiff argues that he needs the incident report on this matter because Defendant cites this as
7 the reason why the prison was placed under lockdown in 2008 and why Plaintiff’s out-of-cell yard time
8 was curtailed. Defendant, on the other hand, stands by his objections. In particular, Defendant stresses
9 that the incident report at issue in this request contains substantial confidential information regarding
10 investigations of other inmates.

11 For the same reasons set forth as to Request for Production 12, Plaintiff’s request for the
12 production of documents number 13 is **GRANTED IN PART**. Defendant shall produce a copy of the
13 April 3, 2008 Incident Report prepared by the first officer on the scene. If multiple officers were the
14 “first” on the scene, Defendant shall produce the most complete incident report of these officers who
15 prepared reports. Defendant may redact any information that may pose a threat to the safety and security
16 of the institution and that information contained in the report that is related to third parties.

17 13. Request for Production No. 14

18 **POD 14:** Attach a full and complete copy of incident death of an inmate/inmate
19 possession of a weapon occurring on May 12, 2009 (PSR #CCI-IVB-09-011) at 4B SHU,
20 including all documents, records, memorandum, electronic or print referring to this
21 incident in any way.

22 **Defendant’s Response:** Objection. This request calls for confidential documentation
23 that, if disclosed, presents a threat to the safety and security of the institution. This
24 Request is also overbroad in that it seeks documentation that is unrelated to any claim
25 in this case and is therefore overbroad. This Request is also ambiguous as to “in any
26 way.”

27 Plaintiff reiterates that he needs the incident report on this matter because Defendant cites this
28 as the reason why the prison was placed under lockdown in 2009 and why Plaintiff’s out-of-cell yard
time was curtailed. Defendant, on the other hand, stands by his objections. In particular, Defendant
stresses that the incident report at issue in this request contains substantial confidential information
regarding investigations of other inmates.

 For the same reasons set forth as to Request for Production 12, Plaintiff’s request for the
production of documents number 14 is **GRANTED IN PART**. Defendant shall produce a copy of the

1 May 12, 2009 Incident Report prepared by the first officer on the scene. If multiple officers were the
2 “first” on the scene, Defendant shall produce the most complete incident report of these officers who
3 prepared reports. Defendant may redact any information that may pose a threat to the safety and security
4 of the institution and that information contained in the report that is related to third parties.

5 14. Request for Production No. 15

6 **POD 15:** Copy of every appeal filed at C.C.I. regarding “yard” from January 2008 to
7 January 2010. All name’s [sic] and number’s [sic] may be redacted if needed.”

8 **Defendant’s Response:** Objection. This Request is overbroad in that it seeks
9 documentation unrelated to claims in this case; other inmates’ appeals are not at issue in
10 this case. This Request also seeks documentation that, if disclosed, presents a threat to
11 the safety and security of the institution. This Request also violates the privacy of third
12 parties. This Request is oppressive and burdensome in that it seeks thousands of
13 documents.

14 Plaintiff argues in the pending motion that the inmate appeals are needed to show that Defendant
15 was on notice that inmates at the California Correctional Institution were being deprived of adequate
16 yard time. Be that as it may, the Court agrees with Defendant that this request is oppressive. The scope
17 of the request is sweeping, encompassing any appeal regarding “yard” by any inmate over a span of two
18 years. In the absence of any effort by Plaintiff to tailor this request, the Court concludes that Plaintiff’s
19 request for the production of documents number 15 is overly burdensome and must be **DENIED**.

20 15. Request for Production No. 17

21 **POD 17:** Any and all studies, projects, examinations, including mental health reports,
22 opinions and conclusions done on the effects of confinement in the SHU on inmates.

23 **Defendant’s Response:** Objection. This Request is vague as to time, vague and
24 ambiguous as to: “studies, projects, examinations, including mental health reports,
25 opinions and conclusions;” and “the effects of confinement in the SHU on inmates.”
26 This Request is overbroad in that it seeks documentation of “effects of confinement,”
27 which could refer to many topics other than out-of-cell exercise. This Request also seeks
28 information equally available to Plaintiff to the extent that it seeks documents available
to the public and acceptable for inmate access. This Request also, however, could seek
documentation that, if disclosed, could present a threat to the safety and security of the
institution. This Request is oppressive and burdensome in that Defendant has no
obligation to conduct Plaintiff’s research for him.

Plaintiff argues in the pending motion that these documents are needed to show that Defendant
knew of the detrimental health effects that the SHU has on inmates. This, however, is questionable.
Although the CDCR may have studies on this topic, it does not necessarily follow that Defendant had
any knowledge of them. In light of the questionable relevance of these documents, the burden placed

1 on Defendant in producing these documents becomes all the more apparent. Pursuant to this request,
2 Defendant would be required to produce any report the CDCR has ever generated or obtained on this
3 topic. In the absence of any effort by Plaintiff to tailor this request, the Court concludes that Plaintiff's
4 request for the production of documents number 17 is overly burdensome and must be **DENIED**.

5 16. Request for Production No. 18

6 **POD 18:** The criteria used to determine whether an inmate will be given I.E.M. cage yard
7 or group yard.

8 **Defendant's Response:** Objection. This Request seeks documents equally available to
9 Plaintiff to the extent that Title 15. However, this Request seeks documentation that, if
10 disclosed, presents a threat to the safety and security of the institution to the extent that
11 each inmate's individual case factors are the primary criteria used to determine all
12 aspects of his or her program, including whether the inmate is on an I.E.M. assignment.
13 Without waiving said objections, Defendant responds as follows: Responsive document
14 is attached as Exhibit 2, Title 15, section 3375.

15 Plaintiff argues in the pending motion that nowhere in Title 15, section 3375 is cage yard even
16 listed. Defendant, on the other hand, argues in his opposition that the responsive document has been
17 produced. Defendant maintains that the criteria used by the Institutional Classification Committee to
18 determine I.E.M. status is that which is set forth in Title 15, section 3375.

19 There appears to be nothing further for Defendant to produce. Accordingly, Plaintiff's request
20 for the production of documents number 18 is **DENIED**.

21 **C. Request for Reasonable Expenses**

22 Plaintiff seeks \$100 in reasonable expenses to cover the cost of drafting and filing the instant
23 motion to compel. Pursuant to Federal Rule of Civil Procedure 37(a)(5)(C), when a motion to compel
24 is granted in part and denied in part, the Court may apportion the reasonable expenses for bringing the
25 motion. The Court may also decline to apportion the expenses if it finds that the non-moving party's
26 responses or objections are substantially justified or circumstances make the award unjust. See Fed. R.
27 Civ. P. 37(a)(5)(A). Here, Plaintiff has not made an accounting of the \$100 he now requests. Nor is it
28 likely that Plaintiff incurred any actual expenses related to the filing of this motion, as Plaintiff is
indigent and proceeding in forma pauperis. Accordingly, Plaintiff's request for reasonable expenses is
DENIED.

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1 **III. CONCLUSION**

2 In accordance with the above, it is **HEREBY ORDERED** that Plaintiff's January 11, 2011
3 motion to compel (Doc. 45) is **GRANTED IN PART** and **DENIED IN PART** as follows:

- 4 1. Plaintiff's request for further responses to interrogatory numbers 2, 3, 5, 6, 7, 8, 9, 10 and
5 11 is **DENIED**.
- 6 2. Plaintiff's request for the production of documents numbers 1, 2, 4, 5, 6, 7, 9, 10, 15, 17
7 and 18 is **DENIED**.
- 8 3. Plaintiff's request for the production of documents numbers 3, 8, 12, 13, and 14 are
9 **GRANTED** to the extent indicated above in this order. Defendant shall produce these
10 documents within thirty (30) days of the date of this order.
- 11 4. Plaintiff's request for reasonable expenses is **DENIED**.

12 IT IS SO ORDERED.

13 Dated: July 1, 2011

14 /s/ Jennifer L. Thurston
15 UNITED STATES MAGISTRATE JUDGE
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