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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

ALLEN HAMMLER,	)	Case No.: 1:19-cv-00373-AWI-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER GRANTING, IN PART, PLAINTIFF'S
v.	)	MOTION TO COMPEL, AND DENYING
	)	DEFENDANTS' MOTION TO COMPEL AS
CLARK, et.al.,	)	MOOT
	)	
Defendants.	)	(ECF Nos. 107, 108)
	)	
	)	
	)	

Plaintiff Allen Hammler is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's motion to compel, filed October 13, 2020, and Defendants' motion to compel, filed on October 14, 2020.

**I.  
RELEVANT BACKGROUND**

This action is proceeding against Defendants Gamboa, Peterson, Garza, Saucedo, Uhlik, and Clark for violation of the First Amendment right to free exercise of religion.

On April 7, 2020, Defendants filed an answer to Plaintiff's complaint. On April 8, 2020, the Court issued the discovery and scheduling order.

On October 13, 2020, Plaintiff filed the instant motion to compel. (ECF No. 108.)

1 On October 14, 2020, Defendants filed a motion to compel. (ECF No. 107.)

2 On November 4, 2020, Defendants filed an opposition to Plaintiff's motion to compel. (ECF  
3 No. 109.)

4 On November 17, 2020, Plaintiff filed an opposition to Defendants' motion to compel. ECF  
5 No. 110.)

## 6 II.

### 7 LEGAL STANDARD

8 Plaintiff is proceeding pro se and he is a state prisoner challenging his conditions of  
9 confinement. As a result, the parties were relieved of some of the requirements which would  
10 otherwise apply, including initial disclosure and the need to meet and confer in good faith prior to  
11 involving the Court in a discovery dispute. Fed. R. Civ. P. 26(a)(1); Fed. R. Civ. P. 26(c); Fed. R. Civ.  
12 P. 37(a)(1); Local Rules 240, 251; ECF No. 84. Further, where otherwise discoverable information  
13 would pose a threat to the safety and security of the prison or infringe upon a protected privacy  
14 interest, a need may arise for the Court to balance interests in determining whether disclosure should  
15 occur. See Fed. R. Civ. P. 26(c); Seattle Times Co. v. Rhinehart, 467 U.S. 20, 35 n.21 (1984) (privacy  
16 rights or interests implicit in broad purpose and language of Rule 26(c)); Burlington N. & Santa Fe  
17 Ry. Co. v. United States Dist. Court for the Dist. of Montana, 408 F.3d 1142, 1149 (9th Cir. 2005)  
18 (discussing assertion of privilege); Soto v. City of Concord, 162 F.R.D. 603, 616 (N.D. Cal. 1995)  
19 (recognizing a constitutionally-based right of privacy that can be raised in discovery); see also Garcia  
20 v. Clark, No. 1:10-CV-00447-LJO-DLB PC, 2012 WL 1232315, at \*6 n.5 (E.D. Cal. Apr. 12, 2012)  
21 (noting inmate's entitlement to inspect discoverable information may be accommodated in ways which  
22 mitigate institutional safety concerns); Robinson v. Adams, No. 1:08-cv-01380-AWI-BAM PC, 2012  
23 WL 912746, at \*2-3 (E.D. Cal. Mar. 16, 2012) (issuing protective order regarding documents  
24 containing information which implicated the safety and security of the prison); Orr v. Hernandez, No.  
25 CV-08-0472-JLQ, 2012 WL 761355, at \*1-2 (E.D. Cal. Mar. 7, 2012) (addressing requests for  
26 protective order and for redaction of information asserted to risk jeopardizing safety and security of  
27 inmates or the institution if released); Womack v. Virga, No. CIV S-11-1030 MCE EFB P, 2011 WL  
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1 6703958, at \*5-6 (E.D. Cal. Dec. 21, 2011) (requiring defendants to submit withheld documents for in  
2 camera review or move for a protective order).

3         However, this is a civil action to which the Federal Rules of Civil Procedure apply. The  
4 discovery process is subject to the overriding limitation of good faith, and callous disregard of  
5 discovery responsibilities cannot be condoned. Asea, Inc. v. Southern Pac. Transp. Co., 669 F.2d  
6 1242, 1246 (9th Cir. 1981) (quotation marks and citation omitted). “Parties may obtain discovery  
7 regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to  
8 the needs of the case, considering the importance of the issues at stake in the action, the amount in  
9 controversy, the parties’ relative access to relevant information, the parties’ resources, the importance  
10 of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery  
11 outweighs its likely benefit.” Fed R. Civ. P. 26(b)(1).

12         Generally, if the responding party objects to a discovery request, the party moving to compel  
13 bears the burden of demonstrating why the objections are not justified. Grabek v. Dickinson, No. CIV  
14 S-10-2892 GGH P, 2012 WL 113799, at \*1 (E.D. Cal. Jan. 13, 2012); Womack, 2011 WL 6703958, at  
15 \*3; Mitchell v. Felker, No. CV 08-119RAJ, 2010 WL 3835765, at \*2 (E.D. Cal. Sep. 29, 2010); Ellis  
16 v. Cambra, No. 1:02-cv-05646-AWI-SMS PC, 2008 WL 860523, at \*4 (E.D. Cal. Mar. 27, 2008).

17 This requires the moving party to inform the Court which discovery requests are the subject of the  
18 motion to compel, and, for each disputed response, why the information sought is relevant and why  
19 the responding party’s objections are not meritorious. Grabek, 2012 WL 113799, at \*1; Womack,  
20 2011 WL 6703958, at \*3; Mitchell, 2010 WL 3835765, at \*2; Ellis, 2008 WL 860523, at \*4.

21 However, the Court is vested with broad discretion to manage discovery and notwithstanding these  
22 procedures, Plaintiff is entitled to leniency as a pro se litigant; therefore, to the extent possible, the  
23 Court endeavors to resolve his motion to compel on its merits. Hunt v. County of Orange, 672 F.3d  
24 606, 616 (9th Cir. 2012); Surfvivor Media, Inc. v. Survivor Productions, 406 F.3d 625, 635 (9th Cir.  
25 2005); Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002).

26         Pursuant to Rule 34(a) of the Federal Rules of Civil Procedure, “any party may serve on any  
27 other party a request to produce and permit the party making the request...to inspect and copy any  
28 designated documents...which are in the possession, custody or control of the party upon whom the

1 request is served.” Fed. R. Civ. P. 34(a)(1). “[A] party need not have actual possession of documents  
2 to be deemed in control of them.” Clark v. Vega Wholesale Inc., 181 F.R.D. 470, 472 (D. Nev. 1998)  
3 (quoting Estate of Young v. Holmes, 134 F.R.D. 291, 294 (D. Nev. 1991) ). “A party that has a legal  
4 right to obtain certain documents is deemed to have control of the documents.” Clark, 181 F.R.D. at  
5 472; Allen v. Woodford, No. CV–F–05–1104 OWW LJO, 2007 WL 309945, \*2 (E.D. Cal. Jan. 30,  
6 2007) (citing In re Bankers Trust Co., 61 F.3d 465, 469 (6th Cir. 1995) ); accord Evans v. Tilton, No.  
7 1:07CV01814 DLB PC, 2010 WL 1136216, at \*1 (E.D. Cal. Mar. 19, 2010). Under Rule 34(b), the  
8 party to whom the request is directed must respond in writing that inspection and related activities will  
9 be permitted as requested, or state an objection to the request, including the reasons. Fed. R. Civ. P.  
10 34(b)(2). A reasonable inquiry must be made, and if no responsive documents or tangible things exist,  
11 Fed. R. Civ. P. 26(g)(1), the responding party should so state with sufficient specificity to allow the  
12 Court to determine whether the party made a reasonable inquiry and exercised due diligence, Uribe v.  
13 McKesson, No. 08cv1285 DMS (NLS), 2010 WL 892093, at \*2–3 (E.D. Cal. Mar. 9, 2010).

14 If responsive documents do exist but the responsive party claims lack of possession, control, or  
15 custody, the party must so state with sufficient specificity to allow the Court (1) to conclude that the  
16 responses were made after a case-specific evaluation and (2) to evaluate the merit of that response.  
17 Ochotorena v. Adams, No. 1:05–cv–01525–LJO–DLB (PC), 2010 WL 1035774, at \*3–4 (E.D. Cal.  
18 Mar. 19, 2010). As with previously discussed forms of discovery, boilerplate objections do not suffice.  
19 Fed. R. Civ. P. 34(b)(2)(B), (C); Burlington N. & Santa Fe Ry. Co., 408 F.3d at 1149.

### 20 III.

### 21 DISCUSSION

#### 22 A. Plaintiff’s Motion to Compel

23 Plaintiff seeks to compel further responses to his second set of requests for production of  
24 documents, namely, log books, CDCR 114-A forms, and a complete copy of the Plan of Operation for  
25 California State Prison, Corcoran (CSP-Corcoran).

26 Defendants oppose Plaintiff’s motion and argue they provided timely and good faith responses  
27 to Plaintiff’s requests for production, and made proper objections.

1 As an initial matter, Plaintiff has failed to meet his burden in demonstrating which discovery  
2 requests are the subject of his motion to compel and why each response is insufficient. See Local Rule  
3 250.3 (a party is required to file the requests for production and responses that are at issue as part of  
4 the proceeding). Nonetheless, based on the information in Plaintiff’s motion and Defendants’  
5 opposition, the Court can adequately address the motion to compel without an actual copy of the  
6 relevant requests and responses thereto.

7 **A. Unit Log Books**

8 Plaintiff requested the “actual A.S.U. log book” that contains a record of all staff entering and  
9 exiting the housing unit.

10 In his motion to compel, Plaintiff argues that “the CDCR 114-A logs are used to record when  
11 meals are served, if they were accepted or refused, if in serving there was an issue with the meals, and  
12 the log books of ASU are to correspond to the 114-A Forms having a space labelled ‘Report of  
13 Unusual Incidents’ to log when such issues as a prisoner holding a food port in response to being  
14 served a ill prepared Kosher as I’ve done on a vast number of Dates that should be recorded and is  
15 Relevant, Highly Probative in this instance case.” (Mot. at 4.)

16 Defendants argue the information sought in this request is not relevant to Plaintiff’s claims that  
17 he was served raw meat, and it is not proportional to the needs of the case. Defendants contend “a  
18 unit log book would not contain information pertaining to the condition of individual meals, nor would  
19 it provide any information that could lead to admissible evidence relating to Plaintiff’s claims that  
20 meat in his meals was raw.” (Opp’n at 2-3.) Defendants also argue that the request of the log book  
21 entries for fourteen months would include entries on dates and information that is not related to this  
22 case and not relevant to any element of a claim or defense. (Id. at 3.) Lastly, Defendant contend that  
23 disclosure of the log book from administrative segregation would compromise the safety of inmates.

24 **Ruling:** Plaintiff’s motion to compel production of the unit log books is granted. As Plaintiff  
25 explains, the log books contain a space for a report of unusual incidents which may include actions or  
26 inactions relating to the serving of Plaintiff’s meals with raw meat. However, Defendants need only  
27 produce the unit log books for the period relevant to this action, i.e. from July 25, 2018 to January 3,  
28 2019, as to information related only to this case. In addition, Defendants may redact any irrelevant

1 and confidential information or seek a necessary protective order to prevent disclosure of any  
2 confidential information.

3 **B. CDCR 114-A Forms**

4 Defendants submit that they produced all 114-A Forms for Plaintiff in their possession,  
5 custody, and/or control (Opp'n at 3), and Plaintiff has failed to present any evidence or argument to  
6 the contrary.

7 **Ruling:** Plaintiff's motion to compel is denied. While Plaintiff may be disinclined to trust  
8 Defendants' discovery responses, he is in a position no different than any other civil litigant: in the  
9 absence of legal or fact-based substantive deficiencies, he is required to accept the responses provided.  
10 Mere distrust and suspicion regarding discovery responses do *not* form a legitimate basis to further  
11 challenge responses which are facially legally sufficient; and Plaintiff is entitled neither to continue  
12 demanding additional and/or different evidence in support of discovery responses already provided nor  
13 to expand the scope of discovery beyond that sought in the initial discovery request. Fed. R. Civ. P.  
14 26(g)(1), 33; Correll v. Sneath, 292 F.R.D. 629, 632 (E.D. Cal. 2013); L.H. v. Schwarzenegger, No. S-  
15 06-2042 LKK GGH, 2007 WL 2781132, at \*2 (E.D. Cal. 2007). Moreover, signed discovery  
16 responses are themselves certifications to the best of the person's knowledge, information, and belief  
17 formed after a reasonable inquiry, Fed. R. Civ. P. 26(g)(1)(B) (quotation marks omitted), as are other  
18 signed filings presented to the Court, *see* Fed. R. Civ. P. 11(b). See also Fed. R. Civ. P. 33(c). Further,  
19 Defendants are required to supplement their discovery responses should they learn that their responses  
20 were incomplete or incorrect, if the incomplete or incorrect information has not otherwise been made  
21 known to Plaintiff. Fed. R. Civ. P. 26(e)(1) (quotation marks omitted). Accordingly, Plaintiff's motion  
22 to compel further production is denied.

23 **C. Plan of Operation for CSP-Corcoran**

24 Plaintiff requested a complete copy of the Plan of Operations for the entire institution of CSP-  
25 Corcoran.

26 Defendants argue Plaintiff's request is overbroad, not proportional to the needs of the case, and  
27 would create safety and security concerns for the institution. (Declaration of Sherman ¶¶ 3-4, ECF  
28 No. 109.)



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3. Defendants' motion to compel, filed on October 14, 2020, is denied as moot.

IT IS SO ORDERED.

Dated: December 10, 2020



UNITED STATES MAGISTRATE JUDGE