

1 to identify the Defendant Does. On May 2, 2011, this request was granted and discovery
2 was opened for the limited purpose of identifying Doe Defendants. (ECF No. 33.) Plaintiff
3 was given 120 days to provide such information. (Id.)
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5 Pending before the Court now is Plaintiff's Motion to Compel. (ECF No. 34.) In it,
6 Plaintiff asks that the United States Attorney's Office be required to produce video footage
7 and any documents related to the October 27, 2007 assault on Plaintiff, policies on staff
8 supervision of inmates, policies on staff response to inmates regarding inmate threats and
9 violence, a log of prison staff employees assigned to intake screening new arrivals on
10 October 26, 2007, a log of prison staff involved in the assault on Plaintiff's cell mate on
11 October 27, 2007, a log of prison staff involved in the investigation of the assault on
12 Plaintiff and his cell mate, and a log of prison staff who were responsible for opening the
13 unit after lockdown on October 27, 2007. Plaintiff states that he sent a request for these
14 documents to the United States Attorney's Office on May 5, 2011, but has not yet received
15 a response.
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17 While some of the information requested by Plaintiff could lead to the identification
18 of Doe Defendants, this Motion to Compel is improper. Under Rule 37 of the Federal
19 Rules of Civil Procedure, a motion to compel may be brought "[i]f a party fails to make a
20 disclosure required by Rule 26(a)" or replies to a discovery request with an "evasive or
21 incomplete disclosure, answer, or response." See Fed.R.Civ.P. 37(a). At the present
22 stage in the proceedings, a motion to compel is not the proper course of action. General
23 discovery has not been opened. Defendants have not been named nor required to
24 disclose anything. The proper action would have been to file a request for the issuance
25 of a subpoena duces tecum. (See ECF No. 36.)
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1 Therefore, Plaintiff's Motion to Compel is DENIED.

2 IT IS SO ORDERED.

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4 Dated: June 16, 2011


UNITED STATES MAGISTRATE JUDGE

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