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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
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8 ROBERTO M. GARCIA, Jr.

9 Plaintiff,

10 vs.

11 MATTHEW M. JUAREZ, Jr.,

12 Defendant.
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1:12-cv-00750-AWI-EPG

ORDER REQUIRING SUPPLEMENTAL
PRODUCTION BY THE CDCR OF
DOCUMENTS WITHHELD PURSUANT
TO THE “OFFICIAL INFORMATION
PRIVILEGE”

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15 Roberto M. Garcia Jr. (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
16 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983, although Plaintiff has been
17 appointed counsel for purposes of this motion to compel. (Doc. 76) Plaintiff filed the
18 Complaint commencing this action on May 8, 2012. (Doc. 1.) This case now proceeds on the
19 First Amended Complaint, filed on June 14, 2013, against defendant Sergeant Matthew M.
20 Juarez, Jr. (“Defendant”) for excessive force.

21 On July 7, 2016, this Court ordered the CDCR to produce certain documents withheld
22 pursuant to the Official Information Privilege. (Doc. 83). The Court noted in that order that
23 some documents were missing from the disclosure to the Court—specifically the underlying
24 interviews that were summarized in various reports. (Doc. 83, at p. 12).

25 Per the Court’s order, on July 25, 2016, the CDCR delivered two CDs to the Court for
26 supplemental *in camera* review. Those CDs contained a video interview of the Plaintiff as well
27 as numerous audio recordings of other interviews.
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1 For the reasons set forth in the Court's prior order, the Court holds that the witness
2 interviews are not protected by the Official Information Privilege.¹ The Court has performed a
3 balancing test and finds that the interests of disclosure outweigh the interests of any legitimate
4 security interest of the CDCR in withholding the information.

5 **IV. CONCLUSION**

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Within 14 days from this order, the CDCR shall provide Plaintiff with all documents
8 withheld under the official information privilege and provided *in camera* to the
9 Court in its July 25, 2016 submission.
- 10 2. To the extent that Plaintiff's confinement prevents him from viewing or listening to
11 such evidence, the CDCR shall make available a mechanism for Plaintiff to review
12 such evidence consistent with the CDCR's security measures within 30 days from
13 delivery to Plaintiff.

14 IT IS SO ORDERED.

15 Dated: August 24, 2016

16 /s/ Eric P. Groj
17 UNITED STATES MAGISTRATE JUDGE

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27 ¹ The Court is particularly troubled by the CDCR's withholding of the Plaintiff's
28 own interview and cannot find any colorable basis for the CDCR's invocation of the Official
Information Privilege as a basis to withhold that interview from the Plaintiff in this case.