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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA
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11 ERIC WHEELER,) 1:12cv00861 LJO DLB PC
12 Plaintiff,)
13 vs.) ORDER REGARDING DEFENDANTS'
14 ALISON, et al.,) MOTION FOR *IN CAMERA* REVIEW
15 Defendants.) (Document 190)
16)

17 Plaintiff Eric Wheeler ("Plaintiff") is a prisoner in the custody of the California
18 Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se and in
19 forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on
20 Plaintiff's complaint, filed on May 25, 2012, on the following claims: (1) excessive force in
21 violation of the Eighth Amendment against Defendants Duck, Murrieta and Lowder; (2) failure
22 to protect in violation of the Eighth Amendment against Defendants Duck, Murrieta, Lowder,
23 Loftis and Alison; and (3) deliberate indifference to a serious medical in violation of the Eighth
24 Amendment against Defendants Ross, Mui, Neubarth and Ancheta.

25 On December 15, 2014, the Court issued a ruling on Plaintiff's motion to compel. As is
26 relevant to this motion, the Court permitted Defendants to submit two documents for *in camera*
27 review: (1) the Confidential Inquiry concerning the Staff Complaint filed by Plaintiff, Log
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1 Number Z-11-00704; and (2) the Confidential Supplementary Report, dated January 26, 2011,
2 concerning Inmate Yepiz and Plaintiff.¹

3 DISCUSSION

4 A. Confidential Inquiry concerning Plaintiff's Staff Complaint, Log Number Z-11-00704

5 In Request for Production, Set Two, Number 10, Plaintiff requests all "confidential
6 inquiry, information-reports by following witnesses questioned: V. Trevino, masters of social
7 work, inmates Schriver, D-55998, Mitchell, P-19128, Pierson, AA-7947, and Siebert, V-61109,
8 in appeal log # SATF-2-11-00704." ECF No. 122, at 56. Plaintiff contends that these
9 individuals witnessed both events- Yepiz's attack and the subsequent interaction with
10 Defendants. Plaintiff states that except for Inmate Mitchell, none of the named inmates remain
11 in custody. Plaintiff also argues that threats of retaliation are not an issue since the inmates
12 provided statements favorable to Plaintiff.

14 Defendants objected to the disclosure of the Confidential Inquiry because it is
15 confidential under Cal. Code Regs. tit. 15, section 3321, the disclosure of which would endanger
16 the safety of other inmates and staff. Specifically, Defendants argue that production of the
17 confidential portions will expose the confidential sources to attack. Barba Decl. ¶¶ 12-14 (ECF
18 No. 122-1, at 4-5). Defendants also argue that any evidentiary value is slight because
19 Defendants do not dispute that Yepiz attacked Wheeler on January 19, 2011.

21 The Court has reviewed the document at issue and finds that it can be produced in
22 redacted form. Defendants may replace the names of the witnesses with an alpha or numeric
23 identifier. If, after review, Plaintiff believes that a witness can offer favorable testimony, he may
24 seek the name of the witness.

27 ¹ Although the motion for *in camera* review is filed under seal, this order does not disclose information that would
28 require it to be sealed.

1 B. Confidential Supplementary Report, Dated January 26, 2011

2 In Request for Production, Set One, Number 5 and Set Two, Number 3, Plaintiff sought
3 documents related to the January 19, 2011, attack by Inmate Yepiz, including statements by
4 inmates and staff, the Rules Violation Report and all confidential sources. Plaintiff also
5 requested all confidential inmate sources, etc. relating to the incident in Yepiz's C-file and
6 Plaintiff's C-file.

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8 Plaintiff again contends that the documents may disclose potential eyewitnesses. He
9 believes that the confidential inmate witnesses have been released from prison, and that each
10 provided a statement on Plaintiff's behalf.

11 Defendants cite Cal. Code Regs. tit. 15, section 3321 in arguing that the document is
12 confidential. They also argue that disclosure will violate Inmate Yepiz's privacy and subject
13 Yepiz and the other confidential sources to attack.

14 The Court has reviewed the document at issue and finds that it can be produced in
15 redacted form. Defendants may replace the names of the witnesses with an alpha or numeric
16 identifier. If, after review, Plaintiff believes that a witness can offer favorable testimony, he may
17 seek the name of the witness.

18 **ORDER**

19 Defendants SHALL produce the documents at issue, in redacted form as outlined above,
20 within fourteen (14) days of the date of service of this order.

21 IT IS SO ORDERED.

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23 Dated: January 27, 2015

24 /s/ Dennis L. Beck
25 UNITED STATES MAGISTRATE JUDGE
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