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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
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8 JOSE PULIDO,

9 Plaintiff,

10 vs.

11 M. LUNES, et al.,

12 Defendants.
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1:14-cv-01174-DAD-EPG (PC)

ORDER REQUIRING PRODUCTION OF
DOCUMENTS WITHHELD PURSUANT
TO THE "OFFICIAL INFORMATION
PRIVILEGE" WITH REDACTIONS

(ECF No. 85)

14 Plaintiff Jose Pulido ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights
15 action filed on July 28, 2014 pursuant to 42 U.S.C. § 1983. Plaintiff alleges a violation of his
16 Eighth Amendment rights based upon defendants' failure to protect him while in the custody of
17 the California Department of Corrections and Rehabilitation in Corcoran, California.

18 On August 25, 2016, the Court issued an order directing Defendants to provide Plaintiff
19 with certain documents withheld under the official information privilege and provided *in*
20 *camera* to the Court as described in the order. (Doc. 77, p. 7). Part I of that order included the
21 legal standard concerning official information privilege, and Part II of the order applied the
22 legal analysis to the documents being withheld on the basis of the privilege. (*Id.* at 3-7).

23 The Court further directed Defendants as follows:

24 Within 30 days from this order, Defendants shall either provide Plaintiff with all
25 additional documents and materials regarding the Investigation by the Office of
26 Internal Affairs of this incident, provide them to the Court for further *in camera*
27 review, or notify Plaintiff and the Court that they are not in Defendants'
28 possession custody and control. This includes all written or recorded interviews
associated with the investigation, as well as underlying documents referred to in
the investigation report.

1 (*Id.* at 7)

2 On September 23, 2016, Defendants Cruz and Shaw filed a request for *in camera*
3 review of the additional documents and materials regarding the investigation by the Office of
4 Internal Affairs. (Doc. 85). Defendants submitted one set of documents without redactions and
5 another set with limited proposed redactions of confidential personal information.

6 The Court has reviewed the documents, applied the legal standard articulated in Part I
7 of the August 25 order (Doc. 77), and now orders certain disclosures as follows:

8 Exhibit 19 is described by Cruz and Shaw as “Post Order for Facility C Yard Sergeant,
9 Post Order #230408, total 4 pages” (Doc. 85 at 5). This document describes the duties and
10 responsibilities of Peace Officers with respect to a particular duty post. The document does not
11 appear to be highly relevant to Plaintiff’s case, and the Court can understand how production of
12 this document to a prisoner could cause a security concern. After application of the balancing
13 test, the Court finds that Exhibit 19 is properly withheld pursuant to official information
14 privilege.

15 However, Exhibits 2, 6-13, 15-18 shall be provided to Plaintiff, as redacted. For this
16 group of Exhibits, the potential benefits of disclosure outweigh the potential disadvantages.
17 This group of Exhibits primarily contains highly relevant narrative reports about the incident in
18 this case. On the other hand, the potential disadvantage of production of this information to
19 Plaintiff in redacted form does not appear to be very significant because these Exhibits do not
20 discuss security issues.

21 For example, Exhibit 12 consists of Plaintiff’s own hand written statements about the
22 incident in this case. The court does not see any good faith basis to withhold this document
23 under the official information privilege, and it calls into question counsel's good faith and
24 adherence to the law regarding this privilege.

25 Accordingly, IT IS HEREBY ORDERED that Defendants Cruz and Shaw shall produce
26 Exhibits 2, 6-13, 15-18 with the submitted redactions to Plaintiff within 14 days of this order.

1 IT IS SO ORDERED.

2 Dated: October 14, 2016

3 /s/ Eric P. Groj
4 UNITED STATES MAGISTRATE JUDGE

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