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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDDIE HAMILTON,

 Plaintiff,

 v.

J. QUINONEZ, et al.,

 Defendants.

CASE NO. 1:14-cv-1216-LJO-MJS (PC)

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
(ECF NO. 22)**

THIRTY (30) DAY DEADLINE

I. PROCEDURAL HISTORY

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. (ECF Nos. 1 & 9.) The action proceeds on Plaintiff's Eighth Amendment failure to protect claim against Defendants Quinonez and Lozano. (ECF Nos. 9 & 10.)

Before the Court is Plaintiff's April 24, 2015 motion to compel discovery. (ECF No. 22.) Defendant filed an opposition. (ECF No. 23.) Plaintiff filed no reply. The matter is deemed submitted. Local Rule 230(l).

II. LEGAL STANDARD

The discovery process is subject to the overriding limitation of good faith. Asea, Inc. v. S. Pac. Transp. Co., 669 F.2d 1242, 1246 (9th Cir. 1981). Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense, and for good cause, the Court may order discovery of any matter relevant to

1 the subject matter involved in the action. Fed. R. Civ. P. 26(b)(1). Relevant information
2 need not be admissible at the trial if the discovery appears reasonably calculated to lead
3 to the discovery of admissible evidence. Id.

4 Generally, if the responding party objects to a discovery request, the party moving
5 to compel bears the burden of demonstrating why the objections are not justified. E.g.,
6 Grabek v. Dickinson, No. CIV S-10-2892 GGH P., 2012 WL 113799, at *1 (E.D. Cal. Jan.
7 13, 2012); Ellis v. Cambra, No. 1:02-cv-05646-AWI-SMS (PC), 2008 WL 860523, at *4
8 (E.D. Cal. Mar. 27, 2008). This requires the moving party to inform the Court which
9 discovery requests are the subject of the motion to compel, and, for each disputed
10 response, why the information sought is relevant and why the responding party's
11 objections are not meritorious. Grabek, 2012 WL 113799, at *1; Womack v. Virga, No.
12 CIV S-11-1030 MCE EFB P., 2011 WL 6703958, at *3 (E.D. Cal. Dec. 21, 2011).

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15 The court must limit discovery if the burden of the proposed discovery outweighs
16 its likely benefit. Fed. R. Civ. P. 26(b)(2)(C)(iii). "In each instance, the determination
17 whether . . . information is discoverable because it is relevant to the claims or defenses
18 depends on the circumstances of the pending action." Fed. R. Civ. P. 26 Advisory
19 Committee's note (2000 Amendment) (Gap Report) (Subdivision (b)(1)).

20 **III. PLAINTIFF'S CLAIMS**

21
22 Plaintiff's claims, which arose when he was incarcerated at Wasco State Prison,
23 may be summarized essentially as follows:

24 On February 19, 2013, Plaintiff was assaulted by his cellmate Carlos Richee. On
25 March 8, 2013, prison officials formally documented Plaintiff and Richee as enemies. On
26 April 2, 2013, Plaintiff told Defendants Quinonez and Lozano, both correctional officers,
27 that he and Richee had fought previously and he feared for his safety. Defendants
28

1 made no effort to prevent an altercation. Defendant Quinonez had been present when
2 Plaintiff was attacked on February 19 and allegedly informed Lozano of the incident.
3 Defendant Lozano told Plaintiff that “if anything happen, do what you have to do and you
4 won’t get in any trouble.”

5
6 Plaintiff was assaulted by Richee approximately twenty minutes later. Plaintiff
7 suffered injuries to his face and shoulder. Plaintiff asserts the Defendants failed to
8 protect him from a substantial risk of harm in violation of the Eighth Amendment.

9 **IV. DISCUSSION**

10 Plaintiff contends that Defendants’ responses to Interrogatories 1-5, and Request
11 for Production 1¹ are deficient and requests that Defendants provide further responses.
12 Defendants argue that their objections were proper. (ECF No. 23.) The Court addresses
13 each of the discovery requests in turn.
14

15 **1. Interrogatory No. 1**

16 **a. Request:**

17 Had inmate Richee AM8781 been disciplined or involved in
18 any other fight-related disturbances prior to April 2, 2013?

19 **b. Response**

20 Objection: This request is compound, vague as to time, and it
21 calls for a legal conclusion. Defendant further objects on the
22 grounds that it is vague and ambiguous because it does not
23 specify the term [sic] “disciplined” or “involved” or “any other
24 fight-related disturbances.” Defendant further objects
25 because it is overbroad as to time, nor [sic] does it specify a
26 time period other than “prior to April 2, 2013.” Defendant
27 further objects that this request seeks information not
28 relevant to any claim or defense at issue in this lawsuit, and
is thus not reasonably calculated to lead to the discovery of
admissible evidence. Fed. R. Civ. P. 26(b). Defendant
further objects because this interrogatory seeks confidential
and private information pertaining to another inmate, the
disclosure of which would create a hazard to the safety and
security of the institution and violates the inmates’ rights to

¹ Both the interrogatories themselves and the Defendants’ responses to them are identical as to each Defendant. (ECF No. 22.)

1 privacy and confidentially [sic]. Defendant further objects
2 because this interrogatory seeks information not in the
3 possession, custody or control of the defendant. Without
4 waiving any objections, Defendant responds as follows: Not
5 to my knowledge.

6 **c. Analysis**

7 Defendant's objections are sustained in part and overruled in part. Defendants will
8 be required to answer subject to the limitations described below.

9 The request is not vague, ambiguous, or compound, and does not call for a legal
10 conclusion. Giving it a fair and reasonable reading in light of the facts of this case, it
11 simply asks whether the named individual has been disciplined for fighting² or been
12 involved in any fight-related incidents to Defendants' knowledge. The response could
13 have great relevancy to whether Defendants knew Richee was a threat prior to the April
14 2, 2013 assault on Plaintiff (ECF No. 9, at 8.) Information revealing prior documented
15 violent behavior and/or fights with other inmates could support Plaintiff's claims. See
16 Gray v. Virga, No. 2:12-CV-03006 2015 WL 1509082, at *7 (E.D. Cal. April 1,
17 2015)(information from file of perpetrator of assault could support plaintiff's claim that
18 defendants knew perpetrator to be a danger to others).

19 Defendants' response that they have no knowledge of prior incidents is suspect given
20 Plaintiff's allegations that Richee assaulted him in February 2013 and that the two were
21 subsequently designated "enemies." It is not clear whether Defendants deny this
22 occurred, deny they have any knowledge of it having occurred, or are being
23 disingenuous. Defendants are reminded that they are to answer with regard to
24 knowledge in or subject to their possession, custody, or control. Certainly, records of
25 such events are available to them or their counsel.

27 ² Read literally, the request asks whether Richee was disciplined for any reason. Such an interpretation
28 would leave the request overbroad in asking about discipline wholly unrelated to issues raised in this case.
Accordingly, the Court reads it as calling for "discipline for fighting."

1 Defendants' objections on the basis of privilege will also be overruled. While Cal.
2 Code Regs. tit. 15, § 3370(b) may prevent Defendants from producing documents from
3 another inmate's central file absent a court order, it does not prevent Defendants from
4 responding to an interrogatory on the same issues. See Cordoba v. Dickinson, No. CIV
5 S-10-2944 2012 WL 868926, at *2 (E.D. Cal. Mar. 13, 2012)(plaintiff "could and should
6 have sought" information about Defendants' conduct from the central file of his inmate-
7 enemy "through interrogatories, requests for admissions, or other available discovery
8 devices"); Gamez v. Gonzalez, No. 08-cv-1113 2011 WL 1087090, at *4 (E.D. Cal. Mar.
9 24, 2011)(Plaintiff did not have a right to confidential debriefing reports, but was entitled
10 to limited disclosure of the information in the reports).

11
12 However, the request is overbroad as to time. An incident long years before the
13 event in issue in this case would be of little, if any, relevance here. Events within the
14 three years preceding April 2013 could potentially be relevant. The Court will order
15 Defendants to answer with regard to that time period.

16
17 Accordingly, Plaintiff's motion to compel is GRANTED as to the first interrogatory,
18 and Defendants shall provide further responses relating to the three year period prior to
19 April 2013.

20 21 **2. Interrogatory No. 2**

22 **a. Request**

23 Has any inmate other than Plaintiff ever accused you of
24 failing to protect an Inmate since the beginning of your
25 employment by the CDCR?

26 **b. Response**

27 Objection. This request is vague and ambiguous as to the
28 terms "failing to protect" and calls for a legal conclusion.
Defendant further objects that this interrogatory is overbroad
as to time. Defendant further objects that this request seeks
information not relevant to any claim or defense at issue in
this lawsuit, and thus is not reasonably calculated to lead to
the discovery of admissible evidence. Fed. R. Civ. P.. 26(b).

1 Without waiving objections, Defendant responds as follows:
2 Not to my knowledge.

3 **c. Analysis**

4 Defendant's objections are sustained in part and overruled in part, and
5 Defendants will be required to answer subject to the limitations described below.

6 The request is not vague or ambiguous and does not call for a legal conclusion.
7 Giving it a fair and reasonable reading in light of the facts of this case, it simply asks
8 whether other inmates previously filed grievances alleging that Defendants failed to
9 protect them from assaults. Previous complaints against Defendants are relevant insofar
10 as they could help establish possible a pattern or practice of failing to protect inmates
11 from one another. See Taylor v. O'Hanneson, No. 1:11-CV-00538 2014 WL 2696585, at
12 *4-5 (E.D. Cal. June 13, 2014)(citing Ramirez v. Cty. of Los Angeles, 231 F.R.D. 407,
13 412 (C.D.Cal.2005)); see also Wheeler v. Alison, No. 1:12-cv-00861 2015 WL 269148,
14 at *2 (E.D. Cal. Jan. 21, 2015)(discussing scope of plaintiff's ability to discover
15 Defendant's past behavior). While admissibility of character evidence is a trial objection,
16 discovery is much broader. Even at trial, evidence inadmissible to prove character may
17 be admissible for other purposes, as Plaintiff observes in his motion to compel (ECF No.
18 22, at 2). See also Taylor, 2014 WL 2696585, at *4.

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21 The Court agrees that Plaintiff's request is overbroad as to time; thus, the Court
22 will order Defendants to provide further responses regarding grievances alleging
23 Defendants failed to protect within the three years preceding April 2013. See Wheeler,
24 2015 WL 269148, at *2.

25 In their opposition to Plaintiff's motion to compel, Defendants assert that inmate
26 grievances are not categorized by the staff members named in the grievance, so
27 Defendants have no reasonable way to search for the information "other than to look
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1 through every inmate appeal ever submitted during each individual Defendants' [sic]
2 tenure at a particular institution." (ECF No. 23, at 9.) However, inmate appeals *are*
3 apparently categorized by both "the institution where the grieved issue took place and
4 the inmate's appeal issue." *Id.* Therefore, Defendants may search for inmate appeal
5 issues categorized as, e.g., "inmate assault" or "failure to protect" claims.
6

7 Therefore, Plaintiff's motion to compel a further response to Interrogatory No. 2 is
8 GRANTED; Defendants must provide further responses regarding grievances, filed
9 within the three years preceding April 2013, alleging that they failed to protect an inmate
10 from harm.

11 **3. Interrogatory No. 3**

12 **a. Request**

13 Has anyone ever initiated a Staff Complaint against you since
14 the beginning of your employment by the CDCR?

15 **b. Response**

16 Objection. This request is overbroad as to scope and time.
17 Defendant further objects that this request seeks information
18 not relevant to any claim or defense at issue in this lawsuit,
19 and is thus not reasonably calculated to lead to the discovery
20 of admissible evidence. Fed. R. Civ. P. 26(b). The request
21 also calls for confidential information protected by privacy
22 rights of staff and inmates guaranteed by the United States
23 and California Constitutions, applicable statutes such as
24 Government Code section 6254; and calls for confidential
25 information that would unduly expose the institution, staff
26 and/or other inmates to a substantial risk of harm under
27 California Code of Regulations, Title 15, section 3321.
28 Additionally, the production of confidential information is
improper on the grounds that an inmate shall not have
access to information designated confidential. Cal. Code
Regs. tit. 15, § 3370(d).

Without waiving objections, Defendant responds as follows:
Not to my knowledge.

c. Analysis and Ruling:

Defendants' objection based on relevance is overruled. As with grievances alleging
Defendants' failure to protect them, previous staff complaints could show bias, a pattern

1 or practice of unprofessional behavior, or Defendants' knowledge of complaints against
2 them. See Taylor, 2014 WL 2696585, at *4 (citing Ramirez, 231 F.R.D. at 412); Wheeler,
3 2015 WL 269148, at *2. In addition, Defendants suggest in their opposition to the
4 motion to compel that such a complaint may have been made in response to Plaintiff's
5 allegations against them, indicating that some responsive information is contained within
6 their files. (ECF No. 23, at 8.)

8 The Court agrees, however, that the request is overbroad as to scope and time.
9 Thus, the Court will order Defendants to provide further responses regarding staff
10 complaints made within the last three years regarding inmate assaults and failures to
11 protect.

12 As to Defendants' objection on privacy grounds, although the Court may take into
13 account the privacy interests potentially implicated in the disclosure of documents and
14 information, "privacy concerns are not absolute; they must be weighed against other
15 competing interests." Ramirez, 231 F.R.D. at 411 (C.D.Cal. 2005). Ramirez recognized
16 in the context of excessive force complaints against police officers:

18 "Most information requested by civil rights plaintiffs in these lawsuits deals
19 with professional personnel records, such as prior involvement in
20 disciplinary proceedings or citizen complaints filed against the officers. The
21 privacy interest in this kind of professional record is not substantial,
22 because it is not the kind of 'highly personal' information warranting
23 constitutional safeguard. The privacy interest in nondisclosure of
24 professional records should be especially limited in view of the role played
25 by the police officer as a public servant who must be accountable to public
26 review."

27 Id. These concerns are equally applicable to allegations that a correctional officer
28 failed to protect an inmate from a known risk of assault. See Taylor, 2014 WL 2696585,
at *5. Therefore, Plaintiff's motion to compel a further response to Interrogatory No. 3 is
GRANTED; Defendants must provide further responses regarding staff complaints, filed

1 within the three years preceding April 2013, alleging that they failed to protect an inmate
2 from harm.

3 **4. Interrogatory No. 4**

4 **a. Request**

5 Has any inmate ever initiated a Staff Complaint against you
6 since the beginning of your employment by the CDCR?

7 **b. Response**

8 Objection. This request is overbroad as to scope and time.
9 Defendant further objects that this request seeks information
10 not relevant to any claim or defense at issue in this lawsuit,
11 and is thus not reasonably calculated to lead to the discovery
12 of admissible evidence. Fed. R. Civ. P. 26(b). The request
13 also calls for confidential information protected by privacy
14 rights of staff and inmates guaranteed by the United States
15 and California Constitutions, applicable statutes such as
16 Government Code section 6254; and calls for confidential
17 information that would unduly expose the institution, staff
18 and/or other inmates to a substantial risk of harm under
19 California Code of Regulations, Title 15, section 3321.
20 Additionally, the production of confidential information is
21 improper on the grounds that an inmate shall not have
22 access to information designated confidential. Cal. Code
23 Regs. tit. 15, § 3370(d).

24 Without waiving objections, Defendant responds as follows:
25 Not to my knowledge.

26 **c. Analysis and Ruling**

27 Defendants' objections to Interrogatory No. 4 are the same as their objections to
28 Interrogatory No. 3. The Court adopts its ruling on Interrogatory No. 3 above to sustain in
part and overrule in part Defendants' objections and order Defendants to respond in
accord with the directions and limitations set forth in regard to Request No. 3 above,
except here the response will be limited to those complaints initiated by inmates.

5. Interrogatory No. 5

a. Request

Identify any and all Complaints or grievances filed by any
inmate against you pertaining to your Failing to Protect
conduct.

b. Response

1 Objection. This request is overbroad as to scope and time.
2 Defendant further objects that this request seeks information
3 not relevant to any claim or defense at issue in this lawsuit,
4 and is thus not reasonably calculated to lead to the discovery
5 of admissible evidence. Fed. R. Civ. P. 26(b). The request
6 also calls for confidential information protected by privacy
7 rights of staff and inmates guaranteed by the United States
8 and California Constitutions, applicable statutes such as
9 Government Code section 6254; and calls for confidential
10 information that would unduly expose the institution, staff
11 and/or other inmates to a substantial risk of harm under
12 California Code of Regulations, Title 15, section 3321.
13 Additionally, the production of confidential information is
14 improper on the grounds that an inmate shall not have
15 access to information designated confidential. Cal. Code
16 Regs. tit. 15, § 3370(d).

17 Without waiving objections, Defendant responds as follows:
18 Not to my knowledge.

19 **c. Analysis and Ruling**

20 Defendants' objections to Interrogatory No. 5 are overruled for the same reason as
21 their objections to Interrogatory No. 2 were overruled. Defendants shall respond with
22 regard to such complaints or grievance's filed within the three years preceding April
23 2013. It appears Plaintiff did not specify "identify" or define what he meant by the word.
24 However, a good faith, reasonable interpretation would call for a response which
25 specified the date of, parties to, nature of, and outcome of any such complaint or
26 grievance.

27 **6. Request for Production No. 1**

28 **a. Request**

Produce the CDC Form 154 (Bed Move) dated April 2, 2013
of Inmate Richee AM8781 with the information, who
authorized the bed move and who approved the bed move.

b. Response

Objection. This request seeks information of a non-party
inmate that is deemed confidential under California Code of
Regulations, Title 15, section 3321, the disclosure of which
could: (1) endanger the safety of other inmates and staff of
the CDCR, or (2) jeopardize the security of the institution.
Additionally, the production of confidential information is

1 improper on the grounds that an inmate shall not have
2 access to information designated confidential. Cal. Code
3 Regs. tit. 15, § 3370(d). Defendant further objects to this
4 request on the ground that it seeks information Plaintiff
5 cannot possess under section 3450(d) of Title 15 of the
6 California Code of Regulation. Defendant further objects to
7 this request on the ground that disclosure of this information
8 is unauthorized and would jeopardize institutional security
9 under sections 3275 and 3276 of Title 15 of the California
10 Code of Regulations.

11 **c. Analysis and Ruling**

12 Defendants cite Cal. Code Regs. tit. 15, § 3370 to argue that production of these
13 documents is prohibited. However, while this regulation “may prevent defendants from
14 producing the documents without a court order, they do not prevent this court from
15 issuing an order requiring their production.” Gray, 2015 WL 1509082, at *7 (ordering
16 release of redacted rule violation reports pertaining to violent behavior by Plaintiff’s
17 attacker).

18 Defendants also argue, without elaboration, that the bed move form contains
19 confidential information, and thus that disclosure would be prohibited under Cal. Code
20 Regs. tit. 15 § 3450(d). Without more information about any possible security threat
21 disclosure might to pose, the Court will overrule Defendants’ objections and order
22 disclosure of the Bed Move form.

23 **V. CONCLUSION AND ORDER**

24 Based on the foregoing, it is HEREBY ORDERED THAT:

- 25 1. Plaintiff’s motion to compel (ECF No. 22) is GRANTED IN PART AND
26 DENIED IN PART;
- 27 2. Defendants shall provide further responses to Interrogatories Nos. 1
28 through 5 and Request for Production No. 1 within **thirty (30) days** of
service of this Order; and

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3. Plaintiff may, but need not, file a further motion to compel within **fourteen (14) days** of service of Defendant's further response.

IT IS SO ORDERED.

Dated: June 10, 2015

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE