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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 ROGER WALKER,

10 Plaintiff,

11 v.

12 TIM POOLE, et al.,

13 Defendants.  
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Case No. 1:16-cv-01665-AWI-EPG (PC)

ORDER SETTING HEARING ON  
PLAINTIFF'S MOTION TO COMPEL

ORDER DIRECTING CLERK TO  
SEND A COPY OF THIS ORDER AND  
A COPY OF PLAINTIFF'S MOTION  
(ECF NO. 94) TO SENIOR ASSISTANT  
ATTORNEY GENERAL MONICA  
ANDERSON, THE EXECUTIVE  
DIRECTOR OF DSH - COALINGA,  
AND THE LITIGATION  
COORDINATOR AT DSH-COALINGA

18 Roger Walker ("Plaintiff") is a civil detainee proceeding *pro se* and *in forma pauperis*  
19 in this civil rights action filed pursuant to 42 U.S.C. § 1983.

20 This case is proceeding against Defendants on a failure to protect claim. (ECF No. 35).  
21 The claim is based on the allegations that patient Ryan Wilkerson was violent and unstable, and  
22 that despite repeated requests from Plaintiff for either Mr. Wilkerson or Plaintiff to be moved,  
23 neither were moved and Mr. Wilkerson eventually assaulted Plaintiff. Days after this attack,  
24 Mr. Wilkerson assaulted Plaintiff again. (ECF No. 18).

25 On April 17, 2019, the Court allowed Plaintiff to issue a subpoena for documents  
26 related to Mr. Wilkerson from the California Department of State Hospitals and/or its executive  
27 director. (ECF No. 84). The Court authorized issuance of the subpoena because Defendants  
28 asserted they did not have possession, custody, or control of the documents, which they

1 asserted were held by the California Department of State Hospitals. (ECF No. 78, p. 7)  
2 (“Walker has not established defendants have possession, custody or control of the documents  
3 he seeks. Indeed, they do not. [Mr. Wilkerson] is confined by the State of California for mental  
4 health treatment at Hospital [(Department of State Hospitals-Coalinga)], and his treatment is  
5 Hospital’s responsibility. Cal. Welf. & Inst. Code, § 6600.05. Thus, his records are Hospital  
6 records in the possession, custody and control of Hospital and not defendants, and defendants  
7 cannot order or compel Hospital to release them.”).

8 Plaintiff completed and returned the appropriate documents, and the Court directed the  
9 United States Marshals Service to serve the subpoena. (ECF No. 87).

10 On June 11, 2019, the Department of State Hospitals-Coalinga (“DSH-Coalinga”) filed  
11 its response to Plaintiff’s subpoena for “records, serious incident reports, and disciplinary notes  
12 of patient Ryan Wilkerson.” (ECF No. 93). According to DSH-Coalinga, no responsive  
13 records exist.

14 On June 24, 2019, Plaintiff filed a motion to compel production of the documents, and  
15 for appointment of counsel. (ECF No. 94).

16 The Court finds that a hearing will be helpful in resolving Plaintiff’s motion to compel.  
17 Accordingly, the Court will set a hearing on the motion, and require DSH-Coalinga to file its  
18 response no later than two weeks before the date of the hearing.

19 Additionally, IT IS ORDERED that:

- 20 1. A hearing on Plaintiff’s motion to compel is set for August 12, 2019, at 1:30  
21 p.m.
- 22 2. To appear telephonically, each party is to use the following dial-in number and  
23 passcode: Dial-in number 1-888-251-2909; Passcode 1024453. The Executive  
24 Director and Litigation Coordinator at DSH-Coalinga shall make Plaintiff  
25 available for the Conference at the date and time indicated above.
- 26 3. DSH-Coalinga has until July 29, 2019, to file its response to Plaintiff’s motion  
27 to compel.
- 28 4. The Clerk of Court is directed to serve Supervising Deputy Attorney General

1 Monica Anderson, the Executive Director of DSH - Coalinga, and the Litigation  
2 Coordinator at DSH - Coalinga, with a copy of this order and a copy of  
3 Plaintiff's motion (ECF No. 94).

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5 IT IS SO ORDERED.

6 Dated: June 25, 2019

/s/ Eric P. Grogan  
7 UNITED STATES MAGISTRATE JUDGE