

1 instant civil action is based. Due to the overlap between the pending criminal proceedings and
2 the instant civil action, and concerns regarding self-incrimination for Plaintiff, a stay in the civil
3 action is warranted pending resolution of the criminal case. (*Id.*)

4 Plaintiff did not file an opposition, and the deadline to do so has expired. The motion is
5 deemed submitted. Local Rule 230(l).

6 **II. Discussion**

7 **A. Request for Judicial Notice**

8 Defendant requests that the Court take judicial notice of the following documents:

9 (1) Criminal Complaint in *People v. Quinnell Johnson*, Kings County Superior Court case
10 number 21CM-2856; (2) Kings County Superior Court minute order dated October 6, 2021,
11 regarding Plaintiff's arraignment in 21CM-2856; and (3) Kings County Superior Court minute
12 order dated October 10, 2022, indicating the next hearing in 20CM-1621 will be scheduled on
13 January 11, 2023. (ECF No. 18-1 Exhs. 1–3.)

14 Federal Rule of Evidence 201 permits the Court to take judicial notice at any time. A
15 judicially noticed fact must be one not subject to reasonable dispute in that it is either:

16 (1) generally known within the territorial jurisdiction of the trial court; or (2) capable of accurate
17 and ready determination by resort to sources whose accuracy reasonably cannot be questioned.

18 Fed. R. Evid. 201(b). Courts may take judicial notice of facts related to the case before it.

19 *Amphibious Partners, LLC v. Redman*, 534 F.3d 1357, 1361–62 (10th Cir. 2008) (district court
20 was entitled to take judicial notice of its memorandum of order and judgment from previous case
21 involving same parties). This Court may judicially notice the records and filing of other court
22 proceedings. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007); *Bennett v.*
23 *Medtronic, Inc.*, 285 F.3d 801, 802 n.2 (9th Cir. 2002). In addition, a court may take judicial
24 notice of undisputed matters of public record, including papers filed with the court and the
25 records of state agencies and administrative bodies. *Disabled Rights Action Comm. v. Las Vegas*
26 *Events, Inc.*, 375 F.3d 861, 866 n.1 (9th Cir. 2004); *Lundquist v. Cont'l Cas. Co.*, 394 F. Supp. 2d
27 1230, 1242–42 (C.D. Cal. 2005) (stating that court may take judicial notice of records and reports
28 of administrative bodies).

1 Because the Court may take judicial notice of public records, including duly recorded
2 documents, under Rule 201(b)(2), Defendant’s request to take judicial notice of the above-
3 mentioned documents is granted.

4 **B. Motion to Stay**

5 The district court “has broad discretion to stay proceedings as an incident to its power to
6 control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. North*
7 *American Co.*, 299 U.S. 248, 254 (1936)). A stay is discretionary and the “party requesting a stay
8 bears the burden of showing that the circumstances justify an exercise of that discretion.” *Nken v.*
9 *Holder*, 556 U.S. 418, 433–34 (2009). “Generally, stays should not be indefinite in nature.”
10 *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066–67 (9th Cir. 2007).
11 If a stay is especially long or its term is indefinite, a greater showing is required to justify it.
12 *Yong v. I.N.S.*, 208 F.3d 1116, 1119 (9th Cir. 2000). The Court should “balance the length of any
13 stay against the strength of the justification given for it.” *Id.*

14 “The Constitution does not ordinarily require a stay of civil proceedings pending the
15 outcome of criminal proceedings.” *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 (9th
16 Cir. 1995). “In the absence of substantial prejudice to the rights of the parties involved,
17 [simultaneous] parallel [civil and criminal] proceedings are unobjectionable under our
18 jurisprudence.” *Id.* “Nevertheless, a court may decide in its discretion to stay civil
19 proceedings . . . ‘when the interests of justice seem[] to require such action.’ ” *Id.* (citations
20 omitted).

21 **1. Same Nucleus of Facts**

22 When a civil plaintiff brings claims under § 1983 that are “related to rulings that will
23 likely be made in a pending or anticipated criminal trial,” it is “common practice” for the court
24 “to stay the civil action until the criminal case or the likelihood of a criminal case is ended.”
25 *Wallace v. Kato*, 549 U.S. 384, 393–94 (2007); *see also Fed. Saving & Loan Ins. Corp. v.*
26 *Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989).

27 When determining whether a stay is appropriate, courts look to whether the criminal
28 defendant’s Fifth Amendment rights may be implicated by the civil proceedings. *Keating*, 45

1 F.3d at 324 (citing *Molinaro*, 889 F.2d at 902). Courts also consider (1) the interest of the
2 plaintiff in proceeding with the litigation and the potential prejudice to the plaintiff of a delay;
3 (2) the convenience of the court and the efficient use of judicial resources; (3) the interests of
4 third parties; and (4) the interests of the public. *Keating*, 45 F.3d at 324–25.

5 Here, the civil rights action implicates Plaintiff’s Fifth Amendment rights. The facts and
6 circumstances underlying Plaintiff’s criminal prosecution for Battery On Non-Confined Person
7 By Prisoner, of Officer D. Castillo, while confined in California State Prison, substantially
8 overlaps with the excessive force claim at issue in this case. Both cases involve the June 2, 2020
9 incident between Plaintiff and Defendant Castillo and will involve substantially all of the same
10 parties and witnesses. Thus, if this case proceeds, Defendant will seek discovery from Plaintiff,
11 and he will be required to respond under oath. The discovery will involve Plaintiff’s alleged
12 misconduct on June 2, 2020. Thus, there exists a substantial risk of prejudice to Plaintiff’s Fifth
13 Amendment rights. Furthermore, if Plaintiff invokes his Fifth Amendment rights it may impede
14 Defendant’s discovery. *Jones v. Conte*, No. C045312S1, 2005 WL 1287017, at *1 (N.D. Apr. 19,
15 2005) (finding that a stay of the civil case involving defendant in criminal action was appropriate
16 “because [i]f discovery moves forward, [the] defendant will be faced with the difficult choice
17 between asserting [his] right against self-incrimination, thereby inviting prejudice in the civil
18 case, or waiving those rights, thereby courting liability in the civil case.”) (internal quotations and
19 citation omitted).

20 Likewise, the other *Keating* factors also support a stay. Any prejudice to Plaintiff is
21 minimal given that both proceedings involve the similar facts and witnesses, and it is unlikely that
22 evidence will be lost or memories will fade with passage of time. *McCormick v. Rexroth*, No. C
23 09-4188 JT, 2010 WL 934242, at *3 (N.D. Cal. Mar. 15, 2010). In addition, the public interest
24 weighs in favor of a stay because “[t]he public has an interest in ‘ensuring that the criminal
25 process is not subverted’ by ongoing civil cases.” *Douglas v. United States*, No. C 03-4518, 2006
26 WL 2038375, at *6 (N.D. Cal. July 17, 2006).

27 Furthermore, if a stay is not granted, the defenses available may be limited. If the court in
28 the criminal action considers Plaintiff’s factual allegations regarding the June 2, 2020 incident,

1 such findings may be binding in this Court. Until resolution of the criminal proceedings, it is
2 unclear whether certain defenses are available, such as, a *Heck* bar or issue preclusion. *See*
3 *Wallace*, 549 U.S. at 393–94 (noting that the question of whether a section 1983 action is barred
4 by *Heck* is more difficult to answer where the plaintiff is facing charges of resisting arrest or
5 similar conduct arising from the same incident he is claiming excessive force, a stay may be
6 appropriate until such time as the underlying criminal proceedings are conducted. “If the plaintiff
7 is ultimately convicted, and if the stayed civil action would impugn that conviction, *Heck* will
8 require dismissal; otherwise, the civil action will proceed, absent some other bar to suit.”)
9 (citation omitted); *see also Vivas v. Cty. of Riverside*, No. EDCV 15-1912-VAP (DTBx), 2016
10 WL 9001020, at *3 (C.D. Cal. Jan. 12, 2016) (staying excessive force case where criminal
11 prosecution for resisting arrest was pending).

12 Judicial efficiency also favors imposition of a stay because Plaintiff’s criminal action
13 involves many of the same facts. Accordingly, the Court will stay this action until Plaintiff’s
14 criminal charges have been resolved.

15 2. *Younger Abstention*

16 Absent extraordinary circumstances, federal courts may not interfere with ongoing state
17 criminal proceedings. *See Younger v. Harris*, 401 U.S. 37, 43–54 (1971); *Sprint Commc’ns, Inc.*
18 *v. Jacobs*, 571 U.S. 69, 77 (2013). A court may consider *sua sponte* whether *Younger* abstention
19 should be invoked at any point in the litigation. *H.C. ex rel. Gordon v. Koppel*, 203 F.3d 610,
20 613 (9th Cir. 2000). Abstention is proper regardless of whether the applicant seeks declaratory
21 relief, injunctive relief, or damages. *See Mann v. Jett*, 781 F.2d 1448, 1449 (9th Cir. 1986)
22 (“When a state criminal prosecution has begun, the *Younger* rule directly bars a declaratory
23 judgment action” as well as a section 1983 action for declaratory relief and damages “where such
24 an action would have a substantially disruptive effect upon ongoing state criminal proceedings.”);
25 *Gilbertson v. Albright*, 381 F.3d 965, 984 (9th Cir. 2004) (en banc) (*Younger* abstention applies to
26 actions for damages as it does to declaratory and injunctive relief).

27 A court may apply a stay under *Younger* when: “(1) the state court proceedings are
28 ongoing; (2) the proceedings implicate important state interests; and (3) the state proceedings

1 provide an adequate opportunity to raise the constitutional claims.” *Escobar v. LASD Male Doe*,
2 No. CV-17-7352-DSF (SP), 2017 WL 7050642, at *2 (C.D. Cal. Nov. 30, 2017) (citing
3 *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423 (1982)).

4 Even if a stay is not warranted under the former analysis, a stay is warranted under
5 *Younger*. A parallel civil action arising from the same facts warrant the same policy
6 considerations under *Younger*. Here, Plaintiff’s criminal case is ongoing and implicates the State
7 of California’s important interest in ensuring the integrity of its criminal justice system. *See Kelly*
8 *v. Robinson*, 479 U.S. 36, 49 (1986) (“the States’ interest in administering their criminal justice
9 systems free from federal interference is one of the most powerful of the considerations that
10 should influence a court considering equitable types of relief.”). Indeed, Plaintiff may raise
11 constitutional issues in the state proceedings. *See Pennzoil Co. v. Texaco*, 481 U.S. 1, 15 (1987)
12 (“a federal court should assume that state procedures will afford an adequate remedy, in the
13 absence of unambiguous authority to the contrary.”). In addition, Plaintiff is seeking damages in
14 this civil action. Accordingly, the principles of judicial comity authorize the Court to stay this
15 action until Plaintiff’s criminal proceedings have concluded.

16 **III. Conclusion and Order**

17 Based on the foregoing, it is HEREBY ORDERED as follows:

- 18 1. Defendant’s motion to stay civil action, (ECF No. 18), is GRANTED;
- 19 2. The instant action is STAYED pending resolution of Plaintiff’s criminal case; and
- 20 3. Defendant shall file a status report within **ninety (90) days** from the date of service of this
21 order, and every **ninety (90) days** thereafter, addressing the status of the criminal
22 proceedings until the criminal proceedings are resolved.

23
24 IT IS SO ORDERED.

25 Dated: January 18, 2023

25 /s/ Barbara A. McAuliffe
26 UNITED STATES MAGISTRATE JUDGE