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7 UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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10 JAMES HENRY FLOURNOY,

No. 2:11-cv-2844-KJM-EFB P

11 Plaintiff,

12 v.

ORDER

13 ERIC MANESS, et al.,

14 Defendants.  
15

16 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42  
17 U.S.C. § 1983. He has submitted a “motion to subpoena and request production of documents  
18 from [non-party] Sheriff Scott Jones of the Sacramento Sheriff’s Dept.” ECF No. 80. In the  
19 motion, plaintiff lists eighteen requests for documents. He states that the Sacramento County  
20 Main Jail is impeding his access to the documents because the Jail has not responded to any of his  
21 written requests.

22 Federal Rule of Civil Procedure 45(a)(3) requires that “[t]he clerk must issue a subpoena,  
23 signed but otherwise in blank, to a party who requests it.” Therefore, the Clerk of the Court will  
24 be directed to send plaintiff a blank subpoena form.

25 Plaintiff is advised that his *in forma pauperis* status does not authorize the expenditure of  
26 public funds for service of subpoenas by the U.S. Marshal. *See* 28 U.S.C. § 1915; *Tedder v.*  
27 *Odel*, 890 F.2d 210, 211-12 (9th Cir. 1989); *Frazier v. Redding Police Dep’t*, No. 2:11-cv-1351-

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1 AC, 2013 U.S. Dist. LEXIS 3568, at \*1-2 (E.D. Cal. Jan. 8, 2013) (“fees/costs associated with  
2 subpoenas not waived based on plaintiff’s in forma pauperis status,” citing *Tedder*).

3 Before issuing a subpoena, the court must ensure that the party serving it takes  
4 “reasonable steps to avoid imposing undue burden or expense on a person subject to the  
5 subpoena.” Fed. R. Civ. P. 45(c)(1). If plaintiff moves to have the U.S. Marshal serve a  
6 subpoena, he must first show that the documents he requests are not equally available to him and  
7 are not obtainable from defendant through a properly served request for production. *See* Fed. R.  
8 Civ. P. 34. If plaintiff can make this showing, then he must submit to the court a completed  
9 subpoena form and the requisite fee. The form must describe the items to be produced with  
10 reasonable particularity and designate a reasonable time, place, and manner for production.  
11 Plaintiff must also explain the relevance of the information sought and describe the burden and  
12 expense to the non-party in providing the requested information.

13 Accordingly, IT IS HEREBY ORDERED that plaintiff’s “motion to subpoena and request  
14 production of documents from [non-party] Sheriff Scott Jones of the Sacramento Sheriff’s Dept.”  
15 (ECF No. 80) is granted to the extent that the Clerk of the Court shall send plaintiff a blank  
16 subpoena form.

17 Dated: June 16, 2015.

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19 EDMUND F. BRENNAN  
20 UNITED STATES MAGISTRATE JUDGE  
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