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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD JONES,  
Plaintiff,  
v.  
C. CLARK, et al.,  
Defendants.

No. 2:14-cv-0987 CKD P

ORDER

In its August 25, 2015 ruling on plaintiff’s motions to compel, the court ordered defendants to submit five investigatory documents for in camera review, as such materials were potentially responsive to plaintiff’s requests. (ECF No. 47.) Based on defendants’ representation that disclosure of these documents could impact institutional safety, the court ordered the documents to be filed under seal. (ECF No. 51.)

Having reviewed these documents in camera and ascertained that they are responsive to plaintiff’s document requests and highly relevant to plaintiff’s claims, the court now considers whether they should be disclosed to plaintiff under a protective order.

“The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P. 26(c)(1). The court has broad discretion to decide when it is appropriate to issue a protective order and the degree of protection required. Phillips ex rel. Estates of Byrd v. General Motors Corp., 307 F.3d

1 1206, 1211 (9th Cir. 2002).

2 The five documents at issue are internal investigative reports concerning the September  
3 25, 2012 incident that is the basis of plaintiff's excessive force claim against defendant Stephens.<sup>1</sup>  
4 (ECF No. 52.) In opposition to plaintiff's motion to compel, defendants submitted the declaration  
5 of D. Azevedo, an Office Assistant to the Litigation Coordinator for Mule Creek State Prison,  
6 who declared in part:

7 7. Investigative and inquiry findings and reports are generally  
8 prepared on the basis of, among other things, interviews with  
9 prisoners and custodial staff, with the understanding that statements  
made in the course of the interviews will remain confidential.

10 ...

11 8. The disclosure of these investigative findings could lead to  
12 witnesses being unwilling, or less willing, to cooperate with  
13 investigators. Witnesses could also be subject to reprisals from  
other inmates based on their statements. Both of these situations  
would have obvious negative impacts on the safety and security of  
the institution.

14 ...

15 13. An inmate's access to an officer's employee records or other  
16 personnel-related information would lead to harassment and  
17 potential safety and security concerns for the staff member  
involved.

18 (ECF No. 42, Ex. A at 13-14.)

19 However, the documents at issue do not name inmate witnesses. Nor do they contain  
20 personnel information more sensitive than is normally disclosed in the course of discovery. Thus  
21 the court concludes that no protective order is warranted and will order the documents produced  
22 to plaintiff as discoverable.

23 ///

24 ///

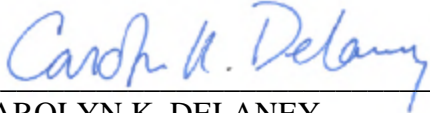
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26 <sup>1</sup> (1) November 30, 2012 Institutional Executive Review Committee Critique and Qualitative  
27 Evaluation; (2) November 30, 2012 IERC Use of Force Review and Further Action  
28 Recommendation; (3) September 25, 2012 Incident Commander's Review/Critique Use of Force  
Incidents; (4) October 2, 2012 Manager's Review – First Level Use of Force Incidents; and (5)  
October 3, 2012 Manager's Review – Second Level Use of Force Incidents. (Id.)

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IT IS HEREBY ORDERED THAT:

1. No later than fourteen days from the date of this order, defendants shall produce the documents filed under seal at ECF No. 52 to plaintiff; and
2. No later than forty-five days from the date of this order, plaintiff shall file an opposition or statement of non-opposition to defendants' motion for summary judgment (ECF No. 44).

Dated: October 7, 2015

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE