



1 On January 22, 2021, the court received plaintiff's second motion to compel as to requests  
2 for production of documents numbers 1, 3 and 11. The remaining defendants are Leatherman,  
3 Roberts and Shearer. Plaintiff's remaining claims arise under the Eighth Amendment and are  
4 based upon allegations of excessive use of force occurring on May 26, 2016. It appears the  
5 parties did meet and confer regarding their discovery dispute.

6 Request for production No. 1 reads as follows:

7 Any and all formal and informal written complaints (including but  
8 not limited to 602 forms) against defendant(s), alleging excessive  
9 force or misconduct in any form (see pages 1-2 instructions), lodged  
10 by any complainant, from the dates of January 2013, til present. (TO  
11 INCLUDED ALL DEFENDANTS NAMED WITHIN THE  
12 INSTANT COMPLAINT)"

13 Defendants initial response to plaintiff's request to produce was as follows:

14 Objection. The request is overbroad as to time. The request is also  
15 not related to the claims or defenses of either party. The request is  
16 potentially overly burdensome as staff would be obligated to search  
17 the central file for every inmate that has ever been housed at  
18 California State Prison, Sacramento in the past six years to verify  
19 whether a grievance of any sort has been raised against them. Lastly,  
20 to the extent there are responsive documents, these documents are  
21 covered by the official information privilege as production may  
22 jeopardize the safety and security of the institution. Based on the  
23 stated objections, and after a diligent search, there are no responsive  
24 documents.

25 Good cause appearing, the court will order that defendants produce to the court, for in  
26 camera review, any documents concerning any actual discipline imposed upon defendants  
27 Leatherman, Roberts or Shearer for excessive use of force or dishonesty. Personally identifiable  
28 information such as Social Security numbers, birthdays, telephone numbers and home addresses  
may be redacted. If there are no such documents, defendants shall so certify in a court filing.

In request 3, plaintiff seeks:

Any and all statements formal and informal made by the defendant  
in regards to any inquiries and/or investigations into the incident that  
allegedly occurred on May 26th of 2016 (Appel # SAC-B-16-01938).

Defendants responded:

After a diligent search, no responsive documents other than those  
covered by the official information could be located and produced.

1 Good cause appearing, the court will order that defendants produce to the court, for in  
2 camera review, any documents detailing any statement made by any defendant concerning the  
3 events at issue in this case including the documents identified in the privilege log attached to  
4 defendants' opposition to plaintiff's motion to compel. Personally identifiable information such  
5 as Social Security numbers, birthdays, telephone numbers and home addresses may be redacted.

6 In request 11, plaintiff seeks:

7 Any and all video recordings, voice recordings or reports, prepared  
8 by two unknown Seargents, on an unknown date following the  
9 incident, in response to the plaintiff's excessive force allegations,  
prepared in response to an interview conducted on such unknown  
date.

10 In response to this request, defendants permitted plaintiff to view a "use of force video."  
11 Plaintiff now asserts he should be given a copy of the video. Plaintiff has not adequately  
12 explained why defendants must make a copy of the video and allow plaintiff to possess it in his  
13 cell or with his property. Accordingly, plaintiff's motion to compel with respect to request 11  
14 will be denied. However, the court expects that plaintiff will be provided with reasonable access  
15 to the video upon request.

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. Plaintiff's motion to compel (ECF No. 38) is granted as follows:

18 A. Within 21 days, defendants shall produce to the court, for in camera review,  
19 any documents concerning any actual discipline imposed upon defendants  
20 Leatherman, Roberts or Shearer for excessive use of force or dishonesty.

21 Personally identifiable information such as Social Security numbers, birthdays,  
22 telephone numbers or home addresses may be redacted. If there are no such  
23 documents, defendants shall so certify in a court filing.

24 B. Within 21 days defendants shall produce to the court, for in camera review, any  
25 documents including or detailing any statement any defendant may have made  
26 concerning the events at issue in this case including the documents identified in the  
27 privilege log attached to defendants' opposition to plaintiff's motion to compel.

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Personally identifiable information such as Social Security numbers, birthdays, telephone numbers and home addresses may be redacted.

2. Plaintiff's motion to compel is denied as to request to produce No. 11.

3. The dates established for the filing of pretrial statements are vacated and will be reset following the court's in camera review of the documents described above.

Dated: May 5, 2021

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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