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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VINCENT KEITH BELL,
Plaintiff,
v.
CITY AND COUNTY OF SAN
FRANCISCO, *et al.*,
Defendants.

Case No. [18-cv-01245-SI](#)
ORDER RE: DISCOVERY
Re: Dkt. No. 79

The parties have submitted a joint discovery letter regarding plaintiff’s requests for “disciplinary histories for sustained or unsustained complaints” filed against defendant deputies and other involved deputies.¹ Defendants state that they have searched for sustained complaints against the named defendants “concerning conduct similar to the conduct alleged here,” as well as dishonesty, going back five years prior to the incident, and that they found no sustained complaints. Dkt. No. 79 at 3.

The current dispute concerns: (1) whether defendants should be required to search for responsive documents earlier than five years prior to the incident, with plaintiff seeking no time limitation on his requests; (2) whether plaintiff may seek unsustained complaints in addition to sustained complaints; (3) whether plaintiff is entitled to documents related to a broader category of complaints, such as complaints about any type of excessive force; and (4) whether defendants must produce records relating to complaints about dishonesty made against three non-defendant officers

¹ Plaintiff’s Request for Production of Documents No. 7 requested “all documents related to the disciplinary history of the involved deputies regarding failure to accommodate disability, misuse of safety cell, excessive force, unlawful cell extraction and dishonesty.” Joint Letter, Ex. A (Dkt. No. 79).

1 “whose statements were used to justify defendants’ actions according to reports: Lt. R. DeGuzman,
2 Deputy Graves, and Deputy Edwards.” Dkt. No. 79 at 1.

3 Defendants object that plaintiff is on a “fishing expedition,” that the documents implicate
4 officers’ privacy interests, and that unfounded complaints, complaints involving non-defendant
5 officers, and complaints older than five years are irrelevant.

6 In civil rights cases, the Court has adopted a balancing test that is moderately pre-weighted
7 in favor of disclosure. *See Kelly v. City of San Jose*, 114 F.R.D. 653, 661 (N.D. Cal. 1987); *see also*
8 *Soto v. City of Concord*, 162 F.R.D. 603, 611 (N.D. Cal. 1995). Under this balancing test, the public
9 interests in favor of disclosure, such as civil rights and justice in individual cases, “clearly outweigh”
10 the public interests in favor of secrecy, such as the privacy rights of officers. *Kelly*, 114 F.R.D. at
11 661. Courts have found that production of personnel records pursuant to a “tightly drawn”
12 protective order sufficiently protect the privacy rights of officers. *See Soto*, 162 F.R.D. at 616-18
13 (citing cases).

14 The Court concludes that plaintiff is entitled to seek the documents at issue because
15 complaints about excessive force, dishonesty, and other conduct similar to the conduct alleged here
16 (e.g., misuse of the safety cell and unlawful cell extraction) could be relevant to plaintiff’s excessive
17 force and disability claims, regardless of the viability of plaintiff’s *Monell* claims.² *See Soto*, 162
18 F.R.D. at 620, 621 (ordering production of complaints, including unfounded complaints, because
19 “[r]ecords of complaints against defendant officers relating to their use of excessive force has been
20 found to be relevant to a plaintiff’s civil rights claim. . . . as such information may be crucial to
21 proving [a] Defendant’s history or pattern of such behavior.”); *Rodriguez v. City of Fontana*, No.
22 EDCV 16-1903-JGB(KKx), 2017 WL 4676261, at *3 (C.D. Cal. Oct. 17, 2017) (“[T]he Court finds
23 complaints and investigations regarding dishonesty could be relevant to Plaintiff’s claims against
24 the Officer Defendants and that complaints and investigations regarding use of force could be
25 relevant to Plaintiff’s claims against defendants Liang and McCoy.”). The Court also finds that any
26 complaints of dishonesty against the three non-defendant officers could be relevant to their

27 _____
28 ² Defendants’ motion to dismiss plaintiff’s *Monell* claims is scheduled for a hearing on
February 12, 2021.

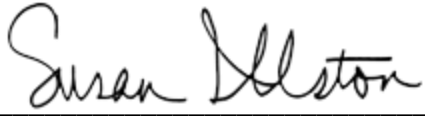
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credibility, and thus those documents are discoverable as well. *See id.*

However, the Court agrees with defendants that a cut-off of five years prior to the incident is reasonable. *See Rodriguez*, 2017 WL 4676261, at *3. In addition, the Court finds that in recognition of the officers’ privacy concerns, defendants may produce the records with personal information, such as a deputy’s address, redacted, and defendants may designate documents as “confidential” or, where appropriate, as “attorneys-eyes only” pursuant to the protective order.

IT IS SO ORDERED.

Dated: January 29, 2021



SUSAN ILLSTON
United States District Judge