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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ESTATE OF LONNIE RUPARD, By and
Through His Successors In-Interest, et al.

Plaintiffs,

v.

COUNTY OF SAN DIEGO, et al.,

Defendants.

Case No.: 23-cv-1357-CAB-BLM

**ORDER GRANTING IN PART AND
DENYING IN PART *EX PARTE* MOTION
FOR LEAVE TO CONDUCT LIMITED
DISCOVERY TO ASCERTAIN "DOE"
DEFENDANTS' IDENTITIES**

Currently before the Court is Plaintiffs' November 10, 2023 *Ex Parte* Motion for Leave to Conduct Limited Discovery to Ascertain "Doe" Defendants' Identities ("Motion"). ECF No. 25. On November 13, 2023, the Court issued a briefing schedule wherein Defendant County of San Diego ("County Defendant") was required to file any opposition to Plaintiffs' Motion on or before November 16, 2023. ECF No. 26. No reply would be accepted. *Id.* On November 16, 2023, Defendant County of San Diego ("County Defendant") filed an opposition to Plaintiff's Motion ("Oppo."). ECF No. 27. On November 21, 2023, the Court issued an order requiring Plaintiff to file a letter brief to explain why Plaintiffs' Motion was not mooted by the filing of their First Amended Complaint ("FAC"), and, if the Motion is not moot, explain what additional information regarding the identities of the Doe Defendants is still necessary. ECF No. 31. Plaintiffs filed their letter brief ("Plaintiffs' Brief") on November 28, 2023 [ECF No. 33], and County Defendant filed its opposition letter brief ("Opposition Brief") on December 1, 2023. ECF No. 34.

1 Having reviewed Plaintiffs' Motion, County Defendant's Oppo., Plaintiffs' Brief, County
2 Defendant's Opposition Brief, and all supporting documents, the Court **GRANTS IN PART** and
3 **DENIES IN PART** the Motion for the reasons set forth below.

4 **RELEVANT BACKGROUND**

5 On July 26, 2023, Plaintiffs, proceeding as successors in interest for their late father
6 ("Decedent"), filed a complaint¹ containing numerous causes of action pursuant to 42 U.S.C. §
7 1983 alleging, *inter alia*, that the Defendants violated their civil rights by allowing the Decedent
8 to die from pneumonia, malnutrition, and dehydration while incarcerated in Defendants' facility.
9 Motion at 2; see also ECF No. 1 at ¶¶ 37-75. In their complaint, Plaintiffs also allege causes of
10 action for wrongful death, dependent adult neglect, violation of Cal. Gov. Code § 52.1 (Bane
11 Act), Cal. Gov. Code § 845.6 (Failure to Summon Medical Care), negligence, and negligent
12 training and supervision. Motion at 2; ECF No. 1 at ¶¶ 108, 116-122, 165, 179-180, 183-191.
13 On October 4, 2023, Defendants County of San Diego, Bill Gore, Barbara Lee, Kelly Martinez,
14 and Jon Montgomery filed a Motion to Dismiss Plaintiffs' complaint for failure to state a claim
15 pursuant to Fed. R. Civ. Proc. 12(b). ECF Nos. 20, 21. On November 10, 2023, Plaintiffs filed the
16 instant Motion. ECF No. 25. On November 21, 2023, Plaintiffs filed a First Amended Complaint
17 ("FAC") alleging the same causes of action contained in Plaintiffs' original complaint. ECF No.
18 30.

19 **LEGAL STANDARD**

20 A party is generally not permitted to obtain discovery before the parties have conferred
21 pursuant to Federal Rule of Civil Procedure 26(f). Fed. R. Civ. P. 26(d)(1) ("A party may not seek
22 discovery from any source before the parties have conferred as required by Rule 26(f), except
23 [...] by stipulation, or by court order."). However, courts have made exceptions to allow limited
24 early discovery when there is good cause. Rovio Entm't Ltd. v. Royal Plush Toys, Inc., 907
25 F.Supp.2d 1086, 1099 (N.D. Cal. 2012) ("In the Ninth Circuit, courts use the good cause standard
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27 ¹ On July 26, 2023, Plaintiffs filed their original complaint. ECF No. 1. On November 21, 2023,
28 Plaintiffs filed their FAC. ECF No. 30. Though the instant Motion was filed before the FAC, the
Court will consider the operative FAC in its analysis.

1 to determine whether discovery should be allowed to proceed prior to a Rule 26(f) conference.”).
2 Good cause exists “where the need for expedited discovery, in consideration of the
3 administration of justice, outweighs the prejudice to the responding party.” Semitool, Inc. v.
4 Tokyo Electron Am., Inc., 208 F.R.D. 273, 276 (N.D. Cal. 2002). In determining whether a party
5 has shown good cause to grant expedited discovery, courts “commonly consider[]” the following
6 non-exhaustive factors: “(1) whether a preliminary injunction is pending; (2) the breadth of the
7 discovery requests; (3) the purpose for requesting the expedited discovery; (4) the burden on
8 the defendants to comply with the requests; and (5) how far in advance of the typical discovery
9 process the request was made.” Am. LegalNet, Inc. v. Davis, 673 F.Supp.2d 1063, 1067 (C.D.
10 Cal. 2009) (internal quotation omitted); see, e.g., Synopsys, Inc. v. AzurEngine Techs., Inc.,
11 401 F.Supp.3d 1068, 1076–77 (S.D. Cal. 2019) (applying the same factors); Palermo v.
12 Underground Solutions, Inc., No. 12cv1223-WQH-BLM, 2012 WL 2106228, at *2 (S.D. Cal. June
13 11, 2012) (same).

14 Consistent with this generally recognized exception to Rule 26(f), the Ninth Circuit has
15 held that “ ‘where the identity of the alleged defendant[] [is] not [] known prior to the filing of
16 a complaint[,] the plaintiff should be given an opportunity through discovery to identify the
17 unknown defendants, unless it is clear that discovery would not uncover the identities, or that
18 the complaint would be dismissed on other grounds.’ ” Wakefield v. Thompson, 177 F.3d 1160,
19 1163 (9th Cir. 1999) (brackets in original) (quoting Gillespie v. Civiletti, 629 F.2d 637, 642 (9th
20 Cir. 1980)). Thus, in cases where plaintiffs are seeking to learn the identity of Doe defendants
21 through early discovery, courts examine whether the plaintiff (1) identifies the Doe defendant
22 with sufficient specificity so that the court can determine that the defendant is a real person or
23 entity who can be sued in federal court; (2) describes all previous steps taken to identify and
24 locate the defendant; (3) establishes that the suit could withstand a motion to dismiss; and (4)
25 establishes that the discovery requested is likely to lead to identifying information about the
26 defendant that will permit service of process. Columbia Ins. Co. v. Seescandy.com, 185 F.R.D.
27 573, 577 (N.D. Cal. 1999). These factors are considered to ensure the expedited discovery
28 procedure “will only be employed in cases where the plaintiff has in good faith exhausted

1 traditional avenues for identifying a civil defendant pre-service, and will prevent use of this
2 method to harass or intimidate.” Id.

3 **PLAINTIFFS’ POSITION**

4 In Plaintiffs’ FAC, they identify pseudonymously named Doe defendants to preserve their
5 claims against them, alleged in three distinct categories:

6 Defendant Medical Providers Does 1-10 (hereinafter “Doe Medical Providers”) are
7 all County employees, agents, or contractors working within the Sheriff’s
8 Department Medical Services Division who were responsible for [Decedent]’s
9 medical care, including follow-up assessments and referrals for further treatment,
10 whether or not they actually provided [Decedent] with any medical care. Doe
11 Medical Providers include all Qualified Mental Health Providers. Doe Medical
12 Providers were acting under color of law and within the scope of their employment
13 at all times relevant to the events described in this Complaint.

14 FAC at ¶ 32.

15 Defendant Deputy Does 1-10 are all Sheriff’s Department deputies who were
16 responsible for summoning medical or mental health care, observing any audio or
17 video monitors, or conducting wellness or safety checks on [Decedent] in any
18 housing unit in which [Decedent] was housed leading up to his death on March
19 17, 2022, including but not limited to deputies in the housing unit “7D” or Module
20 D on the seventh floor.

21 FAC at ¶ 42.

22 Defendant Deputy Supervisor Does 1-10 (hereinafter “Doe Deputy Supervisors”) are
23 Sheriff’s Department deputies who were responsible for training and
24 supervising Doe Deputies.

25 FAC at ¶ 44.

26 Plaintiffs seek the Court’s leave to conduct early limited discovery to identify Doe
27 Defendants as “Plaintiffs have been unable to identify all of those involved with [Decedent]’s
28 care – or lack thereof – at the County Jail.” Motion at 2; see also Plaintiffs’ Brief at 1 ¶ 3. Plaintiffs
request expedited limited discovery as it is “directly responsive to identifying the particular DOE
defendants set forth in the FAC who are unable to be identified” and “it is anticipated that the
County Defendants will seek to dismiss/strike the DOE defendant allegations from the FAC[.]”
Plaintiffs’ Brief at 2 ¶ 2. Further, they argue that “[a]bsent early discovery, Plaintiffs would also
not likely have access to the identities of DOE defendants until after the two-year anniversary
of [Decedent]’s death” such that the statute of limitations may expire prior to Plaintiff

1 ascertaining their identities.² Id. Plaintiffs argue they are entitled to discovery regarding the
2 identities of the Doe Defendants to “preserve their rights” as this request is analogous to other
3 Ninth Circuit precedents where the court granted early limited discovery to identify John Doe
4 defendants when a motion to dismiss a plaintiff’s claims is pending. Motion at 5, 10; see Plaintiffs’
5 Brief at 3 ¶ 2. Plaintiffs indicate that County Defendant has failed to provide “individual names
6 of those involved in responses to record requests or in response to Plaintiff’s government claim
7 under the California Tort Claims Act.” Motion at 5, 10. Moreover, Plaintiffs state that the County
8 Defendant did not release the identities of individuals involved with Decedent’s care “in Sheriff’s
9 Department press releases” or “the Sheriff’s Critical Incident Review Board In-Custody
10 Information release regarding [Decedent]’s death.” Id. at 3. Plaintiffs also indicate that the
11 Medical Examiner’s autopsy report, which determined the manner of death to be a homicide due
12 to neglect, did not state the names of any individuals responsible for the Decedent’s care. Id.
13 Plaintiff claims that County Defendant refused to provide the names of individuals sought in the
14 instant Motion despite the parties meeting and conferring on this issue. Id. at 4; see ECF No.
15 25-1 (“Lowe Decl.”).

16 **COUNTY DEFENDANT’S POSITION**

17 First, County Defendant argues that “[i]f the true identity of any of the Doe Defendants
18 comes to light during discovery, Plaintiffs could move to substitute the true names of Doe
19 Defendants.” Opposition Brief at 2 ¶ 2. Similarly, they contend that California’s procedure
20 regarding the statute of limitations as to the Doe defendants would relate back to the original
21 filing of the complaint. Id. at ¶ 3. Next, County Defendant argues that Plaintiffs have named all
22 Doe Medical Defendants in their FAC so no expedited limited discovery should be allowed to
23 ascertain their identities. Id. at 3 ¶ 2. County Defendants further argue that Plaintiff’s discovery
24 regarding the Doe Deputies and Doe Deputy Supervisors is “not narrowly tailored to the
25 identities of the Doe Deputy Supervisors and Doe Deputies, times, and places per the allegations
26 of the FAC.” Opposition Brief at ¶ 4; see also Oppo. at 11-12. County Defendant further argues
27

28 ² Plaintiffs do not concede that the statute of limitations started to run on March 17, 2022.

1 that the burden to comply with the requested discovery “would be substantial.” Oppo. at 15.
2 County Defendant asserts that the suggested discovery requests, among other arguments, ask
3 about legal contentions and facts subject to dispute, are unrelated to the issue of whether
4 Plaintiffs have adequately pled their claims, and that some of the information and documents
5 they request must be sought from another entity who is wholly separate from County Defendant.
6 Id. at 11-13. County Defendant also argues that the need for the expedited discovery does not
7 outweigh the prejudice to the County should the Motion be granted. Id. at 15. Finally, they argue
8 that the Motion is moot due to Plaintiffs’ filing of the FAC. Opposition Brief at 4 ¶ 4.

9 **DISCUSSION**

10 To determine whether good cause exists for early discovery, courts generally consider
11 the following: “(1) whether a preliminary injunction is pending; (2) the breadth of the discovery
12 requests; (3) the purpose for requesting the expedited discovery; (4) the burden on the
13 defendants to comply with the requests; and (5) how far in advance of the typical discovery
14 process the request was made.” Am. LegalNet, 673 F.Supp.2d at 1067 (internal quotation
15 omitted). Here, the Court finds that three of the five factors clearly support early discovery. First,
16 there is no preliminary injunction pending in this case so the first factor weighs against early
17 discovery. See Docket. Second, as discussed in greater detail below, the Court finds that some
18 of Plaintiffs’ proposed discovery requests are narrowly tailored and will be served for the
19 legitimate purpose of identifying unnamed Doe Defendants before the statute of limitations may
20 run and to add them to the operative complaint. Next, the Court is persuaded that County
21 Defendant readily has the information sought in their possession as “[t]he County directed
22 and/or participated in multiple investigations regarding [Decedent]’s death.” Motion at 9. For
23 example, the Sheriff’s Homicide Unit was required to investigate the Decedent’s death and the
24 Medical Examiner’s Department investigated his death. Id. The County does not provide any
25 clear explanation as to why providing this information would be a burden aside from stating,
26 “[i]f the Court grants the ex parte relief, the burden on the County to comply [] would be
27 substantial.” Oppo. at 15. Also, the Plaintiffs’ requests are not made significantly in advance of
28 the discovery process, but do come before any Defendant has answered Plaintiffs’ FAC.

1 However, County Defendant has already responded to Plaintiff's complaint by filing a motion to
2 dismiss [ECF Nos. 20, 21], opposed this Motion [ECF No. 27], and filed an *ex parte* motion for
3 extension of time to respond to Plaintiffs' FAC [ECF No. 35]. Thus, the Court finds the final factor
4 is neutral. Accordingly, the Court finds good cause exists for limited early discovery.

5 The second issue is whether there is good cause for expedited discovery for the specific
6 purpose of ascertaining the identities of the Doe Defendants. In this analysis, the Court will
7 consider whether Plaintiffs (1) identify the Doe Defendants with sufficient specificity so that the
8 Court can determine that the defendant is a real person or entity who can be sued in federal
9 court; (2) describe all previous steps taken to identify and locate the defendants; (3) establish
10 that the suit could withstand a motion to dismiss; and (4) establish that the discovery requested
11 is likely to lead to identifying information about the defendants that will permit service of
12 process. See Columbia Ins. Co., 185 F.R.D. at 578–80

13 **a. Identification of Doe Defendant with Sufficient Specificity**

14 First, Plaintiff must identify the Doe defendant with sufficient specificity to enable the
15 Court to determine that the Doe defendant is a real person subject to the Court's jurisdiction.
16 Columbia Ins. Co., 185 F.R.D. at 578.

17 District Courts have found that a plaintiff may satisfy the first factor by demonstrating
18 that the operative complaint details sufficient allegations of the events and individuals whom a
19 plaintiff seeks to identify. See e.g., Coreno v. Hiles, 2010 WL 2404395, at *3 (S.D. Cal., June
20 14, 2010) (the plaintiff satisfied the first factor by including detailed allegations against the Doe
21 Defendants in the operative complaint); see also Raiser v. San Diego County, 2019 WL 4675773,
22 (S.D. Cal., Sep. 25, 2019) (finding that the plaintiff satisfied the first factor by sufficiently
23 identifying the times, dates, and locations of the unlawful actions in the operative complaint).

24 Plaintiff argues that "[t]he Complaint [] alleges all of the details that the County would
25 need to identify the defendants - [Decedent]'s identity, the jail [Decedent] was booked into, the
26 date of his booking, the date of his death, and his housing locations within the jail according to
27 the Medical Examiner's report[.]" Motion at 6. Defendant does not address this issue. See Oppo;
28 see also Opposition Brief.

1 Here, Plaintiffs' FAC describes the unidentified Doe Defendants' respective positions
2 within the jail with specificity in paragraphs 32, and 42 through 44. FAC at ¶¶ 32, 42-44. In
3 paragraph 32, Plaintiffs allege that "Defendant Medical Providers Does 1-10[] are all County
4 employees, agents, or contractors working within the Sheriff's Department Medical Services
5 Division who were responsible for [Decedent]'s medical care." Id. at ¶ 32. In paragraphs 42, the
6 Plaintiffs allege that:

7 Defendant Deputy Does 1-10 are all Sheriff's Department deputies who were
8 responsible for summoning medical or mental health care, observing any audio or
9 video monitors, or conducting wellness or safety checks on [Decedent] [] leading
up to his death on March 17, 2022, including but not limited to deputies in the
housing unit '7D' or Module D on the seventh floor.

10 Id. at ¶ 42.

11 Plaintiffs further allege in their FAC that "Defendant Deputy Supervisor Does 1-10[] are
12 Sheriff's Department deputies who were responsible for training and supervising Doe Deputies."
13 Id. at ¶ 44. The FAC also makes clear that the Decedent was under the care of Doe Defendants
14 between December 19, 2021, the date of his arrest, and March 17, 2022, the date of his death.
15 Id. at ¶¶ 49-55. The Court finds that the Plaintiffs have sufficiently alleged the times, dates, and
16 locations of the Doe Defendants. Accordingly, the Court finds that Plaintiffs have sufficiently
17 identified the Doe Defendants for the purpose of this analysis. See Estate of Schuck v. County
18 of San Diego, 2023 WL 4055705, at *4 (S.D. Cal. June 16, 2023) (finding that the Plaintiff had
19 established the first factor by describing the Doe Defendants with sufficient specificity that they
20 may be identified and served by referencing the dates and locations of the incidents); see also
21 Raiser v. San Diego County, 2019 WL 4675773, (S.D. Cal., Sep. 25, 2019) (finding that the
22 plaintiff satisfied the first factor by sufficiently identifying the times, dates, and locations of the
23 unlawful actions in the operative complaint).

24 **b. Previous Attempts to Locate Defendant**

25 Second, Plaintiff must describe all prior attempts it has made to identify the Doe
26 defendant in a good faith effort to locate and serve them. Columbia Ins. Co., 185 F.R.D. at 579.
27 Plaintiffs indicate they have been unable to identify all of those involved with the Decedent's
28 care but have been "diligent" in their efforts to identify them. Motion at 6. Plaintiffs state that

1 “[w]hile the Sheriff’s Department produced some medical records in response to Plaintiff’s
2 [records] request, it did not produce any audio and video recordings of [Decedent] while in the
3 County Jail, as well as any information regarding personnel responsible for performing rounds[]
4 [and] checking on [Decedent].” Id. at 6. Plaintiffs further indicate that “none of the reports or
5 press releases publicly issued by the County, the Sherrif’s Department, or the Medical Examiner
6 contain the identities of those responsible[.]” Id. Counsel for Plaintiffs also contacted counsel
7 for Defendant to request a stipulation for limited discovery, but counsel for Defendant declined.
8 Id.; see also Lowe Decl. at ¶¶ 4-5. Accordingly, the Court finds that Plaintiff has made a good-
9 faith effort to identify and locate the Doe defendants before filing the instant application. See
10 Raiser, 2019 WL 4675773, at *2 (S.D. Cal., Sep. 25, 2019) (plaintiff made a good faith effort to
11 identify the unnamed deputies when he contacted the clerk in the Records Department of the
12 San Diego County Sheriff).

13 **c. Ability to Withstand a Motion to Dismiss**

14 Plaintiff must establish that its lawsuit can withstand a motion to dismiss. See Columbia
15 Ins. Co., 185 F.R.D. at 579. The Court is persuaded that Plaintiffs’ allegations against the Doe
16 Defendants could withstand a motion to dismiss as they “contain sufficient factual matter,
17 accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556
18 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). County
19 Defendant argues that Plaintiffs’ claims could not survive a motion to dismiss. Oppo. at 13. The
20 County relies on Keavney v. County of San Diego, No. 3:19cv1947-AJB-BGS, 2020 WL 4192286,
21 at *4-5 (S.D. Cal. July 20, 2020) for the proposition that, to withstand a motion to dismiss, a
22 plaintiff must allege specific facts regarding how each doe defendant violated his rights. Id.
23 However, Keavney is distinguishable from this case as the court in that case *sua sponte*
24 dismissed claims against doe defendants pursuant to *in forma pauperis* screening because
25 plaintiff “fail[ed] to even minimally explain how any of the unidentified parties he seeks to sue
26 personally caused a violation of his constitutional rights.” Keavney, 2020 WL 4192286 at *4-5.
27 County Defendant also relies on Estate of Schuck v. County of San Diego, No. 3:23cv785-DMS-
28 AHG, 2023 WL 4055705, at *4 (S.D. Cal. June 16, 2023) for the proposition that Plaintiffs must

1 allege that “there were specific allegations relating to the Doe Deputy Supervisors and Doe
2 Deputies’ wrongdoing contained in the complaint.” Opposition Brief at 4 fn. 3. However, the
3 court in Estate of Schuck, found that

4 Plaintiffs' groupings are [] descriptive enough to withstand a motion to dismiss.
5 For example, Plaintiffs allege that one group of Doe Deputies were those ‘who
6 were responsible for transporting Hayden to and from court, holding cells, and
7 transportation vehicles on March 15, 2022,’ and another group of Doe Deputies
8 were those ‘who were responsible for summoning medical or mental health care,
observing any audio or video monitors, or conducting wellness or safety checks on
Hayden in any housing unit in which Hayden was housed from March 10, 2022 to
March 16, 2022.’

9 Estate of Schuck, 2023 WL 4055705, at *4.

10 Here, the Court finds that Plaintiffs’ groupings are likewise descriptive enough to
11 withstand a motion to dismiss.³ For example, Plaintiff alleges that one group of Doe Defendants
12 are “Medical Providers [who] are all County employees, agents, or contractors working within
13 the Sheriff’s Department Medical Services Division who were responsible for [] follow-up
14 assessments and referrals for further treatment[.]” FAC at ¶ 32. Similarly, Plaintiffs allege that
15 another group of Doe Defendants “all Sheriff’s Department deputies who were responsible for
16 summoning medical or mental health care, observing any audio or video monitors, or conducting
17 wellness or safety checks [] in any housing unit in which [Decedent] was housed leading up to
18 his death on March 17, 2022, including [] deputies in the housing unit “7D” or Module D on the
19 seventh floor.” Id. at ¶ 42. Plaintiffs allege that Doe Deputy Supervisors were those who were
20 responsible for training and supervising the Doe Deputies. Id. at 44. Plaintiffs also point to
21 specific events undertaken by the Doe Deputies. Compare Keavney, 2020 WL 4192286 at *4-5;
22 with FAC at ¶ 76-78 (a February 9, 2022 report by deputies on the 7th floor reported that
23 Decedent spoke to himself and, despite “[Decedent]’s psychotic presentation, obvious weight
24 loss and overall physical health, he was not referred by [] Medical Provider Does 1-10 to be
25 assessed by a medical doctor.”); id at ¶ 188 (Doe Defendants failed to summon medical care in

26
27 ³ The Court notes that it is not prejudging or prohibiting a motion to dismiss that may be filed
28 by any Defendant. The Court is simply finding that for this analysis, the FAC may (not will) be
able to withstand a motion to dismiss.

1 the face of obvious signs that [Decedent]'s health was deteriorating, including, Decedent
2 rambling incoherently, having an unkept and dirty appearance, and his cell containing
3 contaminated food with larvae); *id* at ¶ 102 (Doe Defendants failed to check on [Decedent] in
4 the days leading up to his death).

5 Accordingly, the Court finds that the Plaintiffs have "made some showing that an act
6 giving rise to civil liability actually occurred." *Columbia Ins. Co.*, 185 F.R.D. at 580.

7 **d. Proposed Discovery Requests**

8 Plaintiffs seek permission to propound limited Requests for Production of Documents and
9 Special Interrogatories. Motion at 7; *see also* Plaintiffs' Brief at 4 ¶ 1. Plaintiffs argue that the
10 requests are "narrowly tailored requests for production and special interrogatories geared at
11 identifying the Doe defendants described in the Complaint[.]" Motion at 7.

12 "Courts have indicated that 'some limiting principals should apply to the determination of
13 whether discovery to uncover the identity of a defendant is warranted.'" *Raiser*, 2019 WL
14 4675773, at *1 (S.D. Cal., Sep. 25, 2019) (quoting *Columbia*, 185 F.R.D. 573, 578 (N.D. Cal.
15 1999)). Early discovery should be limited to "ensure that this unusual procedure will only be
16 employed in cases where the plaintiff has in good faith exhausted traditional avenues for
17 identifying a civil defendant pre-service and will prevent use of this method to harass or
18 intimidate." *Id.*

19 **1. Requests for Production of Documents**

20 Plaintiffs wish to propound the following Requests for Production of Documents on County
21 Defendant:

22 **Request for Production No. 1:** Any and all information provided to CLERB
23 [Citizens' Law Enforcement Review Board] responsive to their death investigation
of Lonnie Rupard, Case #22-031.

24 **Request for Production No. 2:** Any and all documents regarding the County
25 Medical Examiner's investigation into Rupard's death that ultimately led to the
determination that the manner of death was a homicide.

26 **Request for Production No. 3:** Any and all video surveillance of Lonnie Rupard
27 in the 72 hours leading up to his death.

28 **Request for Production No. 4:** Any and all audio recordings of Lonnie Rupard
in the 72 hours leading up to his death.

1 Motion at 7-8.

2 Plaintiff does not address in their Motion how or why these requests for production are
3 narrowly tailored to identify the Doe Defendants in their Motion. See Motion. County Defendant
4 argues that “CLERB is independent from the County” and “[s]uch records should be subpoenaed
5 from CLERB under the Rule 45 process.” Oppo. at 11. Further, County Defendant argues that
6 Request for Production No. 2 should not be allowed as “Plaintiffs [] are already in possession of
7 the Medical Examiner’s records.” Id. Finally, regarding Requests for Production Nos. 3 and 4,
8 County Defendant argues they are unrelated to the issue of identifying Doe Defendants for
9 purposes of opposing Defendant’s motion to dismiss. Id. at 11-12.

10 The Court finds that the first two requests for production of documents are overbroad
11 and not narrowly tailored to determine the identities of the Doe Defendants. The Court also
12 notes that Plaintiffs have not established that they cannot obtain the CLERB information by other
13 means or that information identifying the Doe Defendants would be found within the CLERB
14 documents. Similarly, Plaintiffs admit that they have received a variety of medical records and
15 reports and Defendants claim that Plaintiffs have received all of the Medical Examiner’s records
16 so Plaintiffs have not established that there are missing records or that the requested records
17 will identify the remaining Doe Defendants. With regards to the fourth request, Plaintiffs have
18 not established how the requested audio recordings will help identify the Doe Defendants as it
19 is unlikely Plaintiffs will recognize voices and Plaintiffs do not explain why the recordings would
20 contain identifying information. While the requests for production likely would produce relevant
21 information about Plaintiffs’ claims, the Court finds them to be overbroad and not suited for
22 early limited discovery regarding the identities of the Doe Defendants. See Raiser, 2019 WL
23 4675773, at *1 (S.D. Cal., Sep. 25, 2019) (quoting Columbia, 185 F.R.D. 573, 578 (N.D. Cal.
24 1999)). Accordingly, the Court **DENIES** Plaintiffs’ request to propound Requests for Production
25 of Documents Nos. 1, 2, and 4 on County Defendant.

26 The Court finds that the third request is narrowly tailored to obtain identifying
27 information. Plaintiffs allege that decedent was seen by a court-ordered psychiatrist on March
28 14, 2022, who noted significant mental illness symptoms and unsanitary cell conditions. FAC at

1 ¶¶ 91-100; *Oppo*. at 7-8. Decedent was found unresponsive in his bunk on March 17, 2022. *Id.*
2 at ¶ 48. As a result, the requested video, if it exists, may contain images of Defendant Deputy
3 Does. Accordingly, the Court **GRANTS** Plaintiffs' request to propound Request for Production of
4 Documents No. 3.

5 **2. Special Interrogatories**

6 Plaintiffs also seek to propound the following Special Interrogatories on County
7 Defendant:

8 **Special Interrogatory No. 1:** Identify the Sheriff's Department deputies whose
9 duties included summoning medical or mental healthcare, observing any audio or
10 video monitors, and/or conducting wellness or safety checks on Rupard in any
11 housing unit at the San Diego County Jail in which Rupard was housed from March
12 14, 2022 through March 17, 2022.

13 **Special Interrogatory No. 2:** Identify the Sheriff's Department deputies who
14 worked shifts in housing unit "7D" of "Module D" on the seventh floor from March
15 14, 2022, through March 17, 2022.

16 **Special Interrogatory No. 3:** Identify the Sheriff's Department deputies who
17 were responsible for training all deputies identified in Special Interrogatories 1-40.

18 **Special Interrogatory No. 4:** Identify the Sheriff's Department deputies who
19 were responsible for supervising all deputies identified in Special Interrogatories
20 1-40.

21 **Special Interrogatory No. 5:** Identify the County employees, agents, or
22 contractors working within the Sheriff's Department Medical Services Division from
23 December 19, 2021 to March 17, 2022 who were responsible for Rupard's medical
24 care, including follow-up assessments and referrals for further treatment, whether
25 or not they actually provided Rupard with any medical care.

26 Motion at 8.

27 Plaintiffs generally argue that the requests are "narrowly tailored." *Id.* County Defendant
28 argues that all these Special Interrogatories "ask County [Defendant] about legal contentions
and facts subject to dispute at this juncture" and "[t]he information [they] seek is unrelated to
the issue of whether Plaintiffs have adequately pled their claims[.]" *Oppo*. at 12.

The Court finds that Plaintiffs' requested Special Interrogatory Nos. 1 and 2 are narrowly
tailored and would not create an undue burden on Defendants. First, the Special Interrogatories
are narrowly tailored as to time as they seek information for the day Decedent died and the
three preceding days. Second, contrary to Defendant's arguments, they do not seek legal

1 conclusions. They merely seek the identity of deputies who had specific duties or who worked
2 in Decedent’s housing unit. Third, the requests are narrowly tailored to obtain identifying
3 information.

4 Special Interrogatory Nos. 3 and 4 are overbroad as they seek the identities of deputies
5 who trained or supervised other deputies identified in “Special Interrogatories 1-40.” Motion at
6 8. Plaintiffs do not provide the referenced 40 interrogatories nor the County’s response to the
7 40 interrogatories. See Motion; Plaintiffs’ Brief. The Court therefore finds these requests are not
8 narrowly tailored and **DENIES** Plaintiffs’ request to serve them.

9 In Special Interrogatory No. 5, Plaintiffs ask County Defendant who was responsible for
10 Decedent’s medical care for the entire three months he was in custody. Motion at 8. Plaintiffs
11 acknowledge that they received medical records [Plaintiffs’ Brief at 3] and the FAC includes the
12 identities of medical providers. FAC at ¶¶ 34-35, 37-40. Plaintiffs do not explain why the medical
13 records are insufficient nor why they cannot use the medical records to narrowly tailor this
14 request (for example, requesting the identity of the person who treated or refused to treat
15 Decedent on a specific date). Instead, Plaintiffs’ request asks County Defendant to determine
16 who was “responsible” for Decedent’s care for a three-month period and then to provide the
17 name of every such person. The Court finds this request is not narrowly tailored to obtain the
18 identities of unknown Doe Defendants and therefore **DENIES** the request to propound it.

19 **e. Prejudice to the Responding Party**

20 Lastly, the Court will consider whether “the need for expedited discovery, in consideration
21 of the administration of justice, outweighs the prejudice to the responding party.” Semitool, 208
22 F.R.D. at 276. The Court finds that the prejudice to County Defendant is minimal for the single
23 Request for Production of Documents and two Special Interrogatories authorized by the Court.
24 The permitted requests are narrowly tailored and County Defendant will not be unduly burdened
25 to respond to them. The Court also finds that the potential harm to Plaintiffs of being unable to
26 preserve their rights and bring claims in this matter outweighs the County's concern for the
27 unnamed defendants' privacy. See Estate of Schuck, 2023 WL 4055705, at *5 (the plaintiff’s
28 need to preserve its rights and bring claims outweighed unnamed defendants’ concern for

1 privacy). Therefore, the balancing test supports the conclusion that Plaintiffs' motion should be
2 granted as set forth in this order.

3 **CONCLUSION**

4 Having found good cause for Plaintiffs to conduct limited expedited discovery to ascertain
5 the identity of the Doe Defendants named in Plaintiffs' FAC, the Court **GRANTS IN PART** and
6 **DENIES IN PART** Plaintiffs' motion for leave to conduct limited discovery. For the foregoing
7 reasons, it is hereby ordered that:

8 1. On or before **December 15, 2023**, Plaintiffs must serve Request for Production
9 of Documents, No. 3 and Special Interrogatories, Nos. 1-2 on County Defendant in accordance
10 with this order. Plaintiffs may not serve any additional discovery requests.

11 2. County Defendant must serve its responses to the requests on or before **January**
12 **5, 2024**.

13 **IT IS SO ORDERED.**

14 Dated: 12/12/2023

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16 Hon. Barbara L. Major
17 United States Magistrate Judge
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