

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ANTHONY KINGSBERRY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 07-cv-00118-DGW
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

ORDER

On June 2, 2011, the Court held a hearing on a Motion to Compel Discovery (Doc. 66) filed by Plaintiff Anthony Kingsberry. Jennifer Baumann appeared on behalf of Plaintiff. Laura Jones appeared on behalf of Defendants. Mark McGuire appeared on behalf of the Federal Bureau of Prisons. Having reviewed the documents *in camera*, the Court **ORDERS** the following:

NATURE OF THE RECORD	BATES NO.	PRIVILEGE ASSERTED BY DEFENDANTS	RULING
Office of Internal Affairs (OIA Report) Special Investigative Supervisor's Officer Report	588-598	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Docs. 588-597 shall be produced.</p> <p>None of the privileges apply.</p> <p>These documents do not refer to pre-decisional or deliberative matters; do not disclose law enforcement techniques and procedures; nor are the individual's privacy rights impacted.</p> <p>Doc. 598 is shall not be produced as it is</p>

			protected by the Law Enforcement privilege, Deliberative Process privilege and Privacy Act
OIA Report Office of Inspector General and list of witnesses	599-601	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>These documents do not refer to pre-decisional or deliberative matters; do not disclose law enforcement techniques and procedures; nor are the individual's privacy rights impacted as the witness's name has already been redacted.</p>
OIA Report "Authorization to Conduct a Local Investigation into alleged Staff Misconduct" and "Warning and Assurance to Employee Required to Provide Information"	602-603	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall not be produced.</p> <p>The documents are protected by the Law Enforcement Privilege.</p>
OIA Report "Warning & Assurance to Employee Required to Provide Information"	608	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>This document does not refer to pre-decisional or deliberative matters; does not disclose law enforcement techniques and procedures; nor is the individual's privacy rights</p>

			impacted.
OIA Report “Warning & Assurance to Employee Required to Provide Information”	612	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. This document does not refer to pre- decisional or deliberative matters; does not disclose law enforcement techniques and procedures; nor is the individual’s privacy rights impacted.
OIA Report Affidavit	618-619	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act
OIA Report Affidavit	622	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act
OIA Report “Warning & Assurance to Employee Required to Provide Information”	623	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. This document does not refer to pre- decisional or deliberative matters; does not disclose law enforcement techniques and procedures; nor is

			the individual's privacy rights impacted.
OIA Report Affidavit of James Hundt	624-625	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>
OIA Report "Warning & Assurance to Employee Required to Provide Information"	626	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>This document does not refer to pre-decisional or deliberative matters; does not disclose law enforcement techniques and procedures; nor is the individual's privacy rights impacted.</p>
OIA Report Wendall Brown Affidavit	627-628	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>

OIA Report “Warning & Assurance to Employee Required to Provide Information”	629	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. This document does not refer to pre- decisional or deliberative matters; does not disclose law enforcement. techniques and procedures; nor is the individual’s privacy rights impacted.
OIA Report- 2 nd page of Jaimet’s Affidavit	630	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
OIA Report- 1 & 3 page of Jaimet’s Affidavit	631-632	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
Tort Claim Investigation Memorandum for D. Schivone, Captain, re tort	633	Law Enforcement Privilege, Deliberative Process	Shall not be produced.

claim		Privilege, Privacy Act	This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act
Tort Claim Investigation for Daryl Kosiak, Regional Counsel for tort claim	638-639	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act, Attorney-Client Privilege and Work Product Doctrine	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act, Attorney-Client Privilege and Work Product Doctrine.
SIS Report – Report of Incident	674-677	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. Information regarding gang affiliation and separation/ CIMS category shall be redacted.
SIS Report- After-Action Review Report/Use of Force/Restraints/Chemical Agents/Non-lethal weapons	678	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. Information regarding gang affiliation and separation/ CIMS category shall be redacted.
SIS Report of Incident	700-703	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. Information regarding gang affiliation and separation/CIMS

			category shall be redacted.
SIS Report- After-Action Review Report/Use of Force/Restraints/Chemical Agents/Non-Lethal Weapons	704	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>Information regarding gang affiliation and separation/ CIMS category shall be redacted.</p>
Tort Claim Investigation Memorandum for Daryl Kosiak, Regional Counsel	709-710	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act, Attorney-Client Privilege and Work Product Doctrine	<p>Shall not be produced.</p> <p>This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act, Attorney-Client Privilege and Work Product Doctrine.</p>
Tort Claim Investigation Memo for D. Schiavone	711	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act, Attorney-Client Privilege and Work Product Doctrine	<p>Shall not be produced.</p> <p>This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act, Attorney-Client Privilege and Work Product Doctrine.</p>
OIA Report-Memorandum for D. Smith (729) Report of Incident (730-732)	729-732	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Doc. 729 shall not be produced as it is protected by the Law Enforcement Privilege, Deliberative Process Privilege and the Privacy Act.</p> <p>Docs. 730-732 shall be produced with gang affiliations and</p>

			separation information/CIMS category shall be redacted.
Referral of Incident to Office of Internal Affairs	733-734	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
OIA Report-Memorandum of D. Shoff, Special Investigative Agent	735	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report Memorandum Re: "Assault/Fight E Unit"	736-737	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report Memorandum Re: "Assault/Fight E Unit"	738	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report Memorandum for D. Shoff, Special Investigative Agent	739	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement

			Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report Memorandum for D. Shoff, Special Investigative Agent	740	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report Affidavit	741	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
Office of Internal Affairs Report	745-746	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
OIA Investigative Report	767-794	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report- Memorandum for file E-Unit Incident	814-815	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall not be produced. This document is protected by the Law Enforcement

			Privilege, Deliberative Process Privilege and Privacy Act.
SIS Report- Memorandum for C. Gomez, Captain E- Unit Fight/Assault	866	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report- Memorandum for Lt. Mash-Fight in E- unit	867	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report- Memorandum for Lt. Mash-Fight in E- unit and D-range	868	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.

SIS Report Memorandum Fight in E-Unit and D- Range	869	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report Memorandum to Lt. Mash- Fight in E Unit	870	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report Memorandum to Lt. Mash- Fight in E Unit	871	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Shall be produced. None of the privileges apply. The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report Memorandum to Lt. Mash- Fight in ECH D range	872	Law Enforcement Privilege, Deliberative Process Privilege, Privacy	Shall be produced. None of the privileges apply.

		Act	The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.
SIS Report Memorandum to Lt. Mash- Fight in ECH D range	873	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>
SIS Report Memorandum to Lt. Mash- Fight in ECH D range	874	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>
SIS Report Memorandum to Lt. Mash- Fight in E unit	875	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement</p>

			techniques or procedures and is not pre-decisional or deliberative.
SIS Report Memorandum for Lt. Mash	876	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>
SIS Report Memorandum for D. Shoff, SIA	877-878	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	<p>Shall be produced.</p> <p>None of the privileges apply.</p> <p>The information sought is factual rather than evaluative, does not reveal law enforcement techniques or procedures and is not pre-decisional or deliberative.</p>

SIS Report	884-888	Law Enforcement Privilege, Deliberative Process Privilege, Privacy Act	Protected by the Law Enforcement privilege, Deliberative Process privilege and Privacy Act.
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Based upon the foregoing, Defendant United States of America is hereby **ORDERED** to produce the documents consistent with this Order by **June 10, 2011**.

IT IS SO ORDERED.

DATED: June 3, 2011

DONALD G. WILKERSON
United States Magistrate Judge