

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 LENIER AYERS,

10 Plaintiff,

11 v.

12 HENRY RICHARDS, *et al.*,

13 Defendants.

No. C08-5390 BHS/KLS

ORDER REGARDING PLAINTIFF'S  
REQUEST FOR PRODUCTION OF  
POLICY NO. 404

14  
15 Pursuant to the Court's Order (Dkt. 139), Defendants submitted copies of former SCC  
16 Policy 404, *Protective Isolation*, for an *in camera* review and determination as to the  
17 discoverability of Policy 404. Having reviewed the *in camera* submission, the Court finds that  
18 Plaintiff's motion to compel the production of Policy 404 should be granted.

19 **I. BACKGROUND**

20 Mr. Ayers seeks the production of SCC Policy 404 on the basis that this policy is relevant  
21 to his claims that he was forcefully and unnecessarily removed from his room and placed in  
22 administrative/disciplinary isolation in many instances. Dkt. 112, p. 3.

23  
24 Defendants initially responded that SCC Policy 404 does not exist, but this was in error.  
25 Dkt. 117, p. 2. The policy was withdrawn in April 2006 and no longer reflected where SCC  
26 maintains active policies. *Id.* Defendants produced at least one page from Policy 404 (DEF-

ORDER ON DISCOVERY MOTIONS - 1

1 00003100) in response to Plaintiff's requests for production; that document was contained within  
2 one of Plaintiff's grievances. *Id.* In their February 13, 2009 response, the Defendants object to  
3 the production of other 400-series policies on relevance grounds and to protect the security of the  
4 SCC. Dkt.117, Attachment B.

5 Cathi Davis, the Associate Superintendent of SCC, states that SCC's past and present 400  
6 series policies relate to institutional responses for various types of threats to the safety and  
7 security of SCC staff, residents, visitors, and the community. Dkt. 118, p. 1. Ms. Davis states  
8 that maintaining the confidentiality of these policies is crucial to the effective security of the  
9 SCC. *Id.* However, Plaintiff requests a copy of Policy 404 only, one page of which was already  
10 produced to him by the Defendants.  
11

12 In light of Defendants' claim that the maintenance of these policies "is crucial to the  
13 effective security of SCC," the Court directed Defendants to submit a copy of SCC's Policy 404  
14 (identified as "withheld from production as restricted confidential" in response to Request for  
15 Production No. 10A) **to the Court only** for an *in camera* inspection. Defendants produced SCC  
16 Policy 404 dated May 7, 1999; SCC Policy 404, dated June 12, 2000, and a memorandum dated  
17 April 10, 2006, reflecting a discontinuance of Policy 404. Dkt. 140.  
18

## 19 **II. DISCUSSION**

20 Pursuant to Rule 34(a) of the Federal Rules of Civil Procedure, "any party may serve on  
21 any other party a request to produce and permit the party making the request ... to inspect and  
22 copy any designated documents ... which are in the possession, custody or control of the party  
23 upon whom the request is served." Fed.R.C.P. 34(a)(1).  
24

25 SCC's Policy 404 relates to the policies and procedures of the SCC for placement of  
26 residents in protective isolation. The Court finds this request is relevant to Mr. Ayers' claims

1 that he was forcefully and unnecessarily removed from his room and placed in administrative/  
2 disciplinary isolation in many instances. *See* Fed.R.Civ. Proc. 26(b)(1). Whether the  
3 information sought would be admissible evidence at trial is not the test. Relevant information  
4 may be discoverable if it “appears reasonably calculated to lead to the discovery of admissible  
5 evidence.” Fed.R.Civ. Proc. 26(b)(1).

6  
7 The Court is cognizant of the fact that important security issues are potentially involved.  
8 However, Defendants have already produced one page of Policy 404 to Mr. Ayers (Page 3 of  
9 Policy 404, *Protective Isolation*, dated June 12, 2000), and the Court’s review of this single  
10 policy leads to the conclusion that “important security issues” are not compromised with the  
11 production of this one, now discontinued, policy.

12 Based on the foregoing, Plaintiff’s motion to compel SCC’s Policy 404 (Dkt. 112) is  
13 **GRANTED**. Defendants are **ORDERED** to produce a complete copy of SCC Policy 404,  
14 *Protective Isolation*, dated June 12, 2000, on or before **September 18, 2009**.

15  
16 DATED this 9th day of September, 2009.

17  
18  
19   
20 Karen L. Strombom  
21 United States Magistrate Judge  
22  
23  
24  
25  
26