UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WESLEY COTTON, Plaintiff, v. MEDINA, *et al.*, Defendants.	Case No. 1:22-cv-00568-JLT-EPG (PC) ORDER OVERRULING IN PART DEFENDANT'S RESPONSES AND OBJECTIONS TO ORDER (ECF No. 35).

Wesley Cotton ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against Defendant Medina. (ECF Nos. 1, 9, 12, & 15). Plaintiff alleges that two inmates engaged in a fistfight, and in response Doe Defendants, who were tower officers, fired two gas cannisters. The gas entered Plaintiff's caged enclosure, choking him and assaulting his eyesight. Plaintiff further alleges that Defendant Medina failed to protect Plaintiff from the gas.

The Court ordered production of certain documents central to the dispute on May 30, 2023. (ECF No. 31). On August 28, 2023, Defendant Medina filed responses and objections to the Court's order. (ECF No. 35). For the reasons that follow, the Court will overrule, in part, Defendant Medina's objections.

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The Court's order required Defendant Medina to produce several categories of documents, including witness statements and evidence that were generated from investigations related to the events at issue in the complaint, as well as incident reports regarding the use of force incident alleged in the complaint. (ECF No. 31). Defendant Medina generally objects to production of internal documents regarding the officers' use of force on March 19, 2022, on the grounds that they are not relevant to the extent Plaintiff was not involved in the force incident and because certain documents are confidential. (ECF No. 35).

The Court will overrule the objections in part. Defendant Medina appears to base her defense in this case on the ground that Plaintiff was not involved in the force incident involving the gas cannisters. Thus, documents describing that incident are relevant to the claims in this case and the defense to the extent they describe the alleged use of force and indicate whether Plaintiff was involved in that event. Additionally, Plaintiff has alleged that he was involved in the event and the Court is not making a factual determination at this time as to this central fact.

However, the Court appreciates the safety and security concerns identified in Defendant's objections. Accordingly, the Court will order that Defendant Medina provide any incident report and witness statement regarding the underlying incident, but may redact all names *other than* Defendant Medina or Plaintiff (if applicable), as well as the individuals already identified in Defendant's prior response to the Court's order as "the tower officers who fired the Chloroacetophenone rubber ball grenades on or around March 19, 2022, between the hours of 12:00-2:00 p.m." (ECF No. 33).[1] If Plaintiff believes that he needs the names of any other individuals mentioned in those documents, he may file a motion to compel.

However, the Court will not require production of any document regarding Allegation Inquiry Management Section (AIMS)/Office of Internal Affairs (OIA) investigation reports at this time. The relevance of any internal confidential evaluation of the incident is low because any internal opinions about the appropriateness of force is not relevant.

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[1] Plaintiff is reminded that the deadline to substitute the real identities in place of Doe Defendants is September 22, 2023. (ECF No. 32, p. 5).

CONCLUSION AND ORDER

For the foregoing reasons, Defendants' objection to the Court's May 30, 2023, order is overruled in part. Accordingly, IT IS ORDERED that within thirty (30) days from the date of this order, Defendant shall provide Plaintiff with redacted versions, as described in this order, of any incident report and witness statement regarding the underlying incident.

IT IS SO ORDERED.

Dated: **August 15, 2023**

/s/ Eric P. Grosjean
UNITED STATES MAGISTRATE JUDGE