

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARRIN A. GRUENBERG,

Plaintiff,

v.

DUSTIN KINGSLAND and
STEVEN MUELLER,

Defendants.

ORDER

11-cv-574-slc

Plaintiff Darrin Gruenberg is proceeding in this case on his claim that defendants used excessive force against him in violation of his Eighth Amendment rights. Now plaintiff has moved to compel the production of policies or information addressing the application of knee strikes to an offender in full restraints, any papers or instructions regarding Principles of Subject Control (POSC), and all Security Internal Management Procedures (SIMPs) relating to the use of force. *See* dkt. 34. Defendants respond that releasing the POSC or SIMP 22 (Use of Force) to plaintiff would jeopardize the safety of staff, other inmates and the public. Defendants assert that releasing this sensitive information could create dangerous situations where inmates would be prepared and informed on how to respond to staff security tactics. Because the disclosure of these documents raises legitimate institutional security concerns, plaintiff's motion will be denied.

For what it's worth, it is no secret that correctional officers are taught and allowed to gain and maintain control of a prisoner by restraining him, but they are not allowed to use—and they know they are not allowed to use—*excessive* force when restraining an inmate. What plaintiff is required to show is that defendants used this force maliciously, for the purpose of causing harm, rather than in a good faith effort to keep control of the actual situation. So what usually ends up being important in a lawsuit like this one is for the fact-finder to determine what was happening at the time that made defendants decide to restrain plaintiff and then what

defendants really did when restraining plaintiff. The important factors include why force was needed, how much force was used, the extent of the injuries inflicted, whether the defendant perceived a threat to the safety of staff or prisoners and whether defendants made any effort to temper the severity of the force they used. Put another way, plaintiff's case depends on the facts surrounding the incident. At this juncture, nothing in the POSC manual or SIMP 22 is sufficiently relevant to plaintiff's claim about what the defendants did to him to outweigh the Department of Corrections' need to keep these policies confidential

ORDER

IT IS ORDERED that plaintiff Darrin Gruenberg's motion to compel production of documents, dkt. 34, is DENIED.

Entered this 18th day of June, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge