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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SYLVESTER OWINO and JONATHAN GOMEZ, on behalf of themselves and all others similarly situated,  
  
Plaintiffs,  
  
v.  
  
CORECIVIC, INC., a Maryland corporation,  
  
Defendant.

Case No.: 17-CV-1112 JLS (NLS)

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT’S RENEWED MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

(ECF No. 155)

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CORECIVIC, INC.,  
  
Counter-Claimant,  
  
v.  
  
SYLVESTER OWINO and JONATHAN GOMEZ, on behalf of themselves and all others similarly situated,  
  
Counter-Defendants.

Presently before the Court is Defendant and Counter-Claimant CoreCivic, Inc.’s Renewed Motion for Leave to File Documents Under Seal (“Mot.,” ECF No. 155), filed in response to the Court’s December 16, 2019 Order Granting in Part and Denying in Part

1 Without Prejudice Plaintiffs’ Motion for Leave to File Documents Under Seal. *See* ECF  
2 No. 152. Also before the Court are Plaintiffs and Counter-Defendants Sylvester Owino  
3 and Jonathan Gomez’s Opposition (“Opp’n,” ECF No. 156) and Defendant’s Reply  
4 (“Reply,” ECF No. 157). Having carefully considered the Parties’ arguments, the  
5 documents in question, and the law, the Court **DENIES WITHOUT PREJUDICE**  
6 Defendant’s Motion.

7 As the Parties are now well aware, *see* ECF Nos. 96, 100, 107, 122, 152, “the courts  
8 of this country recognize a general right to inspect and copy public records and documents,  
9 including judicial records and documents.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S.  
10 589, 597 (1978). “Unless a particular court record is one ‘traditionally kept secret,’ a  
11 ‘strong presumption in favor of access’ is the starting point.” *Kamakana v. City & Cnty.*  
12 *of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citing *Foltz v. State Farm Mut. Auto*  
13 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). “The presumption of access is ‘based on  
14 the need for federal courts, although independent—indeed, particularly because they are  
15 independent—to have a measure of accountability and for the public to have confidence in  
16 the administration of justice.’” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
17 1096 (9th Cir. 2016) (quoting *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995)).

18 A party seeking to seal a judicial record bears the burden of overcoming the strong  
19 presumption of access. *Foltz*, 331 F.3d at 1135. The showing required to meet this burden  
20 depends upon whether the documents to be sealed relate to a motion that is “more than  
21 tangentially related to the merits of the case.” *Ctr. for Auto Safety*, 809 F.3d at 1102. When  
22 the underlying motion is more than tangentially related to the merits, the “compelling  
23 reasons” standard applies. *Id.* at 1096–98. When the underlying motion does not surpass  
24 the tangential relevance threshold, the “good cause” standard applies. *Id.*

25 “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in  
26 disclosure and justify sealing court records exists when such ‘court files might have  
27 become a vehicle for improper purposes,’ such as the use of records to gratify private spite,  
28 promote public scandal, circulate libelous statements, or release trade secrets.”

1 447 F.3d at 1179 (quoting *Nixon*, 435 U.S. at 598). However, “[t]he mere fact that the  
2 production of records may lead to a litigant’s embarrassment, incrimination, or exposure  
3 to further litigation will not, without more, compel the court to seal its records.” *Id.* (citing  
4 *Foltz*, 331 F.3d at 1136). The decision to seal documents is “one best left to the sound  
5 discretion of the trial court” upon consideration of “the relevant facts and circumstances of  
6 the particular case.” *Nixon*, 435 U.S. at 599.

7 Plaintiffs sought leave to file under seal unredacted copies of Exhibits B, C, and D  
8 to the Supplemental Declaration of Eileen R. Ridley in Support of Plaintiffs’ Reply Brief  
9 in Response to Defendant’s Supplemental Brief (“Supplemental Ridley Declaration”),  
10 which are excerpts from Plaintiffs’ detainee files that “contain material designated by  
11 Defendant and Counter-Claimant CoreCivic, Inc., as ‘Confidential’ under the Protective  
12 Order entered in this case (*see* ECF No. 60), and/or contain personally identifying  
13 information related to detainees who are not parties to this litigation, or to CoreCivic’s  
14 personnel.” *See* ECF No. 149 at 1. The Court concluded that “compelling reasons exist to  
15 file under seal identifying information concerning CoreCivic’s detainees” pursuant to 8  
16 C.F.R. § 236.6, ECF No. 152 at 3 (citing ECF No. 107 at 4), but expressed skepticism  
17 concerning the sealing of “identifying information concerning CoreCivic’s personnel.” *Id.*  
18 The Court therefore granted Plaintiffs’ motion as to identifying information concerning  
19 Defendant’s detainees but denied without prejudice the motion to the extent it sought leave  
20 to file under seal identifying information concerning Defendant’s personnel.

21 Defendant now contends that compelling reasons exist to redact the full names of its  
22 personnel—or at least their first names—because “the unfettered release of personal  
23 identifying information of current and former CoreCivic/[Otay Mesa Detention Center  
24 (“OMDC”)] personnel would seriously impede the facility’s ability to protect both staff  
25 and detainees from foreseeable risks of harm, and would seriously compromise the orderly  
26 operation of OMDC.” Mot. at 4. Defendant urges that the unsealed names of its personnel  
27 “would quickly spread among the detainee population at OMDC and pose a significant risk  
28 to staff and/or detainee safety and security.” *Id.* Defendant supports its Motion with the

1 Declaration of Warden C. LaRose (“LaRose Declaration,” ECF No. 155-1), who explains  
2 that, “if even partial employee information is released to a detainee and/or placed on the  
3 public docket, that information can be used by family members or other gang members  
4 who are not incarcerated to do research, such as by finding staff members’ social media  
5 accounts, to locate additional personal identifying information of facility staff,” which “can  
6 then be shared among the detainee population or published on the internet and/or social  
7 media sites.” LaRose Decl. ¶ 15. Warden LaRose adds that, “[w]ith such information,  
8 detainees and/or their family or associates can threaten staff at their homes, or at the facility  
9 by correctly reciting their home address to them.” *Id.* ¶ 16.

10 Plaintiffs oppose, arguing (among other things<sup>1</sup>) that Defendant “simply relies on  
11 generic statements about potential risks, oftentimes failing to differentiate between  
12 ‘inmates’ (detained as convicted felons) and ‘detainees’ (civilly detained while their  
13 immigration status is adjudicated.” Opp’n at 5. Plaintiffs therefore oppose Defendant’s  
14 request to file under seal the full names of its personnel as inconsistent with the Parties’  
15 practice of redacting only their first names pursuant to the Protective Order. *See, e.g., id.*  
16 at 1 n.1. Plaintiff also acknowledges that stipulated practices concerning discovery may  
17 not suffice as compelling reasons to file information under seal. *See id.* (citing *Cochoit v.*  
18 *Schiff Nutrition Int’l, Inc.*, No. 16-cv-01371, 2018 WL 1895695, at \*2 (C.D. Cal. Apr. 19,  
19 2018); *Joint Equity Comm. of Investors of Real Estate Partners, Inc. v. Coldwell Banker*  
20 *Real Estate Corp.*, No. 10-cv-0401, 2012 WL 234396, at \*2–3 (C.D. Cal. Jan. 24, 2012)).

21 Defendant rejoins that “Plaintiffs fail[ed] to attach any admissible evidence to their  
22 Opposition demonstrating that compelling reasons do not exist to keep staff members’ first  
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25 <sup>1</sup> There is much discussion concerning the sealing of the full names versus first names of Defendant’s  
26 personnel, with Plaintiffs noting that Defendant previously had sought to seal only the first names of its  
27 personnel, *see* Opp’n at 2–5, and Defendant noting that it was Plaintiff who redacted the full names—  
28 rather than just the first names—of its personnel in certain previously filed exhibits. *See* Reply at 1–6.  
The Court understands each side’s reasons for raising these arguments; however, ultimately, they are only  
tangentially relevant to the central issue: whether Defendant has adduced compelling reasons for the  
names of its personnel to be filed under seal.

1 names under seal, or contradicting the evidence offered by CoreCivic through Warden  
2 LaRose’s declaration.” Reply at 7. Further, “[c]ompelling reasons exist to keep the full  
3 names of CoreCivic staff members under seal—namely, the protection of their safety and  
4 security, as well as that of the detainees, the facility, and the public in general.” *Id.* at 9.

5 The Court recognizes that there may be compelling reasons to seal the home  
6 addresses, social security or driver’s license numbers, dates of birth, family information,  
7 or similarly sensitive information to avoid exposing Defendant’s personnel and their  
8 families to harm. *See, e.g., Kamakana*, 447 F.3d at 1184 (affirming lower court’s decision  
9 to maintain under seal “officers’ home address and social security numbers[, which] could  
10 expose the officers and their families to harm or identity theft”); *Goodman v. Las Vegas*  
11 *Metro. Police Dep’t*, No. 2:11-CV-01447-MMD, 2013 WL 5743638, at \*3 (D. Nev. Oct.  
12 16, 2013) (sealing dates of birth of police officers and information regarding the family of  
13 a law enforcement officer); *Pryor v. City of Clearlake*, No. C 11-0954 CW, 2012 WL  
14 3276992, at \*4 (N.D. Cal. Aug. 9, 2012) (sealing police officer’s “personal address,  
15 identification information and birthdate . . . , as well as . . . information concerning his pay”  
16 and employment application, which contained “personal identification and contact  
17 information . . . , his references and relatives, as well as background information about his  
18 prior experience, education, military service and employment”). The question, therefore,  
19 is whether Defendant has established that publication of the first names of its personnel is  
20 similarly sensitive such that it would foreseeably result in harm.<sup>2</sup> The Court concludes that  
21 it has not.

22 The Court acknowledges Warden LaRose’s extensive experience, understands his  
23 concerns, and appreciates his insight; nonetheless, his declaration does not establish  
24 compelling reasons to maintain the confidentiality of the first names of Defendant’s  
25 personnel. Warden LaRose opines, based on an impressive 23 years’ professional  
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27 <sup>2</sup> Defendant’s detainees already have access to the last names of its personnel, and “[t]he Court cannot  
28 keep secret what is already public.” *United States v. Nicholas*, 594 F. Supp. 2d 1116, 1119 (C.D. Cal.  
2008).

1 experience, “that the unfettered release of personal identifying information of current and  
2 former CoreCivic/OMDC personnel would seriously impede the facility’s ability to protect  
3 both staff and detainees from foreseeable risks of harm, and would seriously compromise  
4 the orderly operation of OMDC.” LaRose Decl. ¶ 5. There are, however, several  
5 unfounded assumptions underlying Warden LaRose’s conclusion. First, the public  
6 docketing of the exhibits at issue is hardly “unfettered access”—the records in this action  
7 are available behind a paywall to those motivated enough to access them. Second, it is  
8 questionable to what extent a first name qualifies as “identifying information.” Third,  
9 Defendant has not established that the first names of its personnel are, in fact, “personal”  
10 and confidential.<sup>3</sup> Ultimately, “[a]s presented to the Court, [d]efendant[’s] concern  
11 regarding retaliation is speculation, and the Court must rule on motions to seal ‘without  
12 relying on hypothesis or conjecture.’” *Sheppard v. Mandalay Bay, LLC*, No.  
13 218CV01120RFBVCF, 2018 WL 7500285, at \*1 (D. Nev. Nov. 28, 2018) (quoting  
14 *Kamakana*, 447 F.3d at 1179 (9th Cir. 2006)).

15 Defendant also cites no authority in which a court has found that compelling reasons  
16 exist to file under seal the first names of correctional officers or other correctional  
17 personnel. On the other hand, the Court has located contrary authority. *See, e.g., Pryor v.*  
18 *City of Clearlake*, No. C 11-0954 CW, 2012 WL 3276992, at \*4 (N.D. Cal. Aug. 9, 2012)  
19 (denying motion to seal names of officers); *see also Sandoval v. Cnty. of Sonoma*, No. 11-  
20 CV-05817-TEH, 2015 WL 163544, at \*2 (N.D. Cal. Jan. 12, 2015) (“The Court recognizes  
21 that the publicly filed material includes the names of certain officers of the Sonoma County  
22 Sheriff’s Office, as well as an email summary of the incident at issue in this case. However,  
23 [the] Sheriff [defendant] has given the Court virtually no justification, much  
24 less compelling reasons, to withhold this information from public view.”).

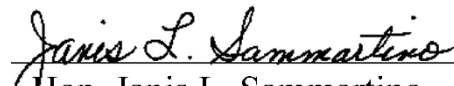
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27 <sup>3</sup> Indeed, it appears that over 1,000 of Defendant’s correctional officers have profiles on LinkedIn, many  
28 of which are publicly available. *See* <https://www.linkedin.com/company/corecivic/people/?keywords=correctional%20officer>.

1 For these reasons, the Court concludes that Defendant has failed to establish that  
2 compelling reasons exist to redact the names—first, last, or both—of its personnel.<sup>4</sup>  
3 Although the Court harbors significant doubts regarding Defendant’s ability to establish  
4 compelling reasons to maintain the first names of its personnel under seal, the Court  
5 **DENIES WITHOUT PREJUDICE** Defendant’s Motion and **GRANTS** Defendant leave  
6 to file a second renewed motion on or before January 23, 2020. Should Defendant elect  
7 not to file a renewed motion, the Parties **SHALL MEET AND CONFER** regarding how  
8 to allocate responsibility for refileing all filings affected by this Order and **SHALL FILE** a  
9 joint status report on or before January 27, 2020.

10 **IT IS SO ORDERED.**

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12 Dated: January 9, 2020

  
13 Hon. Janis L. Sammartino  
14 United States District Judge

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27 <sup>4</sup> The Court regrets that the Parties have expended so much time and effort redacting this information;  
28 however, the Court’s prior Orders did not address the sealing of the names of Defendant’s personnel. *See*,  
*e.g.*, ECF No. 107. To the extent clarification was required, the Parties were free to seek it from the Court.