

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

LINDA ROSE, JENNIFER CRADIT,  
SYLVIA DENISE BRADDOCK, LISA  
RENEE BRANDIMORE, DWAYNE  
BUTTERFIELD, BOBBIE WAYNE  
CARTER, DANIEL WRAY CLAYTON,  
JOSHUA FULLER, NICHOLAS ANTHONY  
GILES, WILLIE LOUIS HENDRICKS,  
TANISHA RAMON JOHNSON, ROBERT  
ALLEN KELSEY, SUE ANN LETTERMAN,  
DONNA LYNN QUARLES, GREGORY LOUIS  
SCHULTZ, AMANDA RAE SHINAVER,  
DWAYNE ALANN SIMMONS, ROBIN RENEE  
THOMAS, JOSHUA ALLEN WEIGANT,  
JUSTIN ANDERSON, CRAIG MASON, and  
MATTHEW STARKWEATHER,

Case Number 01-10337-BC  
Honorable David M. Lawson

Plaintiffs,

v.

SAGINAW COUNTY, SAGINAW COUNTY  
SHERIFF'S DEPARTMENT, MUNICIPAL  
GOVERNMENTAL ENTITIES, CHARLES BROWN,  
and OFFICERS JOHN DOE, and JANE DOE,  
(in their individual capacity), jointly and severally,

Defendants.

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**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS'  
EMERGENCY MOTION TO COMPEL VIDEOTAPING OF JAIL FACILITIES**

Before the Court is the plaintiffs' emergency motion to compel videotaping of jail facilities. In this case, the Court entered an order in January 2005 determining liability. The Court has entered subsequent orders scheduling a trial on damages for a group of plaintiffs, and in the meanwhile the parties have scheduled sessions with a facilitative mediator in an effort to resolve their differences.

In preparation for mediation and the damages trial, the parties apparently have agreed to allow counsel for the plaintiffs to inspect the jail facilities, particularly the segregation cells, which form the subject matter of this dispute. Otherwise, discovery closed several months ago according to this Court's Case Management and Scheduling Order.

The plaintiffs allege in their motion that the defendants seek to limit the inspection and photographing of the jail facilities as follows: (1) only two of the plaintiffs' lawyers will be permitted to attend; (2) only still photographs will be permitted and videotaping will not be allowed; and (3) the tour will last only one and one-half hours. The plaintiffs seek an order permitting videotaping of all of the jail facilities "in order for the members of the jury to fully comprehend the nature and extent of the harm caused to the plaintiffs as a result of the violation of their constitutional rights [and to allow] the jury [to] be able to visualize the alleged adverse jail conditions." Plaintiffs' motion at 2.

The defendants oppose the motion on the basis of administrative inconvenience and security concerns. Although the defendants do not oppose still photography, they believe that videotaping will disrupt the operation of the jail by encouraging inmates to act out and become disruptive. They are also concerned that locations including the booking area where inmates are processed are too busy to allow disruption by videotaping. The defendants, in addition, assert that videotaping would allow dissemination of the layout of jail facilities and compromise security, particularly if the individual plaintiffs are allowed to view the tape.

The discovery rules are intended to allow the parties "to prepare for trial in a manner that will promote the just, speedy, and inexpensive determination of the action." Wright & Miller, Federal Practice and Procedure § 2001. These rules may require parties "to disclose fully the nature

and scope of the controversy, to narrow, simplify, and frame the issues involved, and . . . to obtain the information needed to prepare for trial.” *Ibid.* On occasion, discovery may encompass matters that are otherwise thought to be confidential and not available to public view.

However, Federal Rule of Civil Procedure 26(c) allows a court to make orders protecting parties and witnesses during the discovery process. An important purpose of a pretrial protective order is to preserve the confidentiality of materials which are revealed in discovery but not made public by trial. *National Polymer Products, Inc. v. Borg-Warner Corp.*, 641 F.2d 418, 424 (6th Cir. 1981). Courts have great latitude in deciding whether to issue protective orders, and security is one of the factors to be considered. *See Hines v. Wilkinson*, 163 F.R.D. 262, 267 (S.D. Ohio 1995). The burden of establishing the propriety of a protective order is on the party seeking the order. *Damiano v. Sony Music Entertainment, Inc.*, 168 F.R.D. 485, 490 (D.N.J. 1996).

The Court has considered the respective interests of the parties and finds no basis to permit videotaping or photography except the administrative segregation cells. Those, after all, are the only subjects of this dispute. Neither this action nor the Court’s order granting summary judgment addressed issues of general jail conditions or other prisoner hardships than confinement, naked, in the administrative segregation cells.

On the other hand, it is possible to fashion an order that would permit the plaintiffs to videotape the administration segregation cells and still preserve the security and administrative convenience interests articulated by the defendants.

Accordingly, it is **ORDERED** that the plaintiffs’ emergency motion to compel videotaping of jail facilities [dkt # 214] is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that the defendants shall permit two of plaintiffs' counsel access to the Saginaw County Jail on **February 2, 2006** for the purpose of inspection, photographing, and videotaping the facilities as limited herein.

It is further **ORDERED** that the tour of the jail facilities shall be completed by **noon**.

It is further **ORDERED** that photographing and videotaping the jail facilities shall be limited to the administrative segregation cells and the area immediately adjacent to them.

It is further **ORDERED** that no photographs, videotape, or digital images shall be taken of jail personnel, inmates, or detainees. If the administrative segregation cells are occupied, then the Court directs the defendants to cause them to be temporarily vacated until the photographing session is concluded.

It is further **ORDERED** that upon completion of the session, the videotape, photographic film, and electronic media of any digital recording shall be turned over to counsel for the defendant, who may examine the photographic record and file any motions for a protective order necessary to address security concerns of jail personnel. Said motion shall be filed on or before **February 9, 2006**. However, the photographic record shall be made available to Judge Duggan, if necessary, to assist him in conducting a settlement conference. If no motions are filed by the deadline established herein, the materials shall be immediately returned to counsel for the plaintiffs.

If motions are filed, the materials shall be turned over to the Court for an inspection *in camera*.

Dated: February 2, 2006

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 2, 2006.

s/Tracy A. Jacobs  
TRACY A. JACOBS