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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Matthew William Tanguy,

No. CV 11-2505-PHX-RCB (DKD)

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Plaintiff,

**ORDER**

11

vs.

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Joseph M. Arpaio,

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Defendant.

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Plaintiff Matthew William Tanguy, who is confined in the Lower Buckeye Jail in Phoenix, Arizona, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. (Doc. 1, 3.) Plaintiff has also filed two motions for appointment of counsel and a second Application to Proceed *In Forma Pauperis*. (Doc. 2, 6, 8.) Most recently, Plaintiff has filed a First Amended Complaint, which supercedes the original Complaint in its entirety. (Doc. 9.) The Court will dismiss the First Amended Complaint with leave to amend and deny the second *in forma pauperis* application and the motions for appointment of counsel.

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**I. Application to Proceed *In Forma Pauperis* and Filing Fee**

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Plaintiff's Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1). The Court will assess an initial partial filing fee of \$7.82. The remainder of the fee will be collected monthly in payments of 20% of the previous month's income each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate

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1 Order requiring the appropriate government agency to collect and forward the fees according  
2 to the statutory formula.

## 3 **II. Statutory Screening of Prisoner Complaints**

4 The Court is required to screen complaints brought by prisoners seeking relief against  
5 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
6 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
7 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
8 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
9 28 U.S.C. § 1915A(b)(1), (2).

10 A pleading must contain a “short and plain statement of the claim *showing* that the  
11 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not  
12 demand detailed factual allegations, “it demands more than an unadorned, the-defendant-  
13 unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
14 “Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
15 statements, do not suffice.” Id.

16 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
17 claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,  
18 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
19 that allows the court to draw the reasonable inference that the defendant is liable for the  
20 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for  
21 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
22 experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual  
23 allegations may be consistent with a constitutional claim, a court must assess whether there  
24 are other “more likely explanations” for a defendant’s conduct. Id. at 1951.

25 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
26 must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th  
27 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards  
28 than formal pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89,

1 94 (2007) (*per curiam*)).

2 If the Court determines that a pleading could be cured by the allegation of other facts,  
3 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
4 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
5 should not, however, advise the litigant how to cure the defects. This type of advice “would  
6 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,  
7 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was  
8 required to inform a litigant of deficiencies). The Court will dismiss Plaintiff’s Complaint  
9 for failure to state a claim, but because the Complaint may possibly be saved by amendment,  
10 will dismiss the Complaint with leave to amend.

### 11 **III. First Amended Complaint**

12 Plaintiff alleges one count for threat to safety. He sues only Maricopa County Sheriff  
13 Joseph Arpaio. Plaintiff seeks compensatory relief.

14 Plaintiff alleges the following facts: between July 11 until August 30, 2007, Plaintiff  
15 was incarcerated in the Durango Jail. Plaintiff was assigned to the top of bunk of a four-  
16 inmate cell. In getting down from the top bunk, Plaintiff slipped and struck his face on part  
17 of the bunks, which stunned Plaintiff and split his right cheek. After realizing that he was  
18 hurt, Plaintiff got the attention of a detention officer. That officer initially took Plaintiff to  
19 the Day Room and sat him on a table. About ten minutes later, the officer shackled Plaintiff  
20 and took him to the holding tank, where Plaintiff was held for two or two and half hours.  
21 Then two officers came to the door and slid a paper and pencil to Plaintiff to sign. Plaintiff  
22 told them that he wanted a lawyer first. They told Plaintiff that they could not transport him  
23 until he signed it. Plaintiff signed the paper in order to obtain treatment for his injury.  
24 Plaintiff was taken to Maricopa County Hospital, where he received stitches. Plaintiff still  
25 has a two inch scar from the injury. Plaintiff claims that the lack of safety ladders for the  
26 bunk beds and the number of the bunk beds in a cell resulted in his injury.

### 27 **IV. Failure to State a Claim**

28 To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the

1 conduct about which he complains was committed by a person acting under the color of state  
2 law and (2) the conduct deprived him of a federal constitutional or statutory right. Wood v.  
3 Ostrander, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a plaintiff must allege that he  
4 suffered a specific injury as a result of the conduct of a particular defendant and he must  
5 allege an affirmative link between the injury and the conduct of that defendant. Rizzo v.  
6 Goode, 423 U.S. 362, 371-72, 377 (1976).

7 **A. Statute of Limitations**

8 As an initial matter, Plaintiff's claim appears to be facially barred by the statute of  
9 limitations. The failure to state a claim includes circumstances where a defense is complete  
10 and obvious from the face of the pleadings. Franklin v. Murphy, 745 F.2d 1221, 1228 (9th  
11 Cir. 1984) (applying former § 1915(d) now codified at 28 U.S.C. § 1915(e)(2)(B)). Further,  
12 a court may raise the defense of statute of limitations *sua sponte*. See Levald, Inc. v. City  
13 of Palm Desert, 998 F.2d 680, 687 (9th Cir. 1993); see also Hughes v. Lott, 350 F.3d 1157,  
14 1163 (11th Cir. 2003) (appropriate to dismiss prisoner's complaint *sua sponte* as time-barred  
15 under § 1915(e)(2)(B)); Nasim v. Warden, Maryland House of Corr., 64 F.3d 951, 956 (4th  
16 Cir. 1995) (*en banc*) (same); Pino v. Ryan, 49 F.3d 51, 53 (2d Cir. 1995) (same); Moore v.  
17 McDonald, 30 F.3d 616, 620 (5th Cir. 1994) (same); Johnson v. Rodriguez, 943 F.2d 104,  
18 107-08 (1st Cir. 1991) (same).

19 In § 1983 actions, the Court applies the statute of limitations of the forum state for  
20 personal injury actions. Wilson v. Garcia, 471 U.S. 261, 266, 274-76 (1985); TwoRivers v.  
21 Lewis, 174 F.3d 987, 991 (9th Cir. 1999); Vaughan v. Grijalva, 927 F.2d 476, 478 (9th Cir.  
22 1991). The Arizona statute of limitations for personal injury actions is two years. See A.R.S.  
23 § 12-542(1); Madden-Tyler v. Maricopa County, 943 P.2d 822, 824 (Ariz. Ct. App. 1997);  
24 Vaughan, 927 F.2d at 478. The Court must also apply any state rule for tolling to actions  
25 brought under § 1983. Hardin v. Straub, 490 U.S. 536, 544 (1989); TwoRivers, 174 F.3d at  
26 992. Arizona provides for tolling of the statute of limitation after a cause of action accrues  
27 for the period during which a plaintiff was less than 18 years old or of unsound mind. A.R.S.  
28 § 12-502.

1 Plaintiff's claim arose no later than August 30, 2007, and he knew of his injury at the  
2 time. He commenced this action on December 19, 2011, or more than four years after his  
3 claim accrued. No basis for tolling of the statute of limitations appears in the First Amended  
4 Complaint.<sup>1</sup> Absent allegations to support that the statute of limitations is subject to tolling,  
5 Plaintiff's claim and this action are time-barred. As discussed below, Plaintiff will be  
6 afforded the opportunity to amend his First Amended Complaint in which he may attempt  
7 to establish that the statute of limitations is subject to tolling. Absent such allegations in a  
8 second amended complaint, Plaintiff's claim for threat to safety is facially untimely and will  
9 be dismissed as time-barred.

#### 10 **B. Arpaio**

11 Plaintiff sues Maricopa County Sheriff Joseph Arpaio. Although Arpaio may properly  
12 be sued for constitutional violations, Plaintiff fails to state a claim against him. "A plaintiff  
13 must allege facts, not simply conclusions, that show that an individual was personally  
14 involved in the deprivation of his civil rights." Barren v. Harrington, 152 F.3d 1193, 1194  
15 (9th Cir. 1998). For an individual to be liable in his official capacity, a plaintiff must allege  
16 that the official acted as a result of a policy, practice, or custom. See Cortez v. County of Los  
17 Angeles, 294 F.3d 1186, 1188 (9th Cir. 2001). Further, there is no *respondeat superior*  
18 liability under § 1983, so a defendant's position as the supervisor of a someone who  
19 allegedly violated a plaintiff's constitutional rights does not make him liable. Monell v.  
20 Dep't of Soc.Servs., 436 U.S. 658, 691 (1978); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir.

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23 <sup>1</sup> Section 12-502 provides in relevant part that if a person is of unsound mind at the  
24 time a claim accrues, "the period of such disability shall not be deemed a portion of the  
25 period limited for commencement of the action. Such person shall have the same time after  
26 removal of the disability which is allowed to others." However, it is insufficient to  
27 summarily claim inability to bring an action as a result of mental disability. Doe v. Roe, 955  
28 P.2d 951, 964 (Ariz. 1998). "Unsound mind occurs when the 'person is unable to manage  
his affairs or to understand his legal rights or liabilities.'" Id. (quoting Allen v. Powell's  
Int'l, Inc., 270 P.2d 588, 589 (Ariz. 1974)). "This standard recognizes two separate inquiries  
that may evince an unsound mind: (1) inability to manage daily affairs, and (2) inability to  
understand legal rights and liabilities. The resulting inability to bring the action is a basis for  
tolling the statute of limitations under unsound mind." Id.

1 1989). A supervisor in his individual capacity, “is only liable for constitutional violations  
2 of his subordinates if the supervisor participated in or directed the violations, or knew of the  
3 violations and failed to act to prevent them.” Taylor, 880 F.2d at 1045.

4 Plaintiff has not alleged facts to support that Arpaio enacted or enforced a policy,  
5 custom, or practice that resulted in the violation of Plaintiff’s constitutional rights. Further,  
6 Plaintiff has not alleged facts to support that Arpaio directly violated his constitutional rights  
7 or that Arpaio was aware that Plaintiff’s rights were being violated but failed to act. Thus,  
8 Plaintiff fails to state a claim against Arpaio in his First Amended Complaint and he will be  
9 dismissed.

10 **C. Threat to Safety**

11 Plaintiff asserts a claim for threat to safety. To state a claim under § 1983 for threat  
12 to safety, an inmate must allege facts to support that he was incarcerated under conditions  
13 posing a substantial risk of harm and that prison officials were “deliberately indifferent” to  
14 those risks. Farmer v. Brennan, 511 U.S. 825, 832-33 (1994). To adequately allege  
15 deliberate indifference, a plaintiff must allege facts to support that a defendant knew of, but  
16 disregarded, an excessive risk to inmate safety. Id. at 837. That is, “the official must both  
17 [have been] aware of facts from which the inference could be drawn that a substantial risk  
18 of serious harm exist[ed], and he must also [have] draw[n] the inference.” Id.

19 Plaintiff has not alleged facts to support that the absence of ladders on the bunk beds,  
20 or the number of beds in a cell rose to the level of an excessive risk to inmate safety, such  
21 as, for example, alleging the frequency of inmates being injured. Plaintiff also has not  
22 alleged facts to support that Arpaio knew of – or knew of facts giving rise to an inference and  
23 drew the inference – that the lack of ladders posed an excessive risk to inmate safety.  
24 Accordingly, Plaintiff fails to state a constitutional claim for threat to safety.

25 **V. Leave to Amend**

26 For the foregoing reasons, Plaintiff’s Complaint will be dismissed for failure to state  
27 a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
28 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail

1 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails  
2 to use the court-approved form, the Court may strike the amended complaint and dismiss this  
3 action without further notice to Plaintiff.

4 Plaintiff must clearly designate on the face of the document that it is the “First  
5 Amended Complaint.” The first amended complaint must be retyped or rewritten in its  
6 entirety on the court-approved form and may not incorporate any part of the original  
7 Complaint by reference. Plaintiff may include only one claim per count.

8 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963  
9 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,  
10 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as  
11 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original  
12 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d  
13 565, 567 (9th Cir. 1987).

#### 14 **VI. Motions for Appointment of Counsel**

15 As noted above, Plaintiff has filed two motions for appointment of counsel because  
16 he is indigent, has only a general educational equivalency, and has been unable to find  
17 counsel willing to represent him in this case. Counsel is only appointed in a civil rights  
18 action in “exceptional circumstances.” Agyeman v. Corrections Corp. of America, 390 F.3d  
19 1101, 1103 (9th Cir. 2004); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986);  
20 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional  
21 circumstances requires an evaluation of both ‘the likelihood of success on the merits [and]  
22 the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the  
23 legal issues involved.’” Wilborn, 789 F.2d at 1331; see Agyeman, 390 F.3d at 1103; Terrell,  
24 935 F.2d at 1017. The legal issues involved in this case do not present exceptional  
25 circumstances and Plaintiff appears able to articulate his claims. Accordingly, Plaintiff’s  
26 motions for appointment of counsel will be denied.

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1 **VII. Warnings**

2 **A. Release**

3 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.  
4 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay  
5 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result  
6 in dismissal of this action.

7 **B. Address Changes**

8 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
9 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
10 relief with a notice of change of address. Failure to comply may result in dismissal of this  
11 action.

12 **C. Copies**

13 Plaintiff must submit an additional copy of every filing for use by the Court. See  
14 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice  
15 to Plaintiff.

16 **D. Possible “Strike”**

17 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails  
18 to file an amended complaint correcting the deficiencies identified in this Order, the  
19 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
20 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
21 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior  
22 occasions, while incarcerated or detained in any facility, brought an action or appeal in a  
23 court of the United States that was dismissed on the grounds that it is frivolous, malicious,  
24 or fails to state a claim upon which relief may be granted, unless the prisoner is under  
25 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

26 **E. Possible Dismissal**

27 If Plaintiff fails to timely comply with every provision of this Order, including these  
28 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at



1 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
2 Court).

3 **IT IS ORDERED:**

4 (1) Plaintiff's Application to Proceed *In Forma Pauperis* is **granted**. (Doc. 3.)

5 (2) As required by the accompanying Order to the appropriate government agency,  
6 Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee of \$7.82.

7 (3) Plaintiff's second *in forma pauperis* application is **denied** as moot. (Doc. 8.)

8 (4) The First Amended Complaint is **dismissed** for failure to state a claim. (Doc.

9 9.) Plaintiff has **30 days** from the date this Order is filed to file a second amended complaint  
10 in compliance with this Order.

11 (5) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
12 Court must, without further notice, enter a judgment of dismissal of this action with prejudice  
13 that states that the dismissal may count as a "strike" under 28 U.S.C. § 1915(g).

14 (6) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil  
15 rights complaint by a prisoner.

16 (7) Plaintiff's motions for appointment of counsel are **denied**. (Doc. 2, 6.)

17 DATED this 13th day of January, 2012.

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21 Robert C. Broomfield  
22 Senior United States District Judge  
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**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
  
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
  
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
  
4. The Filing Fee. The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
  
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
  
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$350 filing fee or the application to proceed *in forma pauperis* to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

## 12. Completing the Civil Rights Complaint Form.

### **HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

### **Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

### **Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

### **Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.

3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.

4. Injury. State precisely how you were injured by the alleged violation of your rights.

5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_  
(Full Name of Plaintiff) Plaintiff,

vs.

CASE NO. \_\_\_\_\_  
(To be supplied by the Clerk)

(1) \_\_\_\_\_  
(Full Name of Defendant)

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
- Other: \_\_\_\_\_

2. Institution/city where violation occurred: \_\_\_\_\_

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_ . The first Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_ . The second Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_ . The third Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ . The fourth Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

**D. CAUSE OF ACTION**

**COUNT I**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.  
 Basic necessities                       Mail                       Access to the court                       Medical care  
 Disciplinary proceedings                       Property                       Exercise of religion                       Retaliation  
 Excessive force by an officer                       Threat to safety                       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies:**  
a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?                       Yes                       No  
b. Did you submit a request for administrative relief on Count I?                       Yes                       No  
c. Did you appeal your request for relief on Count I to the highest level?                       Yes                       No  
d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.



**COUNT II**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- Basic necessities                       Mail                       Access to the court                       Medical care  
 Disciplinary proceedings                       Property                       Exercise of religion                       Retaliation  
 Excessive force by an officer                       Threat to safety                       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?                       Yes                       No  
b. Did you submit a request for administrative relief on Count II?                       Yes                       No  
c. Did you appeal your request for relief on Count II to the highest level?                       Yes                       No  
d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.

**COUNT III**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies.**

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count III?  Yes  No

c. Did you appeal your request for relief on Count III to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

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\_\_\_\_\_  
(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.