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

David Cramer,

Plaintiff,

VS.

Chuck Buffington, et al.,

Defendants.

No. CV 13-0646-PHX-RCB (SPL)

ORDER

Plaintiff David Cramer, who is confined in the Fourth Avenue 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, 2.) The Court will dismiss the Complaint with leave to amend.

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

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 not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). The statutory 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 Order requiring the appropriate government agency to collect and forward the fees according to the statutory formula.

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1 **II. Statutory Screening of Prisoner Complaints**

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

8 A pleading must contain a “short and plain statement of the claim *showing* that the
9 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8
10 does not demand detailed factual allegations, “it demands more than an unadorned, the-
11 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
12 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
13 conclusory statements, do not suffice.” *Id.*

14 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
15 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
16 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual
17 content that allows the court to draw the reasonable inference that the defendant is liable
18 for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible
19 claim for relief [is] . . . a context-specific task that requires the reviewing court to draw
20 on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s
21 specific factual allegations may be consistent with a constitutional claim, a court must
22 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
23 at 681.

24 But as the United States Court of Appeals for the Ninth Circuit has instructed,
25 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
26 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
27 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

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

III. Complaint

Plaintiff alleges one count for excessive use of force by Glendale Police Detectives. Plaintiff sues the following current or former Glendale Police Detectives: Chuck Buffington, A. Brigola, B. Keeble, and L. Tolbert. Plaintiff seeks injunctive and compensatory relief.

Plaintiff alleges the following facts: on September 24, 2010, Detective Buffington and other unidentified detectives entered Plaintiff’s home without a search warrant and frightened Plaintiff’s family members. The detectives also took several vehicles, electronics, and cash, although Plaintiff was not charged with a crime.

On July 25, 2012, while Plaintiff and his pregnant wife and two minor children were in their vehicle stopped at a red light at 59th Avenue and Peoria, Buffington and six or seven other unidentified detectives in various unmarked vehicles rammed into Plaintiff’s vehicle, which pinned Plaintiff and his family members in their vehicle. The detectives shouted, smashed the windows of Plaintiff’s vehicle, and deployed dogs and tasers unto Plaintiff and his family members. Plaintiff and his wife, not knowing who or what was happening, attempted to shield their children. Every window in Plaintiff’s vehicle was broken.

...

1 **Background**

2 Plaintiff is charged in Maricopa County Superior Court in two pending cases. In
3 CR2012-005939, he is charged with drug violations and misconduct involving weapons
4 with an offense date of September 24, 2010.¹ In CR2012-139652, Plaintiff and his wife
5 were indicted for endangerment, resisting arrest, and/or kidnapping with an offense date
6 of July 25, 2012.² Plaintiff's wife pleaded guilty to misdemeanor resisting arrest and
7 endangerment and was sentenced to probation.³ Plaintiff is currently scheduled to go to
8 trial on the charges in the two cases on August 12, 2013.⁴

9 **IV. Failure to State a Claim**

10 To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the
11 conduct about which he complains was committed by a person acting under the color of
12 state law and (2) the conduct deprived him of a federal constitutional or statutory right.
13 *Wood v. Ostrander*, 879 F.2d 583, 587 (9th Cir. 1989). Further, a “plaintiff generally
14 must assert his own legal rights and interests, and cannot assert the legal rights or
15 interests of third parties.”” *Mothershed v. Justices of the Supreme Court*, 410 F.3d 602,
16 610 (9th Cir. 2005) (quoting *Warth v. Seldin*, 422 U.S. 490, 499 (1975)). In addition, a
17 plaintiff must allege that he suffered a specific injury as a result of the conduct of a
18 particular defendant and he must allege an affirmative link between the injury and the
19 conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

20 **A. Family Members**

21 Although unclear, Plaintiff in part appears to be seeking relief for violations of his
22 family members' constitutional rights. While Petitioner may commence this case on his

24 ¹ See <http://www.superiorcourt.maricopa.gov/docket/CriminalCourtCases/caseInfo.asp?caseNumber=CR2012-005939> (last visited July 10, 2013).

25 ² See <http://www.superiorcourt.maricopa.gov/docket/CriminalCourtCases/caseInfo.asp?caseNumber=CR2012-139652> (last visited July 10, 2013).

27 ³ See <http://www.courtminutes.maricopa.gov/docs/Criminal/052013/m5756177.pdf> (last visited July 10, 2013).

28 ⁴ See <http://www.courtminutes.maricopa.gov/docs/Criminal/062013/> m5800555.pdf (last visited July 10, 2013).

1 own behalf, but he cannot bring a case on behalf of others, such as family members. *See*
2 *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987) (a non-
3 attorney has no authority to appear as an attorney for anyone other than herself); *Elustra*
4 *v. Mineo*, 595 F.3d 699, 704 (7th Cir. 2010) (“Normally, representative parties such as
5 next friends may not conduct litigation *pro se*; pleadings may be brought before the court
6 only by parties or their attorney.”); *Simon v. Hartford Life, Inc.*, 546 F.3d 661 (9th Cir.
7 2008) (in action brought by *pro se* litigant, the real party in interest must be the person
8 who by substantive law has the right to be enforced); *Stoner v. Santa Clara County Office*
9 *of Educ.*, 502 F.3d 1116 (9th Cir. 2007). Accordingly, to the extent that Plaintiff may be
10 seeking relief on behalf of his family members, his Complaint will be dismissed.

11 **B. Brigola, Keeble, and Tolbert**

12 Plaintiff sues Detectives Brigola, Keeble, and Tolbert. While these officers may
13 be sued under § 1983, Plaintiff fails to state a claim against any of them.

14 To state a claim against a defendant, “[a] plaintiff must allege facts, not simply
15 conclusions, that show that an individual was personally involved in the deprivation of
16 his civil rights.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998). For an
17 individual to be liable in his official capacity, a plaintiff must allege that the official acted
18 as a result of a policy, practice, or custom. *See Cortez v. County of Los Angeles*, 294 F.3d
19 1186, 1188 (9th Cir. 2001). Further, there is no *respondeat superior* liability under
20 §1983, so a defendant’s position as the supervisor of someone who allegedly violated a
21 plaintiff’s constitutional rights does not make him liable. *Monell v. Dep’t of Soc. Servs.*,
22 436 U.S. 658, 691 (1978); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). A
23 supervisor in his individual capacity, “is only liable for constitutional violations of his
24 subordinates if the supervisor participated in or directed the violations, or knew of the
25 violations and failed to act to prevent them.” *Taylor*, 880 F.2d at 1045.

26 Plaintiff fails to allege any facts against Detectives Brigola, Keeble, or Tolbert.
27 He does not allege when, where, or how any of them violated his constitutional rights,
28 nor does he allege facts to support that his constitutional rights were violated as a result

1 of a policy, practice, or custom promulgated, endorsed, or condoned by any of them.
2 Accordingly, Plaintiff fails to state a claim against any of them and they will be
3 dismissed.

4 **C. Excessive Force**

5 Plaintiff alleges a single count for excessive physical force. A claim that police
6 officers used excessive force in the course of an arrest arises under the Fourth
7 Amendment. *See Graham v. Connor*, 490 U.S. 386, 395 (1989); *Hooper v. County of*
8 *San Diego*, 629 F.3d 1127, 1133 (9th Cir. 2011); *Bryan v. MacPherson*, 630 F.3d 805,
9 823-24 (9th Cir. 2010). To state an excessive force claim, a plaintiff must allege facts to
10 support that the force used by police officers was objectively unreasonable under the
11 circumstances. *Graham*, 490 U.S. at 395. The pertinent question is whether the use of
12 force was “objectively reasonable in light of the facts and circumstances confronting [the
13 officers], without regard to their underlying intent or motivation.” *Id.* at 397. Further, an
14 arrestee’s resistance may support the use of force regardless of whether of probable cause
15 for an arrest exists. *Brooks v. City of Seattle*, 599 F.3d 1018, 1022 (9th Cir. 2010). But
16 the existence of probable cause may be considered as a part of the totality of the
17 circumstances. *Id.* Other relevant circumstances include the severity of the suspected
18 crime at issue, whether the suspect posed an immediate threat to the safety of officers or
19 others, and whether the suspect was actively resisting arrest or attempting to evade arrest.
20 *Miller v. Clark County*, 340 F.3d 959, 964 (9th Cir. 2003); *see Bryan*, 630 F.3d at 823-24.

21 Plaintiff alleges that the vehicle that he was driving was rammed by unmarked
22 police vehicles and that the officers then “deployed” police dogs and tasers into the
23 vehicle. While Plaintiff mentions Buffington, he does not specifically allege how
24 Buffington used excessive force against him. For instance, Plaintiff does not allege that
25 Buffington drove one of the unmarked police vehicles that rammed into his or that
26 Buffington either pointed a taser at Plaintiff or shot him with a taser, nor does Plaintiff
27 allege that he was injured when the police vehicles rammed his vehicle. Plaintiff at most
28 alleges that Buffington was present. That is not sufficient to support that Buffington

1 actually used excessive force against Plaintiff. In addition, Plaintiff does not allege facts
2 to support that the force used was excessive in light of the reasons for the stop and
3 Plaintiff's arrest. For these reasons, Plaintiff fails to state a claim for excessive force and
4 Count I will be dismissed.

5 **V. Leave to Amend**

6 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to
7 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
8 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
9 mail Plaintiff a court-approved form to use for filing a first amended complaint. If
10 Plaintiff fails to use the court-approved form, the Court may strike the amended
11 complaint and dismiss this action without further notice to Plaintiff.

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

16 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
17 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
18 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
19 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
20 in the original complaint is waived if it is not raised in a first amended complaint. *King v.*
21 *Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987).

22 **VI. Warnings**

23 **A. Release**

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

28 . . .

1 **B. Address Changes**

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

6 **C. Copies**

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

10 **D. Possible “Strike”**

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

20 **E. Possible Dismissal**

21 If Plaintiff fails to timely comply with every provision of this Order, including
22 these warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963
23 F.2d at 1260-61 (a district court may dismiss an action for failure to comply with any
24 order of the Court).

25 **IT IS ORDERED:**

26 (1) Plaintiff’s Application to Proceed *In Forma Pauperis* is **granted**. (Doc. 2.)

27 ...

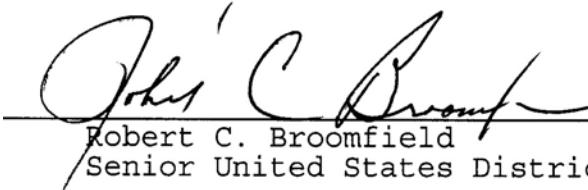
1 (2) As required by the accompanying Order to the appropriate government
2 agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial
3 filing fee.

4 (3) The Complaint is **dismissed** for failure to state a claim. (Doc. 1.) Plaintiff
5 has **30 days** from the date this Order is filed to file a first amended complaint in
6 compliance with this Order.

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

10 (5) The Clerk of Court must mail Plaintiff a court-approved form for filing a
11 civil rights complaint by a prisoner.

12 DATED this 16th day of July, 2013.

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15 
16 _____
17 Robert C. Broomfield
18 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:**

<u>Phoenix & Prescott Divisions:</u>	OR	<u>Tucson Division:</u>
U.S. District Court Clerk		U.S. District Court Clerk
U.S. Courthouse, Suite 130		U.S. Courthouse, Suite 1500
401 West Washington Street, SPC 10		405 West Congress Street
Phoenix, Arizona 85003-2119		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,))))))))))))	CASE NO. _____
	vs.)))))))))))	(To be supplied by the Clerk)	
<u>(1)</u>	,)))))))))))		
(Full Name of Defendant))))))))))))		
<u>(2)</u>	,)))))))))))		
<u>(3)</u>	,)))))))))))		
<u>(4)</u>	,)))))))))))		
CIVIL RIGHTS COMPLAINT BY A PRISONER														
<input type="checkbox"/> Original Complaint <input type="checkbox"/> First Amended Complaint <input type="checkbox"/> Second Amended Complaint														
<input type="checkbox"/> Check if there are additional Defendants and attach page 1-A listing them.														

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:

(Position and Title) _____
(Institution)
2. Name of second Defendant: _____ . The second Defendant is employed as:

(Position and Title) _____
(Institution)
3. Name of third Defendant: _____ . The third Defendant is employed as:

(Position and Title) _____
(Institution)
4. Name of fourth Defendant: _____ . The fourth Defendant is employed as:

(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.

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.

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.

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 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.

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:

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)

(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.