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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Anthony J. Black,

10 Plaintiff,

11 vs.

12 Joseph M. Arpaio, et al.,

13 Defendants.
14

No. CV 14-621-PHX-RCB (MHB)

ORDER

15 Plaintiff Anthony J. Black, who is confined in the Maricopa County Fourth
16 Avenue Jail, filed a *pro se* Complaint in Maricopa County Superior Court, case number
17 CV 2014-000510. (Doc. 1-1 at 5-7).

18 In his Complaint, Plaintiff asserts violations of his rights under the Fourth, Eighth,
19 Ninth, Thirteenth, and Fourteenth Amendments to the United States Constitution.
20 Plaintiff names Sheriff Joseph M. Arpaio and “Maricopa County Sheriff Department
21 Facility Commanders” as Defendants.

22 Defendant Arpaio was served on March 7, 2014. On March 26, 2014, Defendant
23 Arpaio removed the case to this Court based on federal question jurisdiction.

24 The Complaint facially supports that subject matter jurisdiction is proper in federal
25 court and that the case was timely removed. 28 U.S.C. § 1446(b). The Court will
26 dismiss the Complaint with leave to amend.

27 **I. Removal to Federal Court was Proper**

28 A defendant may remove any civil action brought in state court over which the

1 federal court would have original jurisdiction. 28 U.S.C. §1441(a). That is, a civil action
2 that could have originally been brought in federal court may be removed from state to
3 federal court. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). A federal court has
4 original jurisdiction “of all civil actions arising under the Constitution, laws, or treaties of
5 the United States.” 28 U.S.C. § 1331.

6 The Complaint in this case facially supports that subject matter jurisdiction exists
7 in federal court because Plaintiff alleges violations of his federal constitutional rights. 28
8 U.S.C. § 1441(a). Further, the case was timely removed. 28 U.S.C. § 1446(b).

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

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

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

22 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
23 claim to relief that is plausible on its face.’” *Id.* (citation omitted). A claim is plausible
24 “when the plaintiff pleads factual content that allows the court to draw the reasonable
25 inference that the defendant is liable for the misconduct alleged.” *Id.* (citation omitted).
26 “Determining whether a complaint states a plausible claim for relief [is] . . . a context-
27 specific task that requires the reviewing court to draw on its judicial experience and
28 common sense.” *Id.* at 679 (citation omitted). Thus, although a plaintiff’s specific

1 factual allegations may be consistent with a constitutional claim, a court must assess
2 whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

3 But as the United States Court of Appeals for the Ninth Circuit has instructed,
4 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
5 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
6 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v.*
7 *Pardus*, 551 U.S. 89, 94 (2007) (per curiam)). If the Court determines that a pleading
8 could be cured by the allegation of other facts, a *pro se* litigant is entitled to an
9 opportunity to amend a complaint before dismissal of the action. *See Lopez v. Smith*, 203
10 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). Here, Plaintiff fails to state a claim upon
11 which relief can be granted in his Complaint, but it appears that the Complaint could be
12 cured by allegations of other facts. Accordingly, Plaintiff’s Complaint will be dismissed
13 without prejudice and Plaintiff will be given an opportunity to amend.

14 **III. Complaint**

15 In his Complaint, Plaintiff alleges as follows: Sheriff Joseph M. Arpaio forces his
16 facility commanders to instruct housing officers to tell inmates to strip all clothing and be
17 searched prior to getting a new set of facility-issued clothing and getting shackled to go
18 to court. The process is repeated upon returning from court and upon release from jail or
19 transfer to a new facility. As a result, Sheriff Arpaio has violated the Fourth, Eighth,
20 Ninth, Thirteenth, and Fourteenth Amendments of the United States Constitution.
21 Plaintiff asserts that pretrial detainees should not have to expose themselves in order to
22 receive a new set of facility issued clothes prior to going to and returning from court
23 proceedings. Plaintiff seeks injunctive relief and monetary and punitive damages.

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

25 To prevail in a 42 U.S.C. § 1983 claim, a plaintiff must show that (1) acts by the
26 defendants (2) under color of state law (3) deprived him of federal rights, privileges or
27 immunities and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158,
28 1163-64 (9th Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game*

1 *Comm'n*, 42 F.3d 1278, 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he
2 suffered a specific injury as a result of the conduct of a particular defendant and he must
3 allege an affirmative link between the injury and the conduct of that defendant. *Rizzo v.*
4 *Goode*, 423 U.S. 362, 371-72, 377 (1976).

5 **A. Fourth Amendment**

6 Plaintiff alleges that strip searches at the Fourth Avenue Jail violate his rights
7 under the Fourth Amendment. Detainees, like convicted prisoners, do not possess “the
8 full range of freedoms of an unincarcerated individual.” *Bell v. Wolfish*, 441 U.S. 520,
9 546 (1979). “The applicability of the Fourth Amendment turns on whether the person
10 invoking its protection can claim a ‘justifiable,’ a ‘reasonable,’ or a ‘legitimate
11 expectation of privacy’ that has been invaded by government action.” *Hudson v. Palmer*,
12 468 U.S. 517, 525 (1984) (quotation omitted); *see also Bell*, 441 U.S. at 557 (“any
13 reasonable expectation of privacy that a detainee retained necessarily would be of a
14 diminished scope”). “A right of privacy in traditional Fourth Amendment terms is
15 fundamentally incompatible with the close and continual surveillance of inmates and
16 their cells required to ensure institutional security and internal order.” *Hudson*, 468 U.S.
17 at 527-28. Furthermore, any restriction on a plaintiff’s privacy interests is justified to the
18 extent that it is “reasonably related to legitimate penological interests.” *See Turner v.*
19 *Safley*, 482 U.S. 78, 89 (1987). The investigation and prevention of illegal inmate
20 activity, including the prevention of contraband and circulation of threats, is a legitimate
21 penological objective. *See Thornburgh v. Abbott*, 490 U.S. 401, 411-12 (1989).

22 Generally, strip searches do not violate the Fourth Amendment rights of prisoners.
23 *See Michenfelder v. Sumner*, 860 F.2d 328, 332-33 (9th Cir. 1988). Whether a search is
24 reasonable under the Fourth Amendment requires a case-by-case “balancing of the need
25 for the particular search against the invasion of personal rights that the search entails . . .
26 .” *Bell*, 441 U.S. at 559. “The required factors for courts to consider include: (1) the
27 scope of the particular intrusion, (2) the manner in which it is conducted, (3) the
28 justification for initiating it, and (4) the place in which it is conducted.” *Byrd v.*

1 *Maricopa County Sheriff's Dept.*, 629 F.3d 1135, 1141 (9th Cir. 2011) (en banc) (internal
2 quotation marks and citation omitted).

3 That being said, the Fourth Amendment guarantees the right of the people to be
4 secure against unreasonable searches, and its protections are not extinguished upon
5 incarceration. *Michenfelder*, 860 F.2d at 332-33. Further, the Fourth Amendment has
6 been held to apply to the invasion of bodily privacy. *Id.* at 333. Thus, strip searches that
7 are excessive, vindictive, harassing, or unrelated to any legitimate penological interest
8 may violate the Fourth Amendment. *Id.* at 332. Nevertheless, a policy of routinely strip
9 searching arrestees for contraband has been held not to be unreasonable where there is no
10 physical contact and the searches are professionally conducted in relative privacy. *Bull v.*
11 *City and County of San Francisco*, 595 F.3d 964, 975 (9th Cir. 2010) (en banc).
12 Moreover, an arrestee can be “strip searched without individualized suspicion if the
13 arrestee would be introduced into the general jail population.” *Edgerly v. City and*
14 *County of San Francisco*, 599 F.3d 946, 957 (9th Cir. 2010) (citing *Bull*, 595 F.3d at
15 977). However, jail officials must have “reasonable suspicion to strip search arrestees
16 charged with minor offenses who are not classified for housing in the general
17 population.” *Id.* Finally, the United States Supreme Court upheld as constitutional strip
18 searches of *arrestees*, which were conducted by county jails as a standard part of the
19 intake process and required male prisoners to lift their genitals and cough in a squatting
20 position, because the searches were “designed to uncover contraband that can be
21 undetected by a patdown, metal detector, and other less invasive searches.” *Florence v.*
22 *Bd. of Chosen Freeholders of County of Burlington*, 132 S. Ct. 1510, 1520 (2012).

23 In this case, Plaintiff’s allegations are too vague and conclusory to state a claim.
24 Plaintiff makes generalized allegations that Sheriff Arpaio ordered commanders to order
25 housing officers to conduct strip searches of inmates under certain circumstances, but
26 does not allege any *specific* facts about the strip searches at the Fourth Avenue Jail, such
27 as when he was strip searched, by whom, where, or any facts to support that the search or
28 searches were excessive, vindictive, harassing, or unrelated to a legitimate penological

1 interest. Plaintiff does not allege facts to support that there was any physical contact or
2 that the searches were unprofessionally conducted or not conducted in relative privacy.
3 Although *pro se* pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519, 520-
4 21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey v.*
5 *Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a
6 liberal interpretation of a civil rights complaint may not supply essential elements of the
7 claim that were not initially pled. *Id.* In short, Plaintiff fails to allege sufficient facts to
8 state a Fourth Amendment claim, and that claim will be dismissed.

9 **B. Fourteenth Amendment**

10 Plaintiff alleges that strip searches violate his Fourteenth Amendment rights.
11 Under the Due Process Clause, “a detainee may not be punished prior to an adjudication
12 of guilt.” *Bell*, 441 U.S. at 536 (citations omitted). However, the government may
13 subject a pretrial detainee “to the restrictions and conditions of the detention facility so
14 long as those conditions and restrictions do not amount to punishment, or otherwise
15 violate the Constitution.” *Id.* at 536-37. Here, Plaintiff has failed to allege facts to
16 support that the strip searches are conducted with the intent to punish pretrial detainees.
17 *Id.* at 540 (no unconstitutional punishment occurs when the government imposes
18 restrictions as part of legitimate operational concerns to ensure security and order).

19 Plaintiff also alleges that his rights under the Equal Protection Clause have been
20 violated. The Equal Protection Clause of the Fourteenth Amendment provides that a state
21 may not “deny to any person within its jurisdiction the equal protection of the laws,”
22 which is essentially a direction that all persons similarly situated should be treated alike.
23 U.S. Const., amend. XIV; *see City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S.
24 432, 439 (1985). A state practice that interferes with a fundamental right or that
25 discriminates against a suspect class of individuals is subject to strict scrutiny.
26 *Massachusetts Bd. of Ret. v. Murgia*, 427 U.S. 307, 312 (1976); *see City of Cleburne*, 473
27 U.S. at 441. Absent allegations that he is a member of a suspect class, or that a
28 fundamental right has been violated, a plaintiff must allege facts to support that he has

1 been intentionally treated differently from others who are similarly situated without a
2 reasonable basis therefor. *See Village of Willowbrook v. Olech*, 528 U.S. 562, 564
3 (2000). Conclusory allegations do not suffice. *See Village of Arlington Heights v.*
4 *Metropolitan Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977). Here, Plaintiff does not allege
5 that he is a member of a suspect class or that he has been treated differently from other
6 similarly situated individuals.

7 Accordingly, Plaintiff fails to state a Fourteenth Amendment claim and that claim
8 will be dismissed.

9 **C. Eighth Amendment**

10 Plaintiff alleges that his Eight Amendment right to be free from cruel and unusual
11 punishment has been violated by strip searches. A pretrial detainee's claim for
12 unconstitutional conditions of confinement arises from the Fourteenth Amendment's Due
13 Process Clause rather than from the Eighth Amendment prohibition against cruel and
14 unusual punishment. *Bell*, 441 U.S. 520, 531 (1979). Nevertheless, the same standards
15 are applied, requiring proof that the defendant acted with deliberate indifference. *See*
16 *Frost v. Agnos*, 152 F.3d 1124, 1128 (9th Cir. 1998).

17 To state a claim for unconstitutional conditions of confinement, a plaintiff must
18 allege that a defendant's acts or omissions have deprived the inmate of "the minimal
19 civilized measure of life's necessities" and that the defendant acted with deliberate
20 indifference to an excessive risk to inmate health or safety. *Allen v. Sakai*, 48 F.3d 1082,
21 1087 (9th Cir. 1994) (quoting *Farmer*, 511 U.S. at 834); *see Estate of Ford v. Ramirez-*
22 *Palmer*, 301 F.3d 1043, 1049-50 (9th Cir. 2002). Whether conditions of confinement rise
23 to the level of a constitutional violation may depend, in part, on the duration of an
24 inmate's exposure to those conditions. *Keenan v. Hall*, 83 F.3d 1083, 1089, 1091 (9th
25 Cir. 1996) (citing *Hutto v. Finney*, 437 U.S. 678, 686-87 (1978)). "The circumstances,
26 nature, and duration of a deprivation of [] necessities must be considered in determining
27 whether a constitutional violation has occurred." *Hearns v. Terhune*, 413 F.3d 1036,
28 1042 (9th Cir. 2005) (quoting *Johnson v. Lewis*, 217 F.3d 726, 731 (9th Cir. 2000)).

1 To adequately allege deliberate indifference, a plaintiff must allege facts to
2 support that a defendant knew of, but disregarded, an excessive risk to inmate safety.
3 *Farmer*, 511 U.S. at 832-33. That is, “the official must both [have been] aware of facts
4 from which the inference could be drawn that a substantial risk of serious harm exist[ed],
5 and he must also [have] draw[n] the inference.” *Id.*

6 Plaintiff has failed to allege any facts supporting that any Defendant was
7 deliberately indifferent to an excessive risk to his health or safety. Accordingly,
8 Plaintiff’s Eighth Amendment claim will be dismissed.

9 **D. Ninth Amendment**

10 Plaintiff alleges that strip searches violate his rights under the Ninth Amendment.
11 The Ninth Amendment “has never been recognized as independently securing any
12 constitutional right, for purposes of pursuing a civil rights claim.” *Strandberg v. City of*
13 *Helena*, 791 F.2d 744, 748 (9th Cir. 1986); *see San Diego County Gun Rights Committee*
14 *v. Reno*, 98 F.3d 1121, 1125 (9th Cir. 1996). Accordingly, Plaintiff’s Ninth Amendment
15 claim will be dismissed.

16 **E. Thirteenth Amendment**

17 Plaintiff alleges that strip searches violate his Thirteenth Amendment rights. The
18 Thirteenth Amendment provides, in relevant part, that “[n]either slavery nor involuntary
19 servitude, except as punishment for crime whereof the party shall have been duly
20 convicted, shall exist within the United States, or any place subject to their jurisdiction.”
21 A pretrial detainee’s claim for unconstitutional conditions of confinement arises from the
22 Fourteenth Amendment Due Process Clause. *Bell*, 441 U.S. at 535. The Thirteenth
23 Amendment does not apply to searches of pretrial detainees. *See Butler v. Perry*, 240
24 U.S. 328, 332 (1916) (“[T]he term ‘involuntary servitude’ was intended to cover those
25 forms of compulsory labor akin to African slavery. . . .”). Accordingly, Plaintiff’s
26 Thirteenth Amendment claim will be dismissed.

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1 **V. Leave to Amend**

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

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

12 Further, if Plaintiff files an amended complaint, Plaintiff must write short, plain
13 statements telling the Court: (1) the constitutional right Plaintiff believes was violated;
14 (2) the name of the Defendant who violated the right; (3) exactly what that Defendant did
15 or failed to do; (4) how the action or inaction of that Defendant is connected to the
16 violation of Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered
17 because of that Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

18 Plaintiff must repeat this process for each person he names as a Defendant. If
19 Plaintiff fails to affirmatively link the conduct of each named Defendant¹ with the
20 specific injury suffered by Plaintiff, the allegations against that Defendant will be
21 dismissed for failure to state a claim. **Conclusory allegations that a Defendant or**

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23
24 ¹ If Plaintiff does not know the names of the individual Defendants, Plaintiff must
25 list the individual unknown defendants as Defendant John (or Jane) Doe 1, John Doe 2,
26 and so on in the caption of his complaint, *and*, in the body of the complaint, Plaintiff
27 must allege facts to support how each particular Doe defendant violated Plaintiff's rights.
28 *See Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (where identity is
unknown prior to the filing of a complaint, the plaintiff should be given an opportunity
through discovery to identify the unknown defendants, unless it is clear that discovery
would not uncover the identities, or that the complaint would be dismissed on other
grounds) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)).

1 **group of Defendants has violated a constitutional right are not acceptable and will**
2 **be dismissed.**

3 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
4 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
5 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
6 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
7 in the original complaint and that was voluntarily dismissed or was dismissed without
8 prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa*
9 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

10 **VI. Warnings**

11 **A. Release**

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

16 **B. Address Changes**

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

21 **C. Copies**

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

25 **D. Possible “Strike”**

26 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff
27 fails to file an amended complaint correcting the deficiencies identified in this Order, the
28 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).

1 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil
2 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more
3 prior occasions, while incarcerated or detained in any facility, brought an action or appeal
4 in a court of the United States that was dismissed on the grounds that it is frivolous,
5 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner
6 is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

7 **E. Possible Dismissal**

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

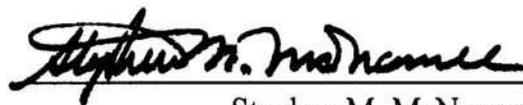
12 **IT IS ORDERED:**

13 (1) The Complaint (Doc. 1-1 at 5-7) is **dismissed** for failure to state a claim.
14 Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in
15 compliance with this Order.

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

19 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a
20 civil rights complaint by a prisoner.

21 DATED this 2nd day of May, 2014.

22
23 

24 _____
25 Stephen M. McNamee
26 Senior United States District Judge
27
28

**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.

_____.

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 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.

_____.

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.