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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHARLES LEE PEOPLES, JR.,
Plaintiff,
v.
LOS ANGELES COUNTY SHERIFF
DEPARTMENT, et al.,
Defendants.

Case No. CV 17-03756 SVW (SS)

**MEMORANDUM AND ORDER DISMISSING
COMPLAINT WITH LEAVE TO AMEND**

I.

INTRODUCTION

Plaintiff Charles Lee Peoples, Jr. ("Plaintiff"), a California state prisoner proceeding pro se, has filed a Civil Rights Complaint pursuant to 42 U.S.C. § 1983. (Dkt. No. 1). Congress mandates that district courts perform an initial screening of complaints in civil actions where a prisoner seeks redress from a governmental entity or employee. 28 U.S.C. § 1915A(a). This Court may dismiss such a complaint, or any portion thereof, before service of process if the complaint (1) is frivolous or malicious,

1 (2) fails to state a claim upon which relief can be granted, or
2 (3) seeks monetary relief from a defendant who is immune from such
3 relief. 28 U.S.C. § 1915A(b)(1-2); see also Lopez v. Smith, 203
4 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000) (en banc). For the reasons
5 stated below, the Complaint is DISMISSED with leave to amend.¹

6
7 **II.**

8 **FACTUAL ALLEGATIONS AND CLAIMS**

9
10 It is not entirely clear who Plaintiff is attempting to sue.
11 The "Los Angeles County Sheriff Department" ("LACSD") is the named
12 defendant in the caption of the Complaint. (Complaint ("Compl.")
13 at 1). However, in the list of defendants in the body of the
14 Complaint, he names only an anonymous employee of the North County
15 Correctional Facility ("NCCF"), where he was housed at the time of
16 the alleged incident. (Id. at 3). In his prayer for relief, he
17 also requests an official review of "the deputies involved." (Id.
18 at 6). He does not specify whether Defendants are sued in an
19 individual or official capacity. (Id.).

20
21 The Complaint summarily alleges that, on May 14, 2016, a
22 lieutenant ordered Plaintiff and other inmates to clean a dorm.
23 (Id. at 5). The room had recently been used for welding, which
24 left the air polluted by "hazardous and toxic fumes." (Id.).
25 Plaintiff and five other inmates worked in the room without

26 _____
27 ¹ A magistrate judge may dismiss a complaint with leave to amend
28 without the approval of a district judge. See McKeever v. Block,
932 F.2d 795, 798 (9th Cir. 1991).

1 ventilation, lost consciousness, and were "emergency escorted" to
2 the infirmary. (Id.). Plaintiff claims to suffer from continuing
3 injuries as a result of the incident. (Id. at 5-6).

4
5 The specific grounds for Plaintiff's claims are unclear.
6 However, the Complaint appears to allege that LACSD and Doe
7 Defendants are liable under the Eighth Amendment for cruel and
8 unusual punishment, as a result of requiring forced labor,
9 "inflicting harm to inmates," "safety violations" and "abuse of
10 authority." (Id. at 5). He also alleges a state law negligence
11 claim. (Id.). Plaintiff prays for five million dollars in damages,
12 "disciplinary action" and an "official review" of the deputies and
13 the facility. (Id. at 6).

14 15 **III.**

16 **DISCUSSION**

17
18 Under 28 U.S.C. § 1915A(b), the Court must dismiss the
19 Complaint due to pleading defects. However, a court must grant a
20 pro se litigant leave to amend his defective complaint unless "it
21 is absolutely clear that the deficiencies of the complaint could
22 not be cured by amendment." Akhtar v. Mesa, 698 F.3d 1202, 1212
23 (9th Cir. 2012) (citation and internal quotation marks omitted).
24 It is not "absolutely clear" that at least some of the defects of
25 Plaintiff's Complaint could not be cured by amendment. The
26 Complaint is therefore DISMISSED with leave to amend.

1 **A. The Los Angeles County Sheriff's Department Is An Improper**
2 **Defendant**

3
4 There is "no constitutional impediment to municipal liability"
5 under Section 1983. Monell v. Dep't of Soc. Servs. of City of New
6 York, 436 U.S. 658, 690 n.54, 691 (1978); see also Pembaur v. City
7 of Cincinnati, 475 U.S. 469, 483 (1986) (extending Monell's
8 analysis of municipal liability to counties). However, a
9 department, agency or unit of a local government is an improper
10 defendant. See Hervey v. Estes, 65 F.3d 784, 701 (9th Cir. 1995)
11 (police narcotics task force not a "person" or entity subject to
12 suit under section 1983). Accordingly, the LACSD is not a proper
13 defendant in this action, and Plaintiff's claims against LACSD must
14 be dismissed. If Plaintiff wishes to sue the County of Los Angeles,
15 he must meet the standard indicated below.

16
17 **B. Plaintiff Fails To State A Claim Against The County**

18
19 Plaintiff may have intended to sue Los Angeles County. A
20 municipality may be held liable under Section 1983 only for
21 constitutional violations occurring as the result of an official
22 government policy or custom. Collins v. City of Harker Heights,
23 Tex., 503 U.S. 115, 121 (1992); Monell, 436 U.S. at 694. To assert
24 a valid section 1983 claim against Los Angeles County, Plaintiff
25 must show both a deprivation of constitutional rights and a
26 departmental policy, custom or practice that was the "moving force"
27 behind the constitutional violation. Villegas v. Gilroy Garlic
28 Festival Ass'n, 541 F.3d 950, 957 (9th Cir. 2008). There must be

1 a 'direct causal link between a [County] policy or custom and the
2 alleged constitutional deprivation.' Id. (quoting City of Canton
3 v. Harris, 489 U.S. 378, 385 (1989)). Proof of a single incident
4 of unconstitutional activity, or even a series of 'isolated and
5 sporadic incidents,' " will not impose liability under section 1983.
6 Gant v. Cnty. of Los Angeles, 772 F.3d 608, 618 (9th Cir. 2014)
7 (quoting Okla. City v. Tuttle, 471 U.S. 808, 823-24 (1985)).
8 Rather, liability must be "founded upon practices of sufficient
9 duration, frequency and consistency that the conduct has become a
10 traditional method of carrying out policy." Trevino v. Gates, 99
11 F.3d 911, 918 (9th Cir. 1996).

12
13 Plaintiff does not identify a policy, custom or practice that
14 led to his alleged injuries. The single incident Plaintiff alleges
15 is not enough to establish the existence of such a policy. As a
16 result, Plaintiff fails to state a valid Monell claim against the
17 County, and the Complaint must be dismissed, with leave to amend.

18
19 **C. The Complaint Fails To State A Claim Against The Doe**
20 **Defendants**

21
22 The Complaint also sues a Defendant whose name is unknown to
23 Plaintiff but is "documented by Inspector General Monitor Barbra
24 Phillips." (Compl. at 3). Generally, courts do not favor actions
25 against "unknown" defendants. Wakefield v. Thompson, 177 F.3d
26 1160, 1163 (9th Cir. 1999). However, a plaintiff may sue unnamed
27 defendants when the identity of the alleged defendants is not known
28 before filing the complaint. Gillespie v. Civiletti, 629 F.2d 637,

1 642 (9th Cir. 1980). If that is the case, a court gives the
2 plaintiff "the opportunity through discovery to identify unknown
3 defendants, unless it is clear that discovery would not uncover
4 the identities." Id. A plaintiff must diligently pursue discovery
5 to learn the identity of unnamed defendants.

6
7 Here, however, the claims against the Doe Defendant (or
8 Defendants) must be dismissed. Plaintiff sues only one Doe
9 Defendant but seeks relief against the "deputies involved."
10 (Compl. at 3, 6). To state a claim against more than one deputy,
11 Plaintiff must identify each Doe Defendant as "Doe No. 1, Doe No.
12 2," etc., and show how each Defendant individually participated in
13 the alleged constitutional violations, whether or not Plaintiff
14 knows the Defendant's name. Accordingly, the Complaint must be
15 dismissed, with leave to amend.

16
17 **D. Plaintiff Fails To State A Cruel And Unusual Punishment Claim**

18
19 Plaintiff broadly claims that he was subjected to "cruel and
20 unusual punishment." (Compl. at 5). This punishment included
21 "forced labor," "abuse of authority" and "safety violations."
22 (Id.). It is unclear whether Plaintiff is raising this claim
23 against the LACSD, one or more Doe Defendants, or both.

24
25 Infliction of suffering on prisoners that is "totally without
26 penological justification" violates the Eighth Amendment. Rhodes
27 v. Chapman, 452 U.S. 337, 346 (1981). Only "the unnecessary and
28 wanton infliction of pain . . . constitutes cruel and unusual

1 punishment forbidden by the Eighth Amendment.” Whitley v. Albers,
2 475 U.S. 312, 319 (1986) (internal quotation marks and citation
3 omitted). The pain must amount to “the type of shocking and
4 barbarous treatment protected against by the [E]ighth [A]mendment.”
5 Grummett v. Rushen, 779 F.2d 491, 494 n.1 (9th Cir. 1985). To
6 state an Eighth Amendment claim, a prisoner must allege that prison
7 officials acted with deliberate indifference to a substantial risk
8 of serious harm. Farmer v. Brennan, 511 U.S. 825, 828 (1994).
9 Prison officials manifest deliberate indifference if they know of
10 and disregard an excessive risk to an inmate’s safety or health.
11 Id. at 837.

12
13 Here, Plaintiff alleges that Doe Defendants told him to clean
14 a room allegedly filled with noxious fumes. (Compl. at 5). The
15 Complaint fails to show whether Doe Defendants knew of and
16 purposely ignored the risk of the fumes. Also, Plaintiff does not
17 provide a detailed description of the “forced labor” to which he
18 was allegedly subjected, nor does he specify which safety
19 regulations were allegedly violated. Plaintiff is advised that
20 violations of safety regulations are not themselves constitutional
21 violations. Because Plaintiff does not allege “shocking and
22 barbarous” intentional conduct by any Defendant that would rise to
23 the level of a constitutional violation, the Complaint fails to
24 state a constitutional claim. See Oltarzewski v. Ruggiero, 830
25 F.2d 136, 139 (9th Cir. 1987). Therefore, the Complaint must be
26 dismissed, with leave to amend.

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28 //

1 **E. Plaintiff Fails To Allege A Deliberate Indifference Claim**
2 **Against Any Defendant**

3
4 It is also possible that Plaintiff may be attempting to state
5 an Eighth Amendment claim based on inadequate medical treatment.
6 To state a claim, a prisoner must demonstrate that the defendant
7 was "deliberately indifferent" to his "serious medical needs."
8 Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006). To establish
9 a "serious medical need," the prisoner must show that "failure to
10 treat [the] prisoner's condition could result in further
11 significant injury or the 'unnecessary and wanton infliction of
12 pain.'" Jett, 439 F.3d at 1096 (citation omitted); see also Morgan
13 v. Morgensen, 465 F.3d 1041, 1045 (9th Cir. 2006) (the existence
14 of a serious medical need is determined by an objective standard).

15
16 To establish "deliberate indifference" to such a need, the
17 prisoner must demonstrate: "(a) a purposeful act or failure to
18 respond to a prisoner's pain or possible medical need, and (b) harm
19 caused by the indifference." (Id.). Deliberate indifference "may
20 appear when prison officials deny, delay or intentionally interfere
21 with medical treatment, or it may be shown by the way in which
22 prison physicians provide medical care." (Id.) (citations
23 omitted). The defendant must have been subjectively aware of a
24 serious risk of harm and must have consciously disregarded that
25 risk. See Farmer, 511 U.S. at 839. An "isolated exception" to
26 the defendant's "overall treatment" of the prisoner does not state
27 a deliberate indifference claim. Jett, 439 F.3d at 1096.

1 To the extent that Plaintiff is alleging that his loss of
2 consciousness was an objectively serious medical need, the
3 Complaint does not allege that Doe Defendants were subjectively
4 aware of, and deliberately chose to ignore, Plaintiff's medical
5 needs. In fact, Plaintiff received immediate, "emergency" medical
6 attention after he fainted. (Compl. at 5). Plaintiff does not
7 allege facts showing the Defendants denied, delayed or
8 intentionally interfered with his medical treatment. Accordingly,
9 to the extent that Plaintiff is attempting to assert a deliberate
10 indifference claim based on his medical care, the claim must be
11 dismissed, with leave to amend.

12
13 **F. Plaintiff Fails To State A State Law Negligence Claim**

14
15 Plaintiff also may be attempting to assert a state law tort
16 claim for negligence. However, the Complaint does not satisfy the
17 jurisdictional requirements for alleging a state law tort claim,
18 such as negligence, in a civil action against government actors.

19
20 Under the California Government Claims Act ("CGCA"), a
21 plaintiff may not bring an action for damages against a public
22 employee or entity unless he first presents a written claim to the
23 local governmental entity within six months of the incident. See
24 Mabe v. San Bernadino Cnt'y, Dept. of Public Social Services, 237
25 F.3d 1101, 1111 (9th Cir. 2001); see also Cal. Gov't Code § 945.4
26 ("[N]o suit for money or damages may be brought against a public
27 entity . . . until a written claim therefor has been presented to
28 the public entity and has been acted upon by the board, or has been

1 deemed to have been rejected by the board . . ."). A plaintiff
2 must allege that the written claim was presented to the government
3 entity or explain why presentation should be excused, or the
4 complaint is subject to dismissal. Mangold v. Cal. Pub. Utils.
5 Comm'n, 67 F.3d 1470, 1477 (9th Cir. 1995).

6
7 Internal prison grievances are separate from and do not
8 satisfy the CGCA's claim presentation requirement. See Hendon v.
9 Ramsey, 528 F. Supp. 2d 1058, 1069-70 (S.D. Cal. 2007) ("Although
10 Plaintiff has demonstrated successfully that he utilized the prison
11 grievance process to exhaust his federal [constitutional] claims
12 by filing an inmate appeal, and has attached documentation in the
13 form of his CDC 602 form and administrative responses, these
14 documents do not satisfy the CTCA [California Tort Claims Act] with
15 respect to his state law negligence claims."). Also, "[t]he
16 failure to exhaust an administrative remedy is a jurisdictional,
17 not a procedural, defect." Miller v. United Airlines, Inc., 174
18 Cal. App. 3d 878, 890 (1985).

19
20 To the extent that Plaintiff is attempting to assert a claim
21 for negligence, the claim fails because the Complaint does not
22 allege that Plaintiff presented his claim to the appropriate agency
23 before filing suit as required by the CGCA.² Accordingly, the
24 Complaint must be dismissed, with leave to amend. However,
25 Plaintiff is cautioned that he should not assert such a claim
26 unless he can either show that he satisfied the CGCA presentation

27 _____
28 ² The Complaint reflects Plaintiff's attempt to exhaust the internal
prison grievance process only. (Compl. at 2).

1 requirement, or explain why exhaustion should be excused under the
2 particular circumstances of this case.

3
4 **G. Plaintiff's Request For Relief Is Defective**

5
6 Plaintiff requests an "official review" of NCCF and
7 "disciplinary action" against the deputies involved. (Compl. at
8 6). Plaintiff has no constitutional right to this relief.

9
10 Requests for prospective relief are limited by 18 U.S.C.
11 § 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires
12 that the relief requested "extend[] no further than necessary to
13 correct the violation of the Federal right, and is the least
14 intrusive means necessary to correct the violation of the Federal
15 right." Furthermore, the Court "may not attempt to determine the
16 rights of persons not before the court.'" Price v. City of
17 Stockton, 390 F.3d 1105, 1117 (9th Cir. 2004) (quoting Zenith Radio
18 Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 112 (1969)).
19 Therefore, Plaintiff may not demand relief against the "facility"
20 (NCCF) or any official who is not party to this action because such
21 entities and persons are outside the Court's jurisdiction.

22
23 A court's duty to protect inmates' constitutional rights does
24 not confer the power to manage prisons, a task for which courts
25 are ill-equipped. Toussaint v. McCarthy, 801 F.2d 1080, 1086 (9th
26 Cir. 1986), abrogated on other grounds by Sandin v. Conner, 515
27 U.S. 472 (1995). Furthermore, there is no constitutional right to
28 an investigation. Cf. Linda R.S. v. Richard D., 410 U.S. 614, 619

1 (1973) (observing that "a private citizen lacks a judicially
2 cognizable interest in the prosecution or nonprosecution of
3 another"). Plaintiff's request for injunctive relief in the form
4 of an investigation or disciplinary action cannot be granted
5 because the Court does not have the ability to grant the requested
6 relief. Accordingly, the Complaint must be dismissed, with leave
7 to amend.

8
9 **H. The Complaint Violates Federal Rule Of Civil Procedure 8**

10
11 Federal Rule of Civil Procedure 8(a)(2) requires that a
12 complaint contain "'a short and plain statement of the claim
13 showing that the pleader is entitled to relief,' in order to 'give
14 the defendant fair notice of what the . . . claim is and the
15 grounds upon which it rests.'" Bell Atlantic v. Twombly, 550 U.S.
16 544, 555 (2007) (quoting Fed. R. Civ. P. 8(a)). Rule 8 may be
17 violated when a pleading "says too little" and "when a pleading
18 says too much." Knapp v. Hogan, 738 F.3d 1106, 1108 (9th Cir.
19 2013) (emphasis in original); see also Cafasso, U.S. ex rel. v.
20 Gen. Dynamics C4 Sys., Inc., 637 F.3d 1047, 1058 (9th Cir. 2011)
21 (a complaint violates Rule 8 if a defendant would have difficulty
22 understanding and responding to the complaint).

23
24 Here, the Complaint violates Rule 8 because Plaintiff does
25 not clearly identify the nature of each of the legal claims he is
26 bringing, the specific facts giving rise to each claim, or the
27 specific Defendant or Defendants against whom each claim is
28 brought. Plaintiff also does not specify whether he is suing

1 Defendants in their individual or official capacities. Without
2 more specific information, Defendants cannot respond to the
3 Complaint. See Cafasso, 637 F.3d at 1058. Accordingly, the
4 Complaint is dismissed, with leave to amend.

5
6 **IV.**

7 **CONCLUSION**

8
9 For the reasons stated above, the Complaint is dismissed with
10 leave to amend. If Plaintiff still wishes to pursue this action,
11 he is granted **thirty (30) days** from the date of this Memorandum
12 and Order within which to file a First Amended Complaint. In any
13 amended complaint, Plaintiff shall cure the defects described
14 above. **Plaintiff shall not include new defendants or new**
15 **allegations that are not reasonably related to the claims asserted**
16 **in prior complaints.** The First Amended Complaint, if any, shall
17 be complete in itself and shall bear both the designation "First
18 Amended Complaint" and the case number assigned to this action. It
19 shall not refer in any manner to any prior complaint. Plaintiff
20 shall limit his action only to those Defendants who are properly
21 named in such a complaint, consistent with the authorities
22 discussed above.

23
24 In any amended complaint, Plaintiff should confine his
25 allegations to those operative facts supporting each of his claims.
26 Plaintiff is advised that pursuant to Federal Rule of Civil
27 Procedure 8(a), all that is required is a "short and plain statement
28 of the claim showing that the pleader is entitled to relief."

1 Plaintiff is strongly encouraged to utilize the standard civil
2 rights complaint form when filing any amended complaint, a copy of
3 which is attached. In any amended complaint, Plaintiff should make
4 clear the nature and grounds for each claim and specifically
5 identify the Defendants he maintains are liable for that claim.
6 Plaintiff shall not assert any claims for which he cannot allege a
7 proper factual basis.

8
9 Plaintiff is explicitly cautioned that the failure to timely
10 file a First Amended Complaint, or failure to correct the
11 deficiencies described above, will result in a recommendation that
12 this entire action be dismissed with prejudice for failure to
13 prosecute and obey Court orders pursuant to Federal Rule of Civil
14 Procedure 41(b). Plaintiff is further advised that if he no longer
15 wishes to pursue this action, he may voluntarily dismiss it by
16 filing a Notice of Dismissal in accordance with Federal Rule of
17 Civil Procedure 41(a) (1). A form Notice of Dismissal is attached
18 for Plaintiff's convenience.

19
20 DATED: June 23, 2017

21
22 /s/
23 SUZANNE H. SEGAL
UNITED STATES MAGISTRATE JUDGE

24 THIS MEMORANDUM IS NOT INTENDED FOR PUBLICATION, NOR IS IT INTENDED
25 TO BE INCLUDED IN OR SUBMITTED TO ANY ONLINE SERVICE SUCH AS WESTLAW
26 OR LEXIS.
27
28