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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 MICHAEL SHOFNER et al., ) Case No.: 1:12-CV-00062- LJO-JLT  
12 Plaintiffs, )  
13 v. ) ORDER AMENDING FIRST AMENDED  
14 UNITED STATES OF AMERICA, ) COMPLAINT TO REFLECT THE COUNTY  
15 Defendants. ) OF KERN, RATHER THAN THE KERN  
16 ) COUNTY PARKS AND RECREATION  
17 ) DEPARTMENT, AS THE PROPER  
18 ) COUNTY DEFENDANT  
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17 On November 28, 2012, the Court held the scheduling conference in this matter. (Doc. 40)  
18 At that time, and on the record, the parties agreed that the Kern County Parks and Recreation  
19 Department—which is a mere department of the County of Kern--is not a proper defendant in this  
20 case. See United States v. Kama, 394 F.3d 1236, 1239 (9th Cir.2005) (Ferguson, J., concurring)  
21 (noting that municipal police departments and bureaus are generally not considered “persons”  
22 within the meaning of Section 1983); Vance, 928 F.Supp. at 995–96 (dismissing sua sponte Santa  
23 Clara Department of Corrections as improper defendant); Jewett v. City of Sacramento Fire Dep’t,  
24 No. CIV. 2:10–556 WBS KJN, 2010 WL 3212774, at \*2 (E.D. Aug. 12, 2010) (finding fire  
25 department not a “person” under Section 1983 and dismissing suit against it); Wade v. Fresno  
26 Police Dep’t, No. Civ. 09–0588 AWI DLB, 2010 WL 2353525, at \*4 (E.D.Cal. June 9, 2010)  
27 (finding police department is not a “person” under Section 1983); Morris v. State Bar of Cal., No.  
28 Civ. 09–0026 LJO GSA, 2010 WL 966423, at \*3 (E.D.Cal. Mar.11, 2010) (finding that a fire

1 department is a municipal department and therefore not a “person” under Section 1983); Sanders v.  
2 Aranas, No. 1:06–CV–1574 AWI SMS, 2008 WL 268972, at \*3 (E.D.Cal. Jan.29, 2008) (finding  
3 Fresno Police Department improper defendant because it is a sub-division of the City of Fresno);  
4 Brockmeier v. Solano Cnty. Sheriff's Dep't, 2006 WL 3760276, \*4 (E.D.Cal. Dec.18, 2006)  
5 (dismissing Sheriff's Department as an improperly named defendant for purposes of Section 1983).  
6 Thus, the parties stipulated that the complaint be amended to reflect the proper county defendant as  
7 the County of Kern.

8 Good cause appearing, the Court **ORDERS:**

9 1. The First Amended Complaint (Doc. 27) is amended to delete reference to the  
10 “Kern County Parks and Recreation Department” and the “County of Kern” is substituted in its  
11 place.

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13 IT IS SO ORDERED.

14 Dated: **December 3, 2012**

**/s/ Jennifer L. Thurston**  
15 UNITED STATES MAGISTRATE JUDGE  
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