





1 prior screening order that “an amended complaint supercedes the original, *Lacey v. Maricopa*  
2 *County*, Nos. 09-15806, 09-15703, 2012 WL 3711591, at \*1 n.1 (9th Cir. Aug. 29, 2012) (en  
3 banc), and must be ‘complete in itself without reference to the prior or superceded pleading,’  
4 Local Rule 220.” (Doc. 8, p. 12.)

5 In light of Plaintiff’s *pro se* status, he is given the legal standards for the claims he  
6 identifies and is granted leave to file a second amended complaint which is no longer than  
7 **twenty-five (25) pages**. Plaintiff is warned that his second amended complaint **must not violate**  
8 **Rule 8(a) and must link each named defendant to his factual allegations**.

9 **B. Pleading Requirements**

10 **1. Federal Rule of Civil Procedure 8(a)**

11 As stated in the prior screening order, Rule 8(a) requires a complaint to contain "a short  
12 and plain statement of the claim showing that the pleader is entitled to relief . . . ." Fed. R. Civ.  
13 Pro. 8(a). "Such a statement must simply give the defendant fair notice of what the plaintiff's  
14 claim is and the grounds upon which it rests." *Swierkiewicz*, 534 U.S. at 512.

15 Violations of Rule 8, at both ends of the spectrum, warrant dismissal. A violation occurs  
16 when a pleading says too little -- the baseline threshold of factual and legal allegations required  
17 was the central issue in the *Iqbal* line of cases. *See, e.g., Ashcroft v. Iqbal*, 556 U.S. 662, 678,  
18 129 S.Ct. 1937 (2009). The Rule is also violated, though, when a pleading says *too much*.  
19 *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1058 (9th Cir.2011) (“[W]e  
20 have never held -- and we know of no authority supporting the proposition -- that a pleading may  
21 be of unlimited length and opacity. Our cases instruct otherwise.”) (citing cases); *see also*  
22 *McHenry v. Renne*, 84 F.3d 1172, 1179–80 (9th Cir.1996) (affirming a dismissal under Rule 8,  
23 and recognizing that “[p]roliferous, confusing complaints such as the ones plaintiffs filed in this case  
24 impose unfair burdens on litigants and judges”).

25 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a  
26 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556  
27 U.S. 662, 678 (2009), (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).  
28 Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is

1 plausible on its face.” *Iqbal*, 556 U.S. at 678, (quoting *Twombly*, 550 U.S. at 555). Factual  
2 allegations are accepted as true, but legal conclusions are not. *Iqbal*, at 678; *see also Moss v. U.S.*  
3 *Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009); *Twombly*, 550 U.S. at 556-557.

4 While “plaintiffs [now] face a higher burden of pleadings facts . . . ,” *Al-Kidd v. Ashcroft*,  
5 580 F.3d 949, 977 (9th Cir. 2009), the pleadings of *pro se* inmates and detainees are still  
6 construed liberally and are afforded the benefit of any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342  
7 (9th Cir. 2010). However, “the liberal pleading standard . . . applies only to a plaintiff’s factual  
8 allegations,” *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989), “a liberal interpretation of a civil  
9 rights complaint may not supply essential elements of the claim that were not initially pled,”  
10 *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of*  
11 *Regents*, 673 F.2d 266, 268 (9th Cir. 1982)), and courts are not required to indulge unwarranted  
12 inferences, *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation  
13 marks and citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not  
14 sufficient, and “facts that are ‘merely consistent with’ a defendant’s liability” fall short of  
15 satisfying the plausibility standard. *Iqbal*, 556 U.S. at 678, 129 S. Ct. at 1949; *Moss*, 572 F.3d at  
16 969.

17 Further, “repeated and knowing violations of Federal Rule of Civil Procedure 8(a)’s ‘short  
18 and plain statement’ requirement are strikes as ‘fail[ures] to state a claim,’ 28 U.S.C. § 1915(g),  
19 when the opportunity to correct the pleadings has been afforded and there has been no  
20 modification within a reasonable time.” *Knapp v. Hogan*, 738 F.3d 1106, 1108-09 (9th Cir.  
21 2013).

22 If he chooses to file a second amended complaint, **Plaintiff should endeavor to make it**  
23 **as concise as possible. He should simply state which of his constitutional rights he believes**  
24 **were violated by each Defendant and the factual basis for each violation.** As previously  
25 directed, Plaintiff need not and should not cite legal authority for his claims in a second amended  
26 complaint. His factual allegations are accepted as true and need not be bolstered by legal  
27 authority or catch phrases at the pleading stage. If Plaintiff files a second amended complaint, his  
28 factual allegations will be screened under the legal standards and authorities stated in this order.



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2 Coalinga Staff was aware and conscious of the unit rule violation done by  
3 Stallworth and never stopped such action, which allow confusion, being 60%  
4 of Coalinga Staff and employees are corrupted, with the news now informing  
5 one and all of such corruption, to bring in drugs, porn, having sex with  
6 patients our nurses and our psychologist has been arrested for drugs  
7 transportation and usage. Your Honor the same doctors which are in our  
8 charts a, our medical records and reports to the courts, such issues of mal-  
9 practice and staff neglect. Your Honor but I'm sure you know of such  
10 matters, I'm only offering such insight from both sides. Being staff fail to  
11 address the many issues until a fight for charting and documentation of  
12 violence.

13 (*Id.*, pp. 15-16.) Such generalized and conclusory statements fail to provide the requisite factual  
14 specificity to link any named Defendant to the offending acts alleged by Plaintiff.

15 Plaintiff's allegations must demonstrate that each defendant personally participated in the  
16 deprivation of his rights. *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002). This requires  
17 factual allegations sufficient to state a plausible claim for relief and to put each defendant on  
18 notice of their allegedly offending acts. *Iqbal*, 556 U.S. at 678-79; *Moss v. U.S. Secret Service*,  
19 572 F.3d 962, 969 (9th Cir. 2009). In this case, Plaintiff must state specific factual allegations to  
20 show that each Defendant was personally aware of the facts establishing that Stallworth presented  
21 a risk of harm to Plaintiff. Allegations that Stallworth is generally disagreeable and aggressive  
22 are insufficient. Plaintiff must set forth allegations to show that each Defendant knew that  
23 Stallworth presented a specific risk of harm to Plaintiff and failed to take steps to remedial action.  
24 The mere possibility that they were aware of the circumstances or of misconduct by a Defendant  
25 falls short of meeting this plausibility standard. *Iqbal*, 556 U.S. at 678; *Moss*, 572 F.3d at 969.

### 26 **C. Legal Standards**

27 To determine whether conditions of confinement of civilly committed individuals have  
28 been violated, courts look to the substantive due process clause of the Fourteenth Amendment.  
*Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982); *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th  
Cir. 2004). States are thus required "to provide civilly-committed persons with access to mental  
health treatment that gives them a realistic opportunity to be cured and released," *Sharp v.*  
*Weston*, 233 F.3d 1166, 1172 (9th Cir. 2000) (citing *Ohlinger v. Watson*, 652 F.2d 775, 778 (9th

1 Cir. 1980)), via ““more considerate treatment and conditions of confinement than criminals whose  
2 conditions of confinement are designed to punish.”” *Id.* (quoting *Youngberg v. Romeo*, 457 U.S.  
3 307, 322 (1982)).

4 Although civilly detained persons must be afforded more considerate treatment and  
5 conditions of confinement than criminals, where specific standards are lacking, courts may look  
6 to decisions defining the constitutional rights of prisoners, to establish a floor for the  
7 constitutional rights of persons detained under a civil commitment scheme. *Padilla v. Yoo*, 678  
8 F.3d 748, 759 (9th Cir. 2012) (citing *Hydrick v. Hunter*, 500 F.3d 978, 989 (9th Cir. 2007),  
9 *vacated and remanded on other grounds by* 556 U.S. 1256 (2009)). Eighth Amendment  
10 standards may be borrowed to establish the constitutional floor. *Frost v. Agnos*, 152 F.3d 1124,  
11 1128 (9th Cir. 1998); *Redman v. County of San Diego*, 942 F.2d 1435, 1441 (9th Cir. 1991),  
12 *abrogated on other grounds by* 511 U.S. 825 (1994).

### 13 **1. Due Process**

#### 14 **a. Procedural**

15 The Due Process Clause of the Fourteenth Amendment protects prisoners from being  
16 deprived of life, liberty, or property without due process of law. *Wolff v. McDonnell*, 418 U.S.  
17 539, 556 (1974). Though Plaintiff asserts a general due process claim, he has not alleged any  
18 facts that would support a claim that he was deprived of a protected interest without procedural  
19 due process.

#### 20 **b. Substantive**

21 “To establish a violation of substantive due process . . . , a plaintiff is ordinarily required  
22 to prove that a challenged government action was clearly arbitrary and unreasonable, having no  
23 substantial relation to the public health, safety, morals, or general welfare. Where a particular  
24 amendment provides an explicit textual source of constitutional protection against a particular  
25 sort of government behavior, that Amendment, not the more generalized notion of substantive due  
26 process, must be the guide for analyzing a plaintiff’s claims.” *Patel v. Penman*, 103 F.3d 868, 874  
27 (9th Cir. 1996) (citations, internal quotations, and brackets omitted), *cert. denied*, 520 U.S. 1240  
28 (1997); *County of Sacramento v. Lewis*, 523 U.S. 833, 842 (1998). However, “[t]he substantive

1 rights of civilly committed persons derive from the Due Process Clause of the Fourteenth  
2 Amendment and not the Cruel and Unusual Punishment Clause of the Eighth Amendment.”  
3 *Endsley v. Luna*, No. CV 06-06961-DSF (SS), 2009 WL 789902, at \*4 (C.D.Cal. Mar.23, 2009),  
4 (citing *Youngberg v. Romeo*, 457 U.S. 307, 321-22, 102 S.Ct. 2452 (1982)); *Bell v. Wolfish*, 441  
5 U.S. 520, 535 n. 16, 99 S.Ct. 1861 (1979); *see also Foucha v. Louisiana*, 504 U.S. 71, 80, 112  
6 S.Ct. 1780 (1992) (person not criminally convicted may be detained if mentally ill and dangerous  
7 but may not be “punished”).

8         The substantive component of the Due Process Clause protects civil detainees from  
9 unconstitutional conditions of confinement and ensures a plaintiff's right to personal safety while  
10 in a state detention facility. *Youngberg v. Romeo*, 457 U.S. 307, 315, 102 S.Ct. 2452 (1982). The  
11 Supreme Court has noted that the right to personal security constitutes a “historic liberty interest”  
12 protected substantively by the Due Process Clause. *Id.*, (quoting *Ingraham v. Wright*, 430 U.S.  
13 651, 673, 97 S.Ct. 1401, 1413 (1977)). That right is not extinguished by lawful confinement,  
14 even for penal purposes. *See Hutto v. Finney*, 437 U.S. 678, 98 S.Ct. 2565 (1978). “[T]he due  
15 process rights of a pretrial detainee are ‘at least as great as the Eighth Amendment protections  
16 available to a convicted prisoner.’” *Castro v. County of Los Angeles*, --- F.3d ---, 2016 WL  
17 4268955, \*3 (9th Cir. Aug. 15, 2016) (quoting *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239,  
18 244, 103 S.Ct. 2979 (1983)).

19         State officials have a duty “to take reasonable measures to guarantee the safety” of those  
20 in their care, which has been interpreted to include a duty to provide for their protection.  
21 *Labatad v. Corrections Corp. of America*, 714 F.3d 1155, 1160 (citing *Farmer*, 511 U.S. at 832-  
22 33; *Hearns v. Terhune*, 413 F.3d 1036, 1040 (9th Cir. 2005)). To establish a violation of this  
23 duty, a plaintiff must “show that the prison officials acted with deliberate indifference.” *Castro*,  
24 at \*4. A civil detainee need only show that a prison official purposely or knowingly subjected  
25 him to a risk of serious harm that was objectively unreasonable and need not show the  
26 defendant’s subjective state of mind. *Castro v. County of Los Angeles*, --- F.3d ---, 2016 WL  
27 4268955, \*5-6 (9th Cir. Aug. 15, 2016) (citing *Kingsley v. Hendrickson*, --- U.S. ---, 135 S.Ct.  
28 2466, 2472-73 (2015)).

1           The elements of a pretrial detainee’s Fourteenth Amendment failure-to-protect claim  
2 against an individual officer are as follows:

- 3           (1) The defendant made an intentional decision with respect to the conditions  
4 under which the plaintiff was confined;  
5           (2) Those conditions put the plaintiff at substantial risk of suffering serious harm;  
6           (3) The defendant did not take reasonable available measures to abate that risk,  
7 even though a reasonable officer in the circumstances would have appreciated the  
8 high degree of risk involved -- making the consequences of the defendant's  
9 conduct obvious; and  
10           (4) By not taking such measures, the defendant caused the plaintiff's injuries.

11 *Castro*, at \*7. “With respect to the third element, the defendant’s conduct must be objectively  
12 unreasonable, a test that will necessarily ‘turn[ ] on the “facts and circumstances of each  
13 particular case.” ’ ” *Castro*, at \*7 (quoting *Kingsley*, 135 S.Ct. at 2473 (quoting *Graham v.*  
14 *Connor*, 490 U.S. 386, 396, 109 S.Ct. 1865 (1989)) (*ref.* Restatement (Second) of Torts § 500  
15 cmt. a (Am. Law Inst. 2016) (recognizing that “reckless disregard” may be shown by an objective  
16 standard under which an individual “is held to the realization of the aggravated risk which a  
17 reasonable [person] in his place would have, although he does not himself have it”)).

## 16           **2.       Supervisory Defendants**

17           Plaintiff appears to have named a number of the defendants in this action simply because  
18 they hold supervisory positions. When a named defendant holds a supervisory position, the  
19 causal link between him and the claimed constitutional violation must be specifically alleged. *See*  
20 *Fayle v. Stapley*, 607 F.2d 858, 862 (9th Cir. 1979); *Mosher v. Saalfeld*, 589 F.2d 438, 441 (9th  
21 Cir. 1978), cert. denied, 442 U.S. 941 (1979). To state a claim for relief under section 1983 based  
22 on a theory of supervisory liability, Plaintiff must allege some facts that would support a claim  
23 that supervisory defendants either personally participated in the alleged deprivation of  
24 constitutional rights; knew of the violations and failed to act to prevent them; or promulgated or  
25 "implemented a policy so deficient that the policy 'itself is a repudiation of constitutional rights'  
26 and is 'the moving force of the constitutional violation.'" *Hansen v. Black*, 885 F.2d 642, 646 (9th  
27 Cir. 1989) (internal citations omitted); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Under  
28 section 1983, liability may not be imposed on supervisory personnel for the actions of their



1 Plaintiff must demonstrate in any second amended complaint how the conditions  
2 complained of have resulted in a deprivation of Plaintiff's constitutional rights. *See Ellis v.*  
3 *Cassidy*, 625 F.2d 227 (9th Cir. 1980). The second amended complaint must allege in specific  
4 terms how each named defendant is involved. There can be no liability under section 1983 unless  
5 there is some affirmative link or connection between a defendant's actions and the claimed  
6 deprivation. *Rizzo v. Goode*, 423 U.S. 362 (1976); *May v. Enomoto*, 633 F.2d 164, 167 (9th Cir.  
7 1980); *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978).

8 Plaintiff's second amended complaint should be brief. Fed. R. Civ. P. 8(a). Such a short  
9 and plain statement must "give the defendant fair notice of what the . . . claim is and the grounds  
10 upon which it rests." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley*  
11 *v. Gibson*, 355 U.S. 41, 47 (1957)). Although accepted as true, the "[f]actual allegations must be  
12 [sufficient] to raise a right to relief above the speculative level . . ." *Twombly*, 550 U.S. 127, 555  
13 (2007) (citations omitted). Plaintiff is again reminded that an amended complaint supercedes the  
14 original, *Lacey v. Maricopa County*, Nos. 09-15806, 09-15703, 2012 WL 3711591, at \*1 n.1 (9th  
15 Cir. Aug. 29, 2012) (en banc), and must be "complete in itself without reference to the prior or  
16 superceded pleading," Local Rule 220.

17 The Court provides Plaintiff with opportunity to amend to cure the deficiencies identified  
18 by the Court in this order. *Noll v. Carlson*, 809 F.2d 1446, 1448-49 (9th Cir. 1987). Plaintiff  
19 may not change the nature of this suit by adding new, unrelated claims in his second amended  
20 complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot" complaints).  
21 Plaintiff is restricted to the conditions surrounding the altercations with patient Stallworth that  
22 occurred in 2014 and 2015.

23 Based on the foregoing, it is HEREBY ORDERED that:

- 24 1. Plaintiff's First Amended Complaint is dismissed, with leave to amend;
- 25 2. The Clerk's Office shall send Plaintiff a civil rights complaint form;
- 26 3. Within **thirty (30) days** from the date of service of this order, Plaintiff must file  
27 either a second amended complaint curing the deficiencies identified by the Court  
28 in this order or a notice of voluntary dismissal;

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- 4. Plaintiff's motion to amend his complaint to include a demand for a jury trial, filed on February 6, 2017, (Doc. 14), is **GRANTED** in as much as Plaintiff may demand a jury trial in the second amended complaint;
- 5. Plaintiff's motion for an extension of sixty to ninety days on any deadlines that might eventually be set in this case, filed on November 2, 2016, (Doc. 10), is **DENIED** as extensions of time are only granted when a deadline exists and upon a showing of good cause; and
- 5. **If Plaintiff fails to comply with this order, this action will be dismissed for failure to obey a court order and for failure to state a claim.**

IT IS SO ORDERED.

Dated: April 25, 2017

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE