

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Armando Osegueda and Robert Palomino

(b) County of Residence of First Listed Plaintiff Stanislaus County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Amber Lunsford, CSB 276908 Lunsford Legal Group 1202 H Street, Suite A, Modesto, CA 95354

DEFENDANTS

STANISLAUS COUNTY PUBLIC SAFETY CENTER, STANISLAUS COUNTY SHERIFF'S OFFICE, ADAM CHRISTIANSON, BILL DUNCAN, LIEUTENANT GREG CLIFTON, et. al.

County of Residence of First Listed Defendant Stanislaus County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 08/16/2016

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Amber Lunsford

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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4 Attorneys for Plaintiff
ARMANDO OSEGUEDA

5 ROBERT PALOMINO
6

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
9

10 ARMANDO OSEGUEDA and
ROBERT PALOMINO

) Case No.

11)
12 Plaintiff,

) (Fourteenth Amendment, Due Process;
) Excessive Force; Battery; Section 1983 Civil
) Rights)

13 v.
14)

15 STANISLAUS COUNTY PUBLIC)
SAFETY CENTER, STANISLAUS) DEMAND FOR JURY TRIAL
16 COUNTY SHERIFF'S OFFICE, ADAM)
CHRISTIANSON, Stanislaus County)
17 Sheriff, BILL DUNCAN, Captain of)
Adult Detention, LIEUTENANT GREG)
18 CLIFTON, Unit 1 and Unit 2)
Commander, LIEUTENANT RONALD)
19 LLOYD, Commander of Bureau)
Administrative Services, SARGEANT)
20 STEVEN VERVER, JAMES SHELTON,)
21 STANISLAUS COUNTY BOARD OF)
SUPERVISORS, BIRGIT FLADAGER,)
22 Stanislaus County District Attorney)

23 Defendant.
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I. INTRODUCTION

A. Facts Relating to Armando Osegueda and Those Pre-trial detainees Housed in Unit B of the Public Safety Center

1. Plaintiff Armando Osegueda sues on his own behalf and as a representative of those similarly situated who have been housed in the Stanislaus County Public Safety Center’s (“**Public Safety Center**”) maximum security unit, also known as Unit B or B-Max (“**B-Max**”) without meaningful review of his placement.

2. Plaintiff has been isolated at PSC’s B-Max unit for more than three years;

3. Plaintiff Armando Osegueda and those similarly situated are pre-trial detainees. Mr. Osegueda and others similarly situated are housed at the Stanislaus County Public Safety Center simply because they cannot post bail, or are awaiting trial without bail;

4. Mr. Osegueda and those similarly situated are pre-trial detainees. As such, they are presumed innocent, yet they suffer harsher conditions and greater deprivations than those imposed on prisoners incarcerated through the California Department of Corrections;

5. There are currently 15 pretrial detainees housed in “B-Max” who are classified as active Norteño Northern Hispanic gang members. These detainees have been housed in segregation for periods ranging between five months to seven years. Half of these pretrial detainees have been housed in segregation without meaningful review for more than three years.

6. There are currently pretrial detainees who have been housed in “B-Max” for more than ten years while awaiting trial.

7. Administrative segregation is overused in the Stanislaus County jail system;

8. The majority of pretrial detainees who are housed in administrative

1 segregation are housed there for non-disciplinary reasons;

2 9. Assignment to the B-Max unit is often made based on charges that the
3 pretrial detainee is facing and allegations that have been charged, but not proven, that
4 the person is a Norteño, or Northern Hispanic Gang Member;

5 10. Pretrial detainees who are assigned to administrative segregation in B-
6 Max are often kept in B-Max for indeterminate lengths after their disciplinary periods
7 are served.

8 11. Mr. Osegueda was placed into the care and custody of the Stanislaus
9 County Sheriff's Department on March 12, 2012.

10 12. Pretrial detainees such as Mr. Osegueda awaiting trial suffer years of
11 confinement in the Public Safety Center Administrative Segregation Unit for
12 indeterminate lengths;

13 13. Plaintiff Armando Osegueda is 34 years old and has been housed in B-
14 Max since October 17, 2012, a period of nearly four years.

15 14. Mr. Osegueda did not receive a classification review for more than three
16 years, while housed in B-Max, in violation of the Sheriff's Department written policy
17 that states all detainees will be granted a classification review every 3 months.

18 15. Mr. Osegueda was granted a classification review on or about May 2016;

19 16. Mr. Osegueda was granted a green-and-white jumpsuit, denoting
20 administrative segregation rather than the red and white jumpsuit (which denotes
21 maximum security) that he has been wearing since his incarceration on June 26, 2016
22 but he has been denied movement to a less restrictive housing unit. The result is that
23 he wears different clothing but is still subject to all restrictions and denials of
24 programs and equal protection that he suffered previously;

25 17. Stanislaus County's harsh regime of segregation in the B-Max unit is
26 inhumane and debilitating. Plaintiffs and class members are isolated in a cramped,
27 concrete cell for 38 to 80 continuous hours at a time with one cellmate. The cells are
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1 approximately 6.5 x 12'. Plaintiffs are afforded a bunk bed, a combination toilet-sink
2 unit, a desk, a stool, and a fluorescent light in the ceiling.

3 18. Plaintiff(s) are permitted only very limited access to telephone calls to
4 counsel or family (phones are available during yard periods only,) contact visits with
5 counsel, adequate recreational time or "yard privileges," rehabilitative, vocational,
6 recreational, or educational programming. Plaintiffs are permitted three showers per
7 week and three hours' "yard time" per week, which is access to an empty concrete cell
8 with telephone and television. There is no access to the outside, no physical
9 equipment, and no recreational equipment.

10 19. Detainees receive three hours of yard/recreation time per week.
11 Scheduled yard times for the bottom tier are Mondays, Thursdays, and Saturdays.
12 The top tier is afforded yard on Tuesdays, Fridays, and Sundays. Wednesdays are
13 designated as "down days" for cleaning of the unit. Morning and evening yard are
14 alternated.

15 20. The "recreational yard" that pretrial detainees housed in B-Max are
16 afforded is an enclosed concrete cell. There is a window approximately twenty feet
17 up in the cell that is covered with a screen or wired mesh that does not allow for
18 unobstructed sunlight and fresh air. The "yard" as constituted, does not afford
19 pretrial detainees with an outdoor environment.

20 21. Pretrial detainees who are housed in B-Max are only exposed to the
21 outside during their walks to and from transportation taking them to the courthouse;

22 22. The amount of time detainees are confined to their cells depends on the
23 yard schedule. A detainee could be confined to his cell for periods of 38 hours or 56
24 hours, twice a month a detainee is confined to his cell for 60 hours, and twice a month,
25 he is confined for 80 hours at a time.

26 23. Detainees may only access telephones to call their attorneys, investigators,
27 friends, or family during yard times. The yard schedule and telephone restriction
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1 limits pretrial detainees housed in B-Max to only four telephone calls during normal
2 business hours per month, thereby interfering with their ability to participate in their
3 own defense and denying them the effective assistance of counsel.

4 24. One hour of yard/recreational time does not afford pretrial detainees
5 meaningful time and opportunities to consult with counsel, contact friends and
6 family, and/or enjoy the only opportunity to exercise outside of their cell;

7 25. Detainees who are placed on disciplinary action are refused yard access
8 and have no access to telephones with which to contact their attorney. The decision to
9 place someone on disciplinary restriction is made through a cursory in-house review,
10 during which time, the detainee is not afforded any counsel or meaningful way to
11 respond. As a result, a pretrial detainee who has been accused of a disciplinary
12 infraction is denied the assistance of counsel during the period of his punishment.

13 26. Pretrial detainees who are either housed in B-Max or classified as active
14 Nortenos or Northern Hispanics are afforded no rehabilitative, recreational,
15 vocational, or educational programs;

16 27. Defendants persistently, with deliberate indifference, deny these men not
17 the normal conditions necessary for a person's mental and physical well-being, but
18 also any meaningful way to address the conditions of their confinement. These
19 tormenting and prolonged conditions of confinement have produced harmful and
20 predictable psychological deterioration among Plaintiff and class members.

21 28. Pretrial detainees housed in B-Max have limited access to face-to-face or
22 "contact" attorney visits as there is only one room used for attorney-client meetings
23 and that room is shared with medical staff. That room is adjacent to a staff bathroom
24 that shares a vent. The acoustics are such that correctional officers making use of the
25 staff bathroom are able to hear conversations in the counsel room clearly.

26 29. Pretrial detainees are handcuffed in a lock box, shackled at the waist and
27 ankles, and secured by a bolt on the floor during attorney visits. The shackling is very
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1 restrictive, the cuffs cut into the skin, leaving cuts and abrasions in their wake.
2 Detainees have complained of tingling and possible decreased use of their hands after
3 prolonged use of the lock boxes;

4 30. The use of the lock box, handcuffs, and waist chain prevent pretrial
5 detainees from writing notes for their lawyer during legal visits, from drawing
6 diagrams for their attorneys during legal visits, or even taking notes where attorney
7 and client may be discussing complex legal issues that have an impact on their
8 criminal case;

9 **B. Facts Relating to Robert Palomino and those classified as “active Norteño” or**
10 **“active Northern Hispanics”**

11 31. Plaintiff Robert Palomino sues on his own behalf and as a representative
12 of those similarly situated who have been housed in the Stanislaus County Men’s Jail
13 (“Men’s Jail”) in “active Norteño tanks” (“tanks”) or classified as active Norteño or
14 active Northern Hispanics without meaningful review of his placement.

15 32. Robert Palomino is a 47 year-old male who has been in custody since
16 March 2012, a period of more than four years.

17 33. Upon booking, detainees are asked whether they are an “active gang
18 member” or a “drop-out.” They are not given the option to state that they are neither.

19 34. Upon booking, those pretrial detainees who are classified as Active
20 Norteño or Northern Hispanic are issued a green and white jumpsuit which, in
21 Stanislaus County, denotes Administrative Segregation. They are then put into
22 “active tanks.”

23 35. Robert Palomino was previously housed in the Public Safety Center B-
24 Max Unit.

25 36. After three and a half years, Robert Palomino was downgraded and
26 placed into an active tank at the Stanislaus County Men’s Jail (“Men’s Jail”) on or
27 about May 2016.

1 37. Each "tank" at the Men's jail houses 12 men.

2 38. The "tank" measures 25' by 20'. There is a total of 12 beds, comprised of 6
3 bunk beds in each "tank." The tank is equipped with two toilets and sinks (1
4 combination toilet/sink unit and one stand-alone toilet and sink.)

5 39. The tanks are divided by a gate that runs through the middle of it,
6 dividing the sleeping quarters from the day area by floor-to-ceiling bars.

7 40. Each tank is equipped with two large picnic-style tables and one
8 telephone.

9 41. The tanks at the Men's Jail house both pre-trial detainees and persons who
10 are convicted of misdemeanors and/or those who are serving sentences in county jail
11 pursuant to AB 109.

12 42. Pre-trial detainees housed in active tanks at the Men's jail are offered
13 "yard" privileges outside, constrained inside a series of cages without recreational
14 equipment, for three hours, one day a week. If a detainee is in court, in a legal visit, or
15 in a personal visit when their yard time is called, they are not afforded yard at an
16 alternate time so they must wait until the next week to be afforded yard privileges.

17 43. All persons who are classified as active Norteños or Northern Hispanics
18 are denied access to rehabilitative programs, such as Alcoholics or Narcotics
19 Anonymous, anger management classes, or parenting classes; they are denied access
20 to educational programs, such as G.E.D. programs, are denied access to vocational
21 programs, and are, if convicted, denied access to the Alternative Work Program or
22 Ankle Monitor Programs that are available to all others.

23 **II. JURISDICTION AND VENUE**

24 44. Plaintiff and class bring claims pursuant to 42 U.S.C. §1983, the Fourth,
25 Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.

26 45. This Court has jurisdiction over claims seeking declaratory or injunctive
27 relief pursuant to 28 U.S.C. §§1331 and 1343 and the Declaratory Judgment Act, 28

1 U.S.C. §§2201, 2202.

2 46. Venue is proper in the Eastern District of California pursuant to 28 U.S.C.
3 §1391(b)(2) in that a substantial part of the events or omissions giving rise to the
4 claims brought by Plaintiff and the class have occurred in this district.

5 **III. PARTIES**

6 **C. Plaintiffs**

7 47. Plaintiff Armando Osegueda is a 34 year-old pretrial detainee who has
8 spent nearly four years housed in the Public Safety Center B-Max Unit, due to his
9 classification as a member of a criminal street gang, to wit, Norteño. He has had no
10 significant rule violations since his detention began in 2012.

11 48. Plaintiff Robert Palomino is a 47 year old pre-trial detainee, who has spent
12 more than three years in the Public Safety Center B-Max unit, due to his classification
13 as a member of a criminal street gang, to wit Norteño. He has had no significant rule
14 violations since his detention began in 2013.

15 49. In or about May 2016, Mr. Palomino was given a green and white
16 jumpsuit, denoting administrative segregation, (as opposed to the red-and-white
17 jumpsuit denoting maximum security that he wore in B-Max and re-housed in an
18 active Norteño tank at the Men's Jail.

19 **D. Defendants**

20 50. Defendant Adam Christianson is the elected Stanislaus County Sheriff. As
21 such, he has caused, created, authorized, condoned, ratified, approved, or knowingly
22 acquiesced in the illegal, unconstitutional, and inhumane conditions, actions, policies,
23 customs, and practices that prevail at the Public Safety Center, as described below.
24 He has, therefore, directly and proximately caused, and will continue to cause in the
25 future, the injuries and violations of rights set forth below. Defendant Christianson is
26 sued in his official capacity only.

27 51. Defendant Stanislaus County is aware of the conditions at the Stanislaus
28

1 County detention facilities.

2 52. Defendant Birgit Fladager, District Attorney for Stanislaus County, has
3 participated in a conspiracy with Sheriff Christianson to house people in inhumane
4 and extreme conditions in order to encourage pretrial detainees to debrief or accept
5 plea deals.

6 **IV. FACTUAL ALLEGATIONS**

7 **V. CLAIMS FOR RELIEF**

8 **First Cause of Action: Fourteenth Amendment**

9 **(Unconstitutional conditions of confinement)**

10 53. Plaintiffs incorporate by reference each and every allegation contained in
11 the preceding paragraphs as if set forth fully herein.

12 54. Plaintiffs advance this claim on their own behalf, and on behalf of the
13 Fourteenth Amendment subclass, against all defendants.

14 55. By their policies and practices described herein, defendants have deprived
15 and continue to deprive plaintiffs, and those similarly situated, of the minimal
16 civilized measure of life's necessities, and have violated their basic human dignity and
17 their right to be free from cruel and unusual punishment under the Fifth and
18 Fourteenth Amendments to the United States Constitution for each of the reasons set
19 forth below.

20 **A. Deprivation of Basic Human Need**

21 56. First, the cumulative effect of extremely prolonged confinement, along
22 with denial of the opportunity to downgraded, the denial of the opportunity to be
23 housed with other pretrial detainees, the deprivation of educational, rehabilitative, or
24 vocational programs, the deprivation of good medical care, and other crushing
25 conditions of confinement in the Stanislaus County B-Max Unit, constitute a serious
26 deprivation of at least one basic human need, including but not limited to
27 environmental and sensory stimulation, mental and physical health, physical exercise,

1 sleep, and meaningful activity.

2 **B. Imposition of Serious Psychological and Physical Injury, Pain, and**
3 **Suffering**

4 57. Second, extremely prolonged exposure to these deprivations of basic
5 human needs is currently imposing serious psychological pain and suffering and
6 permanent psychological and physical injury on Plaintiffs and the class they
7 represent.

8 58. In addition to Plaintiffs' current psychological and physical pain, the
9 likelihood that Plaintiffs and the class will remain in B-Max or be arbitrarily re-housed
10 there for the foreseeable future subjects plaintiffs and the class they represent to a
11 significant risk of future debilitating and permanent mental illness and physical harm.

12 **C. B-Max Confinement Designed to Coerce Plaintiffs to Provide Information**
13 **or Accept Pleas**

14 59. Third, Defendants' harsh policies are not legitimately related to security or
15 other penological needs of isolating alleged dangerous prisoners from others, but
16 rather are designed to coerce Plaintiffs to debrief and become informants for the State,
17 and/or to accept plea offers made by the District Attorney. This policy of holding
18 Plaintiffs and class members in prolonged harsh conditions without any meaningful
19 information on how they may downgrade without debriefing or simply accepting a
20 plea so they may be transferred to a state prison is, as one court puts it, "tantamount
21 to indefinite administrative segregation for silence – an intolerable practice in modern
22 society." Griffin, No. C-98-21038 at 11. It is cruel and unusual punishment for
23 defendants to coerce detainees to provide information on other detainees – if indeed
24 they have any such information – by maintaining them in stifling and punitive
25 conditions that constitute an atypical and significant hardship, comparable to the
26 conditions of "Supermax" prisons, unless they so inform.

27 60. Detainees who debrief incur substantial risk of serious harm and
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1 retaliation to themselves and their families. The combination of the crushing
2 conditions in B-Max, the policies designed to coerce detainees to debrief or plea, the
3 lack of any effective means of obtaining release from B-Max without debriefing or
4 pleading, and the substantial risk of harm if one does debrief, puts prisoners in an
5 untenable position and constitutes an unconstitutional threat to the safety of detainees
6 confined in B-Max in violation of the Fourteenth Amendment to the United States
7 Constitution.

8 61. Plaintiffs are informed and believe that pretrial detainees who accept plea
9 bargains offered by the District Attorney's Office are downgraded from maximum
10 security and placed in less restrictive housing while they await transport from the
11 county to California Department of Corrections.

12 **D. Disproportionate Punishment**

13 62. Fourth, Defendants' policy of indefinite and prolonged placement in B-
14 Max imposes disproportionate punishment on plaintiffs and class members. Plaintiffs
15 and class members have not been convicted of the offenses they are charged with.
16 The majority of persons housed in the B-Max Unit are not there for conduct, but rather
17 are housed there simply because they are classified as Northern Hispanics, active
18 gang members, or some other unknown reason. Placement is entirely capricious and
19 arbitrary.

20 63. Defendants have no legitimate penological interest in retaining detainees
21 indefinitely in debilitating conditions such as those found in B-Max, simply because
22 they are gang members or associates, without recent, serious disciplinary or gang-
23 related infractions. Nor is this policy rationally related to legitimate security needs.
24 Defendants' history of inflicting significant psychological and physical harm and the
25 risk of future debilitating harm on these pre-trial detainees simply for allegedly being
26 gang members or associates offends civilized society's sense of decency, constitutes an
27 intolerable practice in modern society, and is a disproportionate punishment which
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1 violates the fifth and Fourteenth Amendments.

2 **E. Deprivation of Human Dignity in Violation of Contemporary Standards**
3 **of Human Decency**

4 Finally, Defendants' continuation of Plaintiffs' confinement for years under the
5 debilitating and extreme conditions existing at the Safety Center B-Max Unit strips
6 human beings of their basic dignity and humanity in violation of contemporary
7 standards of human decency and constitutes cruel and unusual treatment prohibited
8 by the Fourteenth Amendment to the United States Constitution.

9 That Stanislaus County's policies and practices violate contemporary standards
10 of human dignity and decency is evidenced by the fact that those practices are
11 unusual in comparison to the practices and policies of other counties within the State
12 of California with respect to segregated detainee housing. Virtually no other county
13 or state uses mere *alleged* gang association or membership to confine prisoners in
14 SHU facilities. Other states do not house/warehouse hundreds of detainees and
15 prisoners in the SHU for years at a time.

16 **F. Defendants' Deliberate Indifference to the Deprivations Suffered by**
17 **Plaintiffs**

18 The policies and practices complained of herein have been and continue to be
19 implemented by defendants and their agents, officials, employees, and all persons
20 acting in concert with them under color of state law, in their official capacity.

21 Defendants have been and are aware of all the deprivations complained of
22 herein, and have condoned or been deliberately indifferent to such conduct

23 It should be obvious to defendants and to any reasonable person that the
24 conditions imposed on plaintiffs and class members for many years to come cause
25 tremendous mental anguish, suffering, and pain to such detainees. Moreover,
26 defendants have repeatedly been made aware, through administrative grievances,
27 written complaints, and verbal complaints that class members are currently
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1 experiencing significant and lasting injury. Defendants have been deliberately
2 indifferent to the plaintiffs' pain and suffering.

3 Indeed, defendants have deliberately and knowingly caused such pain in an
4 effort to force plaintiffs and the class to either debar or plead to criminal charges.

5 **Second Cause of Action: Fourteenth Amendment**

6 **(Due Process)**

7 64. Plaintiff incorporates by reference each and every allegation contained in
8 the preceding paragraphs as if set forth fully herein.

9 65. Plaintiff advances this claim on his behalf, and on behalf of the class,
10 against all defendants.

11 66. Defendants have arbitrarily and capriciously deprived Plaintiff and class
12 members of due process of law in assigning who will be housed in PSU B-Max Unit or
13 Active Norteño tanks without a chance to be heard or notice of what criteria will
14 subject a person to housing in the B-Max Unit or active tanks, subject to the various
15 deprivations therein.

16 **Third Cause of Action : Fourteenth Amendment**

17 **(Due Process)**

18 67. Plaintiff incorporates by reference each and every allegation contained in
19 the preceding paragraphs as if set forth fully herein.

20 68. Plaintiff advances this claim on his behalf, and on behalf of the class,
21 against all defendants.

22 69. Defendants have deprived Plaintiff and class members of a liberty interest
23 without due process of law by denying them meaningful and timely periodic review
24 of their continued and long-term detention at PSU B-Max Unit and meaningful notice
25 of what they must do to earn release, in violation of the Fourteenth Amendment to the
26 United States Constitution.

27 70. The condition and duration of defendants' confinement of Plaintiff and
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1 those similarly situated at the PSU B-Max Unit constitute an atypical and significant
2 hardship as compared with the ordinary incidents of prison life for three basic
3 reasons: (a) the exceedingly harsh and isolated conditions in the B-Max unit; (b) the
4 lengthy duration of confinement in the B-Max Unit; and (c) the arbitrary and
5 capricious assignment to the B-Max Unit.

6 **A. Conditions in the Public Safety Center B-Max Unit**

7 71. The conditions in the B-Max Unit are unduly harsh, and do not generally
8 mirror those conditions imposed upon pre-trial detainees in any other unit of the
9 Public Safety Center or any Stanislaus County jail. These harsh conditions include,
10 but are not limited to: isolation in cells that are sealed off from contact with any other
11 prisoner other than a single cellmate, a prohibition on either personal or legal
12 telephone calls other than during the one hour allotted time in yard, very limited
13 visiting hours for either social or legal visits, no educational or general programming,
14 a yard facility that provide no view of the outside and very little natural sunlight, no
15 recreational equipment, and limited access to showers and personal hygiene.

16 **B. Duration of Confinement in the Public Safety Center's B-Max Unit**

17 72. Plaintiff and class members have been held in the conditions described
18 above for a period of three years to more than ten years while awaiting trial. Upon
19 information and belief, this shockingly lengthy confinement is atypical in comparison
20 to the ordinary disciplinary and administrative segregation imposed in Stanislaus
21 County.

22 **C. Lack of Meaningful Process**

23 73. Because indefinite placement in the Public Safety Center's B-Max Unit
24 constitutes a significant and atypical hardship, plaintiffs and class members are
25 entitled to meaningful notice of how they may rejoin general population, as well as
26 meaningful and timely periodic reviews to determine whether they still warrant
27 detention in the B-Max unit.

1 74. Defendants have denied and continue to deny any such notice or
2 meaningful review by: (failing to provide pre-trial detainees with notice of what they
3 can do to be released from the B-Max Unit apart from providing information they do
4 not have or risking their life and safety and that of their family by debriefing; (2)
5 providing misleading notice that they can become eligible to be released from the B-
6 max Unit by becoming an "inactive" gang member or associate and refraining from
7 engaging in any gang activities, when in fact pre-trial detainees who are no involved
8 in any current gang activity are still routinely retained in the B-Max Unit; making a
9 predetermination that certain pretrial detainees will stay in the B-Max Unit until they
10 are either released from custody or are transferred to prison, thus rendering periodic
11 reviews substantively and procedurally meaningless; and (4) making the length of
12 time between reviews far too long to comport with the constitutional due-process
13 standard.

14 75. Defendants are also violating Plaintiff and class members' due process
15 rights by retaining the Plaintiff and class members in conditions that amount to an
16 atypical and significant hardship without legitimate penological interest, as this
17 detention occurs without reliable evidence that Plaintiff and members of the class are
18 committing any acts on behalf of any gang and are thus active gang members.

19 **Fourth Cause of Action : Fourteenth Amendment**

20 **(Equal Protection)**

21 76. Plaintiffs and others similarly situated are denied access to rehabilitative
22 programs such as Alcoholics Anonymous, Narcotics Anonymous, Anger
23 Management, or Parenting classes. These programs are afforded in other units of the
24 Stanislaus County Men's Jail and Stanislaus County Public Safety Center. Plaintiffs
25 are informed and believe that these programs are funded through the inmate welfare
26 fund.

27 77. Plaintiffs and others similarly situated are denied access to educational
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1 programs such as G.E.D. classes. These programs are afforded in other units of the
2 Stanislaus County Men's Jail and Stanislaus County Public Safety Center. Plaintiffs
3 are informed and believe that these programs are funded through the inmate welfare
4 fund.

5 78. Plaintiffs and others similarly situated are denied access to vocational
6 training programs These programs are afforded in other units of the Stanislaus
7 County Men's Jail and Stanislaus County Public Safety Center. Plaintiffs are informed
8 and believe that these programs are funded through the inmate welfare fund.

9 **Fifth Cause of Action: Sixth and Fourteenth Amendment**

10 **(The Right to Counsel)**

11 79. Plaintiffs and others similarly situated are denied meaningful access to
12 counsel.

13 80. Plaintiffs and others similarly situated are deprived of meaningful access
14 to counsel. They are permitted use of telephones only during recreational or "yard"
15 time. "Yard" is run on a set schedule. Plaintiffs and others similarly situated are
16 permitted yard time three times a week. Due to yard scheduling, Plaintiffs and others
17 similarly situated are permitted two telephone calls during business hours per month.
18 No exceptions are made for legal emergencies, proceedings, or trial.

19 81. Plaintiffs and others similarly situated are deprived of meaningful access
20 to counsel. There is one room available for all pretrial detainees in B-Max to meet
21 with their attorneys, investigators, or experts. This room is shared with medical staff
22 and is termed the "multipurpose room." Limited availability often results in an
23 inability for counsel to meet in person with their clients. Furthermore, the
24 multipurpose room shares a vent with a staff restroom. Due to the acoustics and
25 shared vent, staff may clearly hear privileged communications being conducted in the
26 multipurpose room when they utilize the staff restroom.

27 **Sixth Cause of Action**

(1st and 5th Amendment)

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2 82. Plaintiff and others similarly situated are classified as “Administrative
3 Segregation” or active gang members according to invidious discrimination in contravention of
4 the First and Fifth Amendments. Defendants act with a discriminatory purpose against
5 Hispanic detainees.

6 83. Plaintiffs and others similarly situated, who are classified as Active Norteño or
7 Northern Hispanic are immediately administered a green and white jumpsuit, which denotes
8 administrative segregation and placed into either B-Max or active tanks. Others who are
9 classified as associates of other “gangs/disruptive groups” and associated with other
10 classifications of inmates are housed in general population.

VI. PRAYER FOR RELIEF

11
12 Plaintiff and the class he represents have no adequate remedy at law to redress
13 the wrongs suffered as set forth in this Complaint. Plaintiff has suffered and will
14 continue to suffer irreparable injury as a result of the unlawful acts, omissions,
15 policies, and practices of the defendants, as alleged herein, unless Plaintiff and the
16 class members he represents are granted the relief requested. The need for relief is
17 critical because the rights at issue are paramount under the United States
18 Constitution.

19 **WHEREFORE**, Mr. Osegueda, Mr. Palomino and those similarly situated
20 request that this court grant them the following relief:

- 21 a. Actual monetary damages to address the physical and psychological
22 harms they have suffered as a result of the harsh conditions in B-Max
23 and the active tanks;
- 24 b. Punitive Damages as the court or jury may deem appropriate;
- 25 c. Declare that defendants’ policies and practices of confining pre-trial
26 detainees in the Stanislaus County B-Max Unit and/or active tanks
27 violates the Fifth, Sixth, Eighth and Fourteenth Amendments to the
28

1 United States Constitution;

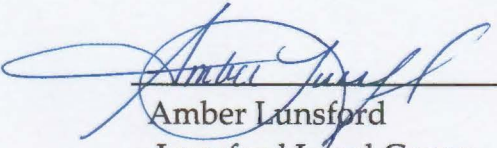
2 d. Issue injunctive relief ordering defendants to present a written plan to
3 the Court within 30 days of the issuance of the Court's order providing
4 for:

- 5 i. The release from the B-Max Unit of those pre-trial detainees who
6 have been housed therein without penological interest;
- 7 ii. The release from active tanks of those pre-trial detainees who
8 have been housed therein without penological interest;
- 9 iii. Alleviation of the conditions of confinement of pre-trial detainees
10 so that pre-trial detainees are no longer housed under conditions
11 of isolation, sensory deprivation, lack of social and physical
12 human contact, and environmental deprivation;
- 13 iv. Meaningful review of the continued need for confinement in the
14 B-Max Unit or active tanks within three months of the Court's
15 order;
- 16 v. Meaningful review of classification procedures adopted by the
17 Stanislaus County Sheriff's Office;
- 18 vi. Meaningful review of B-Max and active tank confinement for pre-
19 trial detainees housed in the B-Max Unit or active tanks in the
20 future;
- 21 e. Award Plaintiff the costs of this suit and reasonable attorneys' fees and
22 litigation expenses pursuant to 42 U.S.C. §1988, and other applicable
23 law;
- 24 f. Retain jurisdiction of this case until defendants have fully complied with
25 orders of this court; and
- 26 g. Award such further relief as the Court deems just and proper.

27 Dated: 8/16/16

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Respectfully Submitted by:


Amber Lunsford
Lunsford Legal Group

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Armando Osegueda and Robert Palomino
(b) County of Residence of First Listed Plaintiff Stanislaus County
(c) Attorneys (Firm Name, Address, and Telephone Number)
Amber Lunsford, CSB 276908
Lunsford Legal Group
1202 H Street, Suite A, Modesto, CA 95354

DEFENDANTS
STANISLAUS COUNTY PUBLIC SAFETY CENTER, STANISLAUS COUNTY SHERIFF'S OFFICE, ADAM CHRISTIANSON, BILL DUNCAN, LIEUTENANT GREG CLIFTON, et. al.
County of Residence of First Listed Defendant Stanislaus County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 08/16/2016
SIGNATURE OF ATTORNEY OF RECORD (Handwritten signature)

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE