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16

17 UNITED STATES DISTRICT COURT  
18 SOUTHERN DISTRICT OF CALIFORNIA

19 DARRYL DUNSMORE, ANDREE  
ANDRADE, ERNEST ARCHULETA,  
20 JAMES CLARK, ANTHONY EDWARDS,  
REANNA LEVY, JOSUE LOPEZ,  
21 CHRISTOPHER NORWOOD, JESSE  
OLIVARES, GUSTAVO SEPULVEDA,  
22 MICHAEL TAYLOR, and LAURA  
ZOERNER, on behalf of themselves and all  
23 others similarly situated,  
Plaintiffs,  
24 v.  
25 SAN DIEGO COUNTY SHERIFF'S  
DEPARTMENT, COUNTY OF SAN  
26 DIEGO, SAN DIEGO COUNTY  
PROBATION DEPARTMENT, and DOES  
27 1 to 20, inclusive,  
28 Defendants.

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Case No. 3:20-cv-00406-AJB-DDL

**REBUTTAL EXPERT REPORT  
OF DEBRA GRAHAM**

Judge: Hon. Anthony J. Battaglia  
Magistrate: Hon. David D. Leshner

Trial Date: None Set

1 **I. INTRODUCTION**

2 I, Debra Graham, declare:

3 1. I have been asked by Plaintiffs’ counsel to prepare this Rebuttal Expert  
4 Report. I was specifically asked to review and analyze the opinions and conclusions  
5 expressed in the August 21, 2024, Expert Report of Henrietta L. Peters (Defendants’  
6 Environmental Health and Safety Expert) and the August 21, 2024, Expert Report of  
7 Owen J. Murray, D.O., M.B.A. (Defendants’ Medical Expert) to decide if their  
8 opinions cause a change in my opinions or conclusions and to provide responses to  
9 their opinions.

10 2. I have reviewed and analyzed the opinions in the expert reports noted  
11 above. Neither the opinions nor conclusions outlined in their expert reports cause  
12 me to change any of the opinions or conclusions stated in my initial expert report  
13 dated August 7, 2024.<sup>1</sup>

14 3. The opinions expressed in this report are based on information that has  
15 been made available to me. That information includes documents provided to me,  
16 which are listed in Exhibit B to my August 7, 2024 report and Exhibit A to this  
17 report. Should new information become available to me in the future, I reserve the  
18 right to analyze that information and revise my opinions and/or conclusions.

19 **II. RESPONSE TO THE REPORT OF HENRIETTA L PETERS**

20 4. I reviewed the Defendants’ expert environmental health and safety  
21 report (“Peters Rpt.”), as well as documents reviewed, inspection notes, and  
22 photographs taken during her inspections. From my review, I have discussed  
23 several observations in the sections below.

24 ///

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26

27 <sup>1</sup> On August 7, 2024, I submitted an Expert Report where I described my  
28 qualifications, experience, compensation, methodology, standards, inspection  
opinions, recommendations, and conclusions. Specific references to my August 7,  
2024, Expert Report are cited in this Rebuttal Report as “Graham Rpt. at xx, ¶ xx.”

1           **A.     Methodology**

2           5.     The report provided by Ms. Peters does not contain a section on  
3 “Methodology.” There are sections such as Assignment, Peters Rpt. at 1,  
4 Documents Reviewed, Peters Rpt. at 3, and Background, Peters Rpt. at 3-4, which  
5 somewhat assists in learning a methodology for this expert’s report. However, other  
6 aspects of explaining the methodology are missing, such as the process she used to  
7 form her opinions.

8           6.     Ms. Peters states that her report covers all seven detention facilities  
9 operated by the San Diego County Sheriff’s Office and the Central Production  
10 Center which oversees food processing and laundry services. Peters Rpt. at 3. She  
11 does not indicate in her report the specific areas she observed in each facility, such  
12 as the particular housing units, medical and dental clinic areas, kitchens, etc. While  
13 Ms. Peters does note the types of housing visited, such as Safety Cell/Enhanced  
14 Observation Housing, Medical Observation Beds, Single Occupancy Housing, and  
15 Mainline Housing, she does not indicate where or in what facility/facilities these  
16 areas were observed. Peters Rpt. at 3-4. It appears that Ms. Peters also visited other  
17 areas, such as the loading dock, which are not listed or described in her report.

18          7.     Ms. Peters did not list or describe in her report any standards she used  
19 to complete her inspections or compare her findings to, nor did she indicate if she  
20 used any inspection equipment, *i.e.*, thermometer, light meter, flashlight, etc., to  
21 assist her with a comprehensive inspection of the facilities. Ms. Peters described  
22 observations and rendered opinions but failed to include any principles by which she  
23 formed her opinions, such as correctional standards, environmental health and safety  
24 standards, etc. Without knowing the principles used to form the opinions, they are  
25 just opinions without any methodology, such as process, principles, or scientific  
26 backing, therefore, lacking a basis on which to demonstrate reliability. In some  
27 cases, Ms. Peters provided recommendations, such as a more thorough regimen for  
28 cleaning the garbage compactor, more frequent cleaning of the grease bins, or

1 cleaning shower drains because drain flies were observed. In these examples, Ms.  
2 Peters does not describe the issues observed concerning the garbage compactor or  
3 grease bins, why they need more cleaning, and what standards back up her  
4 observations, opinions, and recommendations. In the case of the shower drains, Ms.  
5 Peters does not explain what causes drain flies in shower drains, why they are a  
6 problem, or what can prevent them from breeding or thriving in drain areas.

7 8. The documents reviewed, inspection notes, and photographs taken as  
8 part of Ms. Peters in-person inspections at the San Diego County Sheriff's Office  
9 Detention Facilities were provided to Plaintiffs by counsel for the Defendants on  
10 September 26, 2024, which I subsequently reviewed. None of the information in  
11 any of the documents, inspection notes, or photographs changes my opinions  
12 outlined in my expert report. However, during my review, I did find some notable  
13 issues pertaining to environmental health and safety in some of the photographs that  
14 were not addressed in Ms. Peters' report, which I have discussed in relevant sections  
15 below.

16 **B. Issues Noted in Common**

17 9. Multiple issues noted in Ms. Peters' report were also discussed in my  
18 expert report. However, the issues noted by Ms. Peters were not discussed with any  
19 detail. The following issues were noted in both reports.

20 **1. Dumpster Areas**

21 10. In her report, Ms. Peters states, "The garbage compactor areas should  
22 receive a more detailed cleaning. Although some cleaning is evident, I recommend  
23 a more thorough regimen." Peters Rpt. at 5. In Ms. Peters' description of the  
24 garbage compactor areas, she did not explain the reason that she recommended a  
25 more detailed cleaning and did not describe that trash was observed around a  
26 dumpster as noted in photographs IMG\_0172.JPG – IMG\_0175.JPG taken during  
27  
28

1 her inspections.<sup>2</sup> In addition, in photograph IMG\_0176.JPG, an open container with  
2 cardboard boxes and bags of trash are seen and appear to be in the food service  
3 loading dock area. If this is the case, Ms. Peters failed to note in her report that this  
4 is a violation of the FDA Food Code 2022, Chapter 5,<sup>3</sup> and the California  
5 Department of Public Health, California Retail Food Code, Chapter 7.<sup>4</sup> Ms. Peters  
6 also states, “I observed grease bins (outside tallow containers) that require more  
7 frequent cleaning to prevent pests attracted by wasted grease.” Peters Rpt. at 6. It is  
8 not clear from this description what garbage compactor area or areas are being  
9 referred to. The garbage dumpster areas I inspected at Vista and East Mesa were  
10 clearly in violation of food safety standards and needed extensive cleaning. Graham  
11 Rpt. at 55-57, ¶¶ 146-148 (Vista); 62-65, ¶¶ 158-159 (East Mesa). The dumpster  
12 area at South Bay was in better condition, however, improvements were needed.  
13 Graham Rpt. at 70, ¶ 167.

## 14 2. Birds

15 11. Ms. Peters notes that birds were seen in the outside courtyard areas and  
16 inside fenced walkways, but none were observed inside the housing areas. Peters  
17 Rpt. at 4. Later in her report Ms. Peters states, “Birds have access to inner  
18 walkways, including segregation recreation yards.” Peters Rpt. at 7. Clearly, if  
19

20 \_\_\_\_\_  
21 <sup>2</sup> As noted in Exhibit A, photographs from Ms. Peters’ inspections were produced  
with file names ranging from “IMG\_0138.JPG” to “IMG\_0250.JPG.”

22 <sup>3</sup> FDA Food Code 2022, Chapter 5, Water, Plumbing, and Waste, 5-501.15 Outside  
23 Receptacles, (A) “Receptacles and waste handling units for refuse, recyclables, and  
24 returnables used with materials containing food residue and used outside the food  
establishment shall be designed and constructed to have tight-fitting lids, doors, or  
covers.”

25 <sup>4</sup> California Department of Public Health, Division 104 Environmental Health, Part  
26 7, California Retail Food Code Effective January 1, 2024, Chapter 7, Article 4,  
27 Refuse, 114245.1 (a) “All refuse, recyclables, and returnables shall be kept in  
28 nonabsorbent, durable, cleanable, leakproof, and rodentproof containers and shall be  
contained so as to minimize odor and insect development by covering with close-  
fitting lids or placement in a disposable bag that is impervious to moisture and then  
sealed.”

1 birds can access inner walkways and recreation yards, they can also enter the  
2 facility's interior through the opening of doors. During my inspection at George  
3 Bailey, live birds and bird droppings were observed in housing areas, including  
4 segregation. Graham Rpt. at 16, ¶ 41. Live birds and evidence of bird activity,  
5 including bird droppings observed on food service equipment and the loading dock  
6 were noted at East Mesa in the loading dock area. Graham Rpt. at 65, ¶ 159.

### 7                   **3. Drain/Sewer Flies**

8           12. Drain flies or sewer flies refer to the same type of fly. Ms. Peters notes  
9 the presence of sewer flies in the shower areas at Vista and states that the sewer flies  
10 suggest a need for drain cleanings, such as enzyme removal or high-power jetting.  
11 Peters Rpt. at 8. She also states that regular maintenance is crucial to prevent  
12 infestations. We are in total agreement on this issue. However, live drain flies and  
13 drain fly larvae were found during my inspections in multiple facilities and areas  
14 within a facility. Graham Rpt. at 11, ¶ 28 (George Bailey); 13, ¶¶ 33-36; and 27-28,  
15 ¶ 74 (Central Jail).

### 16                   **4. Air Vent Covering**

17           13. Ms. Peters notes evidence of IPs covering vents with paper items.  
18 Peters Rpt. at 8. This practice was also noted during my inspections. As Ms. Peters  
19 states in her report, this practice can impede air circulation and should be  
20 discouraged to maintain proper airflow.

### 21                   **5. Chemical Control/Labeling**

22           14. Ms. Peters states in her report, “I found some secondary containers  
23 used by the Incarcerated Population (IP) for chemicals in living areas that were  
24 improperly labeled.” Peters Rpt. at 9. She also recites the need for proper labeling  
25 of chemicals based on OSHA (Office of Safety and Health Administration)  
26 requirements but does not explain or apply the OSHA requirements. Multiple  
27 photographs, i.e., IMG.0142.JPG, IMG\_0144.JPG, IMG\_0152.JPG, and  
28 IMG\_0189.JPG were taken during Ms. Peters’ inspections that indicate that she

1 observed unlabeled and improperly labeled chemical bottles in multiple areas of the  
2 San Diego County jails. During my inspections, unlabeled bottles containing  
3 chemicals were frequently observed, old shampoo bottles were observed containing  
4 chemicals with no labels, open chemical bottles were also observed in various areas,  
5 and chemical bottles were also observed at individual incarcerated person's bunks,  
6 all indicating a lack of proper chemical control at San Diego jails. A complete  
7 explanation and description of the various violations of chemical control can be  
8 found in my expert report. Graham Rpt. at 86-90, ¶¶ 211-220.

### 9 **C. Conflicting Issues and Opinions**

10 15. There are areas of Ms. Peters' report that conflict with my findings and  
11 the information provided in my expert report. The following information outlines  
12 the differences.

#### 13 **1. Cleanliness and Sanitation**

14 16. Ms. Peters states in her report, "Overall, all of the facilities were clean,  
15 with only minor incidents observed during the site visits." Peters Rpt. at 4. She also  
16 states, "The facilities were overall hygienic and appropriately sanitized, but I do  
17 recommend general surface cleaning be performed daily when areas are empty, with  
18 a focus on highly soiled areas such as toilet areas." Peters Rpt. at 7. Then, under  
19 Pest Management, Ms. Peters states, "I found the facilities to be fairly clean for the  
20 most part free of vermin and insects." Peters Rpt. at 7. It is confusing whether her  
21 opinion is that the facilities were found clean, hygienic and appropriately sanitized,  
22 or fairly clean for the most part. Ms. Peters does not provide any clear descriptions  
23 as to what areas she found any of these conditions described, why she noted these  
24 observations, or any standards by which she compared her observations or formed  
25 her opinions. Ms. Peters does miss some opportunities to note conditions observed  
26 as evidenced by photographs taken during her inspections. For example, in  
27 photograph IMG\_0152.JPG, the photograph shows shampoo bottles that contain  
28 chemicals, however, Ms. Peters does not include in her report the dirty mop head

1 hanging over the housing unit dayroom sink, the dirty towel on the floor, the dirty  
2 sink, and the dirty floor and wall, even though these issues are clear in the  
3 photograph. Another missed opportunity to note conditions is missing from Ms.  
4 Peters' report but shown in photograph, IMG.0190.JPG, where a shower is observed  
5 dirty, the walls are dirty and have peeling paint, and there is what appears to be a  
6 shower curtain hanging on a string. It is agreed that some areas of some facilities at  
7 the San Diego jails are clean and/or cleaner than others. However, lack of  
8 cleanliness and pervasive filth were observed during my inspections in so many  
9 areas, that I cannot agree with Ms. Peters that the facilities are "overall" clean,  
10 hygienic and appropriately sanitized, or even fairly clean. There are numerous  
11 observations and photographs noted in my report that clearly depict the  
12 unacceptable conditions observed during my inspections. I visited George Bailey in  
13 January 2024 before Ms. Peters' visit; however, I visited Central Jail in May 2024  
14 after she visited that facility. I found serious environmental health and safety  
15 violations at both facilities. A complete description of my inspection findings,  
16 including photographs, and references to a photograph index concerning cleanliness  
17 and sanitation at each facility I inspected can be found in my expert report. Graham  
18 Rpt. at 8-76 ¶¶ 23-179.

19       17. Ms. Peters also notes in her report that she was made aware that the  
20 Plaintiffs assert that overcrowding exists in the facilities leading to environmental  
21 health issues. Peters Rpt. at 10. Ms. Peters also states on the same page of her  
22 report, "I did not observe any overcrowding within the detention facilities. Several  
23 multiple occupancy areas/mainline housing areas were observed, some with triple  
24 bunk bed options but these did not create poor environmental conditions based upon  
25 my inspection and observations." Peters Rpt. at 10. Unfortunately, Ms. Peters does  
26 not describe where (facility and location) she observed the triple bunking.  
27 Regardless, triple bunking in San Diego jails is a direct violation of BSCC Title 24,  
28 § 1231.2.7 – Double Occupancy Cells. Triple bunking is not permitted. San Diego



1 was cited during their BSCC Inspection for 2020-2022 and 2023-2024 for triple  
2 bunking. Cells lack the proper square footage for three occupants. A complete  
3 explanation of triple bunking, where this practice was observed, and why it is an  
4 issue for environmental health and safety is outlined in my expert report. Graham  
5 Rpt. at 11-12 ¶¶ 30-32.

## 6                   2.     **Air Quality**

7           18.     Ms. Peters states in her report, “In shower areas, during the inspection  
8 no active mold growth was observed, indicated by the absence of outward growth on  
9 surfaces such as walls and cellulose ceiling tiles.” Peters Rpt. at 8. Mold growth  
10 was pervasive in shower areas during my inspections. Not only was mold observed,  
11 but showers overall were dirty, contained soap scum, and needed cleaning. In  
12 addition, mold was observed on walls and ceilings, for example, at Vista, wall and  
13 ceiling mold was observed in several housing units. Graham Rpt. at 20, ¶ 50.

14           19.     In her report, Ms. Peters states, “Overall, the filters, sprinkler heads,  
15 and other areas prone to dust collection were free of dust.” Peters Rpt. at 8. Air  
16 vents and air returns were not clean during my inspections. It is possible, but not  
17 probable that the issues I observed were corrected before Ms. Peters’ visits. I say  
18 not probable because Ms. Peters visited Central Jail before I did and I found the  
19 ceilings and air vents at Central Jail dirty, rusted, and/or blocked with dust or paper.  
20 Dirty air vents and air returns were found in various areas of all the facilities I  
21 inspected and my findings are described completely for each facility in my expert  
22 report.

## 23                   3.     **Plumbing/Electrical**

24           20.     In her report, Ms. Peters states, “The plumbing and electrical systems at  
25 each of the facilities were not contributing to any health or safety issues based upon  
26 my observations.” Peters Rpt. at 11. It is not clear from her descriptions in her  
27 report where she made her observations and why she states that these systems were  
28 not contributing to any health or safety issues. There were numerous plumbing

1 issues, including leaking toilets, water lines, faucets, and water closet/pipe chase  
2 leaks observed during my inspections. The plumbing issues I observed are all  
3 described throughout my expert report.

4 21. Concerning electrical, Ms. Peters states in her report, “I observed the  
5 use of one extension cord in one facility, which I was advised was temporary.”  
6 Peters Rpt. at 11. She does not, however, indicate which facility, where in the  
7 facility this observation was made, or who told her that it was temporary. During  
8 my inspection, I observed multiple electrical safety issues, raising concerns  
9 especially in correctional environments. Graham Rpt. at 78-79, ¶¶ 187-193. For  
10 example, at Vista, duct tape was holding an electrical cord along a cabinet and also  
11 into an electrical outlet in the medical clinic, Graham Rpt. at 79, ¶ 192 and  
12 photographs. In addition, electrical outlets were observed unsecured at Las Colinas  
13 and in the kitchen at South Bay, Graham Rpt. at 79, ¶ 190, and 69-70, ¶ 166.

#### 14 **D. Training**

15 22. Ms. Peters discussed the Healthcare Service Assistant Training (HSAT)  
16 Program throughout her report, repeating the same information several times. Peters  
17 Rpt. at 4-6. In describing the HSAT program, Ms. Peters states, “The HSAT  
18 (Health Service Assistant Training) Program is a very thorough training initiative  
19 provided by the San Diego County Sheriff’s Office. This program offers extensive  
20 training to Incarcerated Person (IP) workers in bio-hazard cleaning and sanitation.”  
21 Peters Rpt. at 4 & 6. However, Ms. Peters should have noted in her report the  
22 observance of a cleaning cart captured in photograph IMG.0142.JPG that was  
23 labeled “HSAT 3 Bathrooms.” This cleaning cart contained multiple unlabeled and  
24 improperly labeled bottles containing chemicals. For a program that Ms. Peters  
25 described as thorough with extensive training in bio-hazard cleaning and sanitation,  
26 proper labeling of chemical containers should be paramount.

27 23. The HSAT program is one of the reentry program classes provided at  
28 the San Diego jails. The San Diego County Sheriff’s Detention and Reentry

1 Facilities Classes and Programs documentation (see SD\_1517575) notes the class  
2 for the HSAT program is coordinated through the Grossmont Adult School,  
3 providing training on standard medical facility cleaning and on-the-job training in  
4 the medical areas of the facility, (see SD\_1517577). According to this  
5 documentation, this class is available at East Mesa, George Bailey, Central Jail, and  
6 Rock Mountain. However, Ms. Peters describes this program in her report as being  
7 taught at only Central Jail and George Bailey. She recommends the training be  
8 extended to the remaining facilities. While the HSAT program may contain  
9 beneficial training to support a healthy and safe environment, the environmental  
10 health and safety of an area is only as good as ensuring that appropriate cleaning and  
11 sanitation practices are carried out consistently, and measures for accountability are  
12 in place and followed. I would need a lot more information about this program,  
13 including who attends, how often, and the content of the classes, to know if the  
14 program is useful in addressing the deplorable conditions I have observed at the San  
15 Diego County jails.

16       24. I also strongly disagree with Ms. Peters’ statement, “The two detention  
17 facilities with this program exhibit a higher level of cleanliness.” Peters Rpt. at 5. I  
18 found the opposite to be true – Central Jail and George Bailey were two of the most  
19 egregiously filthy facilities I inspected with numerous violations of standards for  
20 environmental cleanliness and sanitation. Ms. Peters’ conclusion that those two  
21 facilities had a higher level of cleanliness is directly contradicted by the conditions  
22 described at length, with extensive photographic evidence, in my expert report.

23       **E. Policies and Procedures**

24       25. Ms. Peters does not provide any information concerning her review of  
25 policies and procedures other than to state that the existing policies and practices  
26 provide a solid foundation. Peters Rpt. at 1. She does provide a list at the end of her  
27 report of the documents she reviewed, which includes policies and procedures,  
28 Peters Rpt. at 18, but she does not equate any of these policies and procedures to any

1 of her observations or opinions in her report. The policies and procedures for the  
2 San Diego jails are insufficient and, in many cases, do not provide any foundation  
3 for staff to understand what is expected or to follow the policy. In many cases, the  
4 policies lack clear descriptions of expectations, steps to follow, clear instructions,  
5 and sufficient information for the policy to be effective or measure staff  
6 performance. There were numerous instances noted in my expert report with  
7 specific examples of policies that need revising so that staff understands what is  
8 expected, how to complete tasks required in the policy, and to provide San Diego  
9 jails with mechanisms for accountability. Graham Rpt. at 90-92, ¶¶ 221-226.

10 **F. Employment and U.S. Department of Justice (USDOJ)**  
11 **Investigation – Alabama Department of Corrections (ADOC)**

12 26. Ms. Peters states in her report that she has a Bachelor of Science in  
13 Biology and a Master of Public Administration in Environmental Management. She  
14 also lists several certifications related to environmental health and safety. Ms.  
15 Peters also states, “I was previously employed as an Environmental Manager with  
16 the Alabama Department of Corrections (ADOC) for 11 years, where I was the  
17 Department’s liaison in ensuring that all environmental procedures are conducted in  
18 compliance with state, federal and local environmental regulations. My division  
19 was responsible for conducting internal audits of the correctional facilities for  
20 environmental health and safety issues for maintenance, food safety and  
21 environmental compliance.” Peters Rpt. at 2. Ms. Peters’ resume is attached as  
22 Appendix A to her report and shows she was employed with the ADOC from  
23 October 2010 to July 2021. In addition, Ms. Peters was employed by the Alabama  
24 Department of Public Health from August 2000 to October 2010.

25 27. During Ms. Peters’ employment with the ADOC, the United States  
26 Department of Justice (USDOJ) opened a CRIPA (Civil Rights of Institutionalized  
27 Persons Act) investigation into the conditions in ADOC facilities housing male  
28

1 prisoners.<sup>5</sup> Site visits by the USDOJ and expert consultants were conducted at four  
2 Alabama prisons between February 2017 and January 2018. On April 2, 2019, the  
3 USDOJ provided their report of the investigation at the ADOC.<sup>6</sup> In this report, the  
4 USDOJ and U.S. Attorney’s Offices for the State of Alabama found “that there is  
5 reasonable cause to believe, based on the totality of the conditions, practices, and  
6 incidents discovered that: (1) the conditions in Alabama’s prisons for men violate  
7 the Eighth Amendment of the U.S. Constitution.” Among other violations, the  
8 USDOJ found, “ADOC prisons do not provide adequate humane conditions of  
9 confinement”, citing numerous issues with toilets, sinks, and showers that leak, get  
10 stopped up, or are otherwise broken. Showers were found covered in mold. Floors  
11 were described as so compromised that the concrete subfloor was all that remained.  
12 Also described were prisoner complaints of rats and bugs in the kitchen,  
13 cockroaches in segregation, leaking from roofs, and lack of heat. The USDOJ also  
14 noted, “Short of new facilities or drastic renovations, there are relatively simple  
15 physical plant corrections that could increase safety in the facilities.” Cleaning  
16 mold in showers and then painting walls that are not tiled is a good example of a  
17 relatively simple physical plant correction.

18         28. The entire investigation by the USDOJ, inclusive of their findings  
19 report, occurred while Ms. Peters was the Environmental Manager for the ADOC.  
20 The USDOJ ultimately sued Alabama based on those findings on December 9, 2020,  
21 in *United States v. Alabama*, No. 2:20-cv-01971-RDP (N.D. Ala.). The operative  
22 complaint outlines findings from their investigation in which they state that among  
23 other issues, “Defendants’ systemwide policies, procedures, and practices related to  
24 maintenance, safety measures, personal hygiene, and sanitation are not sufficient to  
25 provide safe or sanitary conditions at each of the 13 Alabama’s Prisons for Men.”

26 \_\_\_\_\_  
27 <sup>5</sup> <https://www.justice.gov/crt/case-document/file/1149981/dl>

28 <sup>6</sup> <https://www.justice.gov/crt/case-document/file/1149971/dl>

1 *Id.*, Second Amended Complaint, Dkt. 71. at 4, ¶ 238.<sup>7</sup>

2 29. In her resume, Ms. Peters' states that in her role at ADOC she  
3 "Substantially managed 29 State correctional facilities and served as an  
4 interdepartmental liaison to assure that all procedures complied with state, federal,  
5 and local environmental regulations." Peters Rpt., App'x A. She also states that she  
6 has "a proven track record of ensuring adherence to regulatory standards." Peters  
7 Rpt., App'x A. The USDOJ's findings strongly contradict those assertions. Ms.  
8 Peters' belief that the ADOC complied with environmental regulations casts serious  
9 doubt on her opinion as stated in her report, "I believe that the San Diego County  
10 Sheriff's Office Detention Facilities perform at an average level compared to other  
11 adult local detention facilities in terms of environmental health and safety. There  
12 are no systemic issues which demonstrate a callous or indifferent attitude toward  
13 creating a clean and health environment for Incarcerated Persons." Peters Rpt. at  
14 13.

15 **G. Comparison of Subjects Discussed in Each Expert's Report**

16 30. The following is a comparison table illustrating the subjects discussed  
17 by each expert in their report.

<b>Subjects Discussed in Expert Report of Henrietta Peters</b>	<b>Subjects Discussed in Expert Report of Debra Graham</b>
Training – HSAT Program	Methodology
General and Bio-Hazard Sanitation	Standards
Garbage Compactor	Inspection Equipment
Grease Bins	Cleanliness and Sanitation
HSAT Program	Housekeeping
Pest Management	Medical & Dental Facilities
Air Quality	Medical Reports and Documentation

26  
27 <sup>7</sup> The operative Second Amended Complaint was filed roughly four months after  
28 Ms. Peters left the ADOC, however, the facts in that complaint were from the investigation that occurred while she was employed at the ADOC.

<b>Subjects Discussed in Expert Report of Henrietta Peters</b>	<b>Subjects Discussed in Expert Report of Debra Graham</b>
Mold	Kitchens
Air vents	Unsafe Physical Plant
Hazard Communication/Chemical Sanitation	Plumbing
Plumbing Electrical	Electrical
Laundry Services	Lighting
	Air Ventilation, Quality, and Temperatures
	Other Observations
	Chemical Control
	Policies, Procedures, and Training
	Recommendation
	Cleanliness and Sanitation
	Unsafe Physical Plant Conditions
	Other Observations

31. As noted, multiple areas were discussed in my report that Ms. Peters did not discuss. There is no reference to Ms. Peters inspecting any of the medical or dental clinic areas. There is no mention of the kitchens, other than the dumpster areas, but it is not clear which dumpster areas were visited. Ms. Peters does not provide any information concerning the conditions and/or operation of sinks, toilets, or showers, or whether she found unsanitary conditions and where. She does not mention the environmental conditions of the housing units, individual cells, segregation cells, etc. There were so many instances of unsanitary conditions in multiple facilities during my inspections that it is hard to believe that Ms. Peters could not have experienced at least some of these same conditions. In addition, Ms. Peters did not discuss in her report lighting or air temperatures in any of the facilities.

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1           **H. Conclusion – Henrietta L. Peters Expert Report Review**

2           32. Ms. Peters’ report provides information based on her observations  
3 while participating in an inspection of San Diego County Sheriff’s Office Detention  
4 Facilities. Ms. Peters described observations, formed opinions, and made  
5 recommendations, but did not explain her methodology, if any, or the basis for  
6 which she formed her opinions. It is unclear from her expert report exactly what  
7 locations in each facility she visited, and exactly what she did inspect. She fails to  
8 describe for the reader of her report exactly what she did find in her observations,  
9 why her findings are of issue, and what rationale she used for her findings, opinions,  
10 conclusions, and/or recommendations.

11           33. Ms. Peters notes in her report that staff demonstrated both knowledge  
12 and responsiveness, promptly took corrective actions, and received information  
13 openly with positive intent to make necessary corrections, none of which were  
14 demonstrated to me during my inspections. To the contrary, the Defendants’  
15 counsel attempted to restrict me where no restriction was warranted. I was not able  
16 to experience staff’s demonstration of openness, responsiveness, or positive intent  
17 toward taking corrective actions described by Ms. Peters, in part because counsel for  
18 Defendants restricted my conversations and interactions with staff. In her  
19 conclusion, Ms. Peters states, “San Diego County Sheriff’s Office leadership and  
20 staff members have taken an active role in improving the sanitation, which is visible  
21 at each facility and were very receptive to my questions, commentary and  
22 suggestions during my inspections and after.” The receptiveness of staff to  
23 suggestions is an important first step for correcting violations and improving the  
24 facilities, however, receptiveness is not enough to ensure that necessary and  
25 adequate corrections and improvements are completed and sustained. Multiple steps  
26 must be taken between being receptive to suggestions and opportunities before  
27 effective corrective actions have been carried out. These steps must include, for  
28 example, a meaningful corrective action plan that outlines violations and appropriate



1 corrective measures to address those violations, along with, most importantly,  
2 accountability for ensuring that violations will not continue or be repeated. Internal  
3 accountability is particularly important in light of the Citizens' Law Enforcement  
4 Review Board's (CLERB's) decision to dismiss complaints about environmental  
5 conditions inside San Diego County jails stating claims are outside of their  
6 jurisdiction and the allegations do not fall within the authority granted to CLERB by  
7 the San Diego County Board of Supervisors.<sup>8</sup> It is also unclear from Ms. Peters'  
8 report how she knew that staff have taken an active role in improving the sanitation  
9 at San Diego County jails; there is no explanation of how she came to that  
10 conclusion.

11       34. Under the Summary of Opinion, Ms. Peters states, "I found no  
12 evidence that the County or its jail staff are deliberately indifferent to the health and  
13 safety of incarcerated persons, with respect to the cleanliness and sanitation of the  
14 facilities, and to the contrary, I found them to be responsive, open, and accepting of  
15 best practices." Peters Rpt. at 1. However, Ms. Peters never defines "deliberately  
16 indifferent" or what evidence would or would not indicate deliberate indifference or  
17 lack thereof. I strongly disagree with her overall conclusion regarding deliberate  
18 indifference.

19 **III. RESPONSE TO THE REPORT OF OWEN J. MURRAY, D.O., M.B.A.**

20       35. I reviewed the Expert Medical Report ("Murray Rpt.") from the  
21 perspective of environmental health and safety and have discussed several  
22 observations noted from my review in the sections below.

23 **A. Methodology and Facilities and Materials Reviewed**

24       36. In Section 4: Methodology, Dr. Murray reports that he reviewed  
25 material provided by counsel, spoke with Plaintiffs' medical expert Dr. Peter  
26

27 <sup>8</sup> <https://www.sandiegouniontribune.com/2024/09/05/unsanitary-unethical-unprofessional-san-diego-sheriffs-oversight-board-dismisses-complaints-due-to-lack-of-jurisdiction/>  
28

1 Freedland on July 5, 2024, and Dr. Nas Rafi, CHP SDSO Medical Director via  
2 telephone on August 7, 2024, reviewed the medical records of the named Plaintiffs,  
3 participated in a facility inspection conducted on March 18, 19, and 20, 2024, joined  
4 by subject matter experts in the areas of nursing services, pharmacy, medical  
5 records, and administration, and audited randomly selected medical records.  
6 Murray Rpt. at 2.

7 37. In Section 5: Facilities, Dr. Murray reports he toured the George  
8 Bailey Detention Facility, Las Colinas Detention and Reentry Facility, Vista  
9 Detention Facility, San Diego Central Jail, East Mesa Reentry Facility, Rock  
10 Mountain Detention Facility, and South Bay Detention Facility. Dr. Murray states  
11 that at each facility he was accompanied by several members of the SDSO (San  
12 Diego Sheriff's Office) facility leadership. Dr. Murray also states, "We did not  
13 speak with any incarcerated persons (IPs)." Murray Rpt. at 3.

14 38. While the review completed by Dr. Murray includes documents,  
15 records, and tours, importantly conversations with incarcerated persons were not  
16 included. The purpose of Dr. Murray's reviews and tours was outlined in Section 3:  
17 Overview of his report, which states, "A comprehensive assessment of SDSO was  
18 conducted to gather data needed to address the allegations in the Plaintiffs'  
19 complaint." Murray Rpt. at 1. The Plaintiffs in this complaint are incarcerated  
20 persons. An attempt to speak in person or electronically with any of the Plaintiffs  
21 that could be made available should have been completed. It would have been  
22 beneficial for Dr. Murray to speak with incarcerated persons during his tours. In my  
23 experience in conducting audits of correctional facilities, incarcerated persons have  
24 a wealth of information about what occurs or does not occur in their incarcerated  
25 environment. It is understood that incarcerated persons provide information from  
26 their frame of reference and their reality, and sometimes that information is  
27 inaccurate or not truthful, but many times that information is indeed accurate and  
28 truthful. The beauty of an effective audit is to be able to sift through the information

1 provided by the incarcerated persons and information provided by staff and facility  
2 documentation to determine where and what the opportunities for improvement are  
3 and/or the direct violations of standards, laws, or guidelines.

4 39. I understand from Plaintiffs' counsel that they gave Defendants'  
5 counsel permission for Defendants' experts to interview incarcerated persons during  
6 inspections, so long as Plaintiffs' counsel could be present for the interviews. This  
7 was the arrangement that Defense counsel had during my conversations with  
8 Sheriff's Department staff during my inspections—I was only allowed to speak with  
9 staff if Defendants' counsel was present for the conversation. It is my  
10 understanding that Defendants' counsel scheduled their experts' inspections without  
11 informing Plaintiffs' counsel.

12 40. In Section 2: Materials Reviewed, Dr. Murray states, "The materials  
13 provided to me for review can be found in Appendix B," Murray Rpt. at 1, and in  
14 Section 4: Methodology, he states, "I reviewed the material provided by counsel."  
15 Murray Rpt. at 2. In addition, Dr. Murray states in Section 7: Findings, under Intake  
16 that "a random selection process was initiated to audit 75 IP health records from a  
17 pool of 121 records . . . to evaluate compliance with the SDSO's intake screening  
18 process," and those "same 75 IP health records were reviewed to ascertain if the  
19 initial health assessment . . . was performed with[sic] 14 days from the initial intake  
20 date." Murray Rpt. at 11-12. It is not noted in Dr. Murray's report if the materials  
21 he reviewed and the pool of records were selected/requested by Dr. Murray, were  
22 selected by the SDSO staff, by medical staff, or were selected by counsel for  
23 Defendants. This is an important point as the records should have been  
24 selected/requested by Dr. Murray and not by the facility, medical staff, or counsel  
25 for Defendants. Of the 75 incarcerated persons' health records assessed for initial  
26 health assessment within 14 days, only 11 ended up being reviewed because those  
27 11 were the only persons who stayed in custody for 14 days or more.

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1           **B.     Infection Control**

2           41.     I agree with Dr. Murray’s statement in Section 7: Findings, under  
3 Infection Control that “Infection control practices are paramount in a jail  
4 environment to safeguard the health and well-being of both incarcerated individuals  
5 and staff.” Murray Rpt. at 13. This should also be broadened to include visitors,  
6 volunteers, and anyone who may come into contact with the facilities. Also agreed  
7 is Dr. Murray’s statement, “Effective infection control measures and timely  
8 identification and isolation of infectious cases are crucial in preventing transmission  
9 and outbreaks.” Murray Rpt. at 13. Importantly, in this statement is the  
10 understanding of effective infection control measures, as well as the implementation  
11 of an effective infection control program, the consistent adherence to that effective  
12 infection control program, measures to ensure adherence, such as step-by-step  
13 instructions and inspections, follow-up measures, and accountability provisions.

14           42.     In Dr. Murray’s statement, “The SDSO has implemented all the  
15 necessary elements for a thorough and effective infectious and communicable  
16 disease surveillance program”, Murray Rpt. at 13, it is not clear if the infectious  
17 disease/communicable disease program is referring to disease transmission, i.e.,  
18 tuberculosis, influenza, or COVID-19, or is also inclusive of all of environmental  
19 health and safety. In addition, Dr. Murray does not describe what the exact  
20 “necessary elements” are for such a program, which makes it impossible to evaluate  
21 his claim. This statement by Dr. Murray appears to assume that the infectious and  
22 communicable disease surveillance program has been effectively implemented and  
23 the staff are consistently following the guidelines and requirements of this program.  
24 This may have been concluded from the review of documents, and that may work  
25 well if timely identification of infectious diseases, isolation measures, and  
26 preventing transmission and outbreaks are the goals. However, when overall  
27 environmental health and safety are part of the program, the parts of the program  
28 must go beyond document reviews and tours and must include physical checks

1 specifically for proper cleanliness and sanitation, observations for adherence to  
2 proper disinfecting requirements, and thorough and meaningful documented  
3 inspections, with follow-ups and accountability. I do not see any evidence in Dr.  
4 Murray's report that he performed any type of physical checks for cleanliness and  
5 sanitation or environmental health and safety as outlined above.

6 43. Dr. Murray also states that in addition to the infectious and  
7 communicable disease surveillance program, further surveillance activities include  
8 regular weekly ectoparasite inspections and monthly environmental health  
9 inspections conducted by the nursing department. There is no explanation of  
10 exactly what these inspections entail or where and how many locations are  
11 inspected. Dr. Murray does not state if facility staff participate in these inspections  
12 in addition to the nursing staff, whether these inspections are documented and, if so,  
13 how they are documented, who reviews them, or what measures are in place for  
14 corrective actions and accountability. In addition, Dr. Murray does not state in his  
15 report if he reviewed any documentation of these inspections and if so, what his  
16 conclusions were.

### 17 **C. Wellness Rounds**

18 44. In Section 7: Findings, under Wellness Rounds, Dr. Murray describes a  
19 leadership-driven, multidisciplinary team that makes weekly rounds in  
20 Administrative Separation (AdSep) called "Wellness Rounds." Murray Rpt. at 20-  
21 21. It is noted in this description that 2-3 incarcerated trustees are included as part  
22 of the team "to remove trash and used items and to sweep the cell." Murray Rpt. at  
23 20. This program appears to be limited to AdSep and is only conducted weekly. No  
24 other cleaning functions or frequencies are described.

25 45. Other than stating that the facilities and areas were toured in March  
26 2024, there is no reference to actual physical observations made by Dr. Murray that  
27 these programs described above are in fact in place and, most importantly, being  
28 consistently followed. Simply stating that the program has been implemented is not

1 enough without a method to actually evaluate that the program is functioning.  
2 Without applying any method to evaluate the program, Dr. Murray's report  
3 overlooks significant aspects of the program's requirements, adherence to the  
4 program, opportunities for improvement, and/or corrections needed.

5 46. My expert report provides a remarkable quantity of examples of risks to  
6 environmental health and safety due to a lack of cleanliness and sanitation, filth, and  
7 subpar disinfecting practices, Graham Rpt. at 8-76 ¶¶ 23-179. I also discussed in  
8 my expert report my review of documentation and photographs of the August 30,  
9 2021, in-custody death of [REDACTED]. Based on information  
10 contained in the Medical Examiner's report and the photographs I reviewed, [REDACTED]  
11 [REDACTED] had a heavy infestation of hair and skin by lice. I also reviewed  
12 documentation from two additional in-custody deaths as part of my review of  
13 environmental health and safety, Mr. Lonnie Rupard and Ms. Roselee Bartolacci. A  
14 complete synopsis of my review of all three of these cases is outlined in my expert  
15 report, Graham Rpt. at 48-54 ¶¶ 128-140. These three cases were not noted as  
16 reviewed by Dr. Murray in his expert report. It is not clear if Dr. Murray visited  
17 areas in the San Diego jails in common with areas I also visited. However, based on  
18 observations I made in January and also in May 2024, it is hard to believe that Dr.  
19 Murray could not have observed at least some of the environmental health and  
20 safety risks that I observed.

21 **D. Conclusion – Owen J. Murray, D.O., M.B.A. Expert Report**  
22 **Review**

23 47. Dr. Murray's report lacks any real detail from physical inspections.  
24 There is no mention of observations in specific areas of the facilities during the  
25 inspections, no information provided by incarcerated persons other than copying  
26 information from the complaint, and no details of what was observed to confirm  
27 programs discussed above are indeed in place. More importantly, there is no  
28 evidence or explanation that the programs discussed are being followed and

1 corrective actions are being made when violations or discrepancies are found.

2 **IV. CONCLUSION**

3 48. The information and opinions contained in this report are based on  
4 evidence, documentation, and/or observations available to me. I reserve the right to  
5 modify or expand these opinions should additional information become available to  
6 me. The information contained in this report and the accompanying exhibits are a  
7 fair and accurate representation of the subject of my anticipated testimony in this  
8 case.

9  
10 Dated: October 1, 2024

  
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Debra Graham

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