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17 UNITED STATES DISTRICT COURT  
18 SOUTHERN DISTRICT OF CALIFORNIA

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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 GARY L. RANEY**

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

Trial Date: None Set

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I, Gary L. Raney, declare:

1. A true and correct copy of my expert rebuttal report is attached hereto as **Exhibit A**.

2. I have had the opportunity to review the report of Lenard Vare. The opinions expressed therein do not change the opinions I expressed in my expert report.

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

Dated: October 2, 2024

  
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Gary L. Raney

# **Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 3:20-cv-00406

**DARRYL DUNSMORE, ANDREE ANDRADE, ERNEST ARCHULETA, JAMES CLARK, ANTHONY EDWARDS, LISA LANDERS, REANNA LEVY, JOSUE LOPEZ, CHRISTOPHER NORWOOD, JESSE OLIVARES, GUSTAVO SEPULVEDA, MICHAEL TAYLOR, and LAURA ZOERNER, on behalf of themselves and all others similarly situated, Plaintiffs**

vs

**County of San Diego, et al. Defendants**

**REBUTTAL REPORT OF EXPERT WITNESS GARY RANEY**

**October 2, 2024**

This report is in response to the expert opinion report submitted by Lenard Vare, dated August 21, 2024. However, this rebuttal only relates to the topics discussed herein and does not reflect agreement with any other opinions.

Mr. Vare’s opinions consistently lacked supporting discussion and justification for his opinions. For the most part, he read San Diego County Sheriff’s Department (SDSD) policies, and listened to what SDSD staff told him, then deemed the policies and practices adequate. He did not appear to compare SDSD practices against generally accepted jail practices.

**Specific Opinions of Mr. Vare**

**Vare Opinion 4(a): “Plaintiffs [sic] claim that the San Diego County Sheriff’s Office fails to adequately detect and prevent drug contraband within the jail is not supported by facts. The drug interdiction methods used by the jail are comprehensive and ongoing. The policies related to drug detection and interdiction are adequate and exceed those of many correctional facilities.”**

Mr. Vare opined that the SDSD body scanner and x-ray policy was “appropriate and comprehensive” but failed to provide any meaningful analysis. Therefore, there is no need for a rebuttal.

Mr. Vare failed to support his opinion that the urinalysis testing policy was “appropriate and comprehensive.” The urinalysis testing policy I.58 only applies to the East Mesa Reentry Facility, testing and, therefore, cannot be “comprehensive” when it is not implemented to detect illicit drugs in any of the housing facilities that are most associated with in-custody deaths.

Mr. Vare wrote that there was a comprehensive process to prevent and interdict contraband by staff, contractors, and visitors, including narcotics. He discussed a randomized urine testing process but failed to explain what facilities it was used in, how people were selected, how many people were tested, how many people tested positive for an illicit drug, and what those drugs were. All of these are fundamental data points for assessing a urinalysis testing program.

Mr. Vare described different drug detection practices in the SDSD but failed to offer any evidence that they are used effectively and proportionately to decrease the amount of illicit drugs in the jail. He used data from the detention investigation unit showing decreased seizures for certain types of drugs in 2024. However, he did not offer any data on the comparative amount of effort that went into those seizures in 2024. There could easily be fewer drugs seized because fewer searches were made or less effort was put into them.

Perplexingly, Mr. Vare then went on to individually name plaintiffs and their alleged drug use. He wrote, “Many of the incarcerated persons have a history of drug use and/or are addicted and actively drug-seeking, which makes staff efforts to prevent illicit drugs from entering the facilities more difficult.”<sup>1</sup> He did not explain why he thinks interdiction efforts are more difficult given these 12 individuals’ histories. It is illogical that their personal addictions would somehow affect the staff’s contraband reduction efforts.

Mr. Vare did not explain his purpose for discussing the plaintiff’s addictions, but it is well known that there is a high rate of drug use and mental illness among the jail and prison populations. A Bureau of Justice Statistics report read, “More than half (58%) of state prisoners and two-thirds (63%) of sentenced jail inmates met the criteria for drug dependence or abuse, according to data collected through the 2007 and 2008-09 National Inmate Surveys.”<sup>2</sup> These dependencies and drug-seeking behaviors are why it is so critical for jails to have effective contraband introduction programs. The number of drug-related deaths in the San Diego County jails is self-evident that their efforts are insufficient.

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<sup>1</sup> P. 62

<sup>2</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, available at: <https://bjs.ojp.gov/content/pub/pdf/dudaspi0709.pdf> (revised August 10, 2020)

**Vare Opinion 7(a): Plaintiffs’ assertion that the Sheriff’s Office fails to equip all facilities with body scanners, properly maintain the existing scanners, adequately train staff on their use, or mandate the scanning of everyone entering Jail is inaccurate.**

Mr. Vare was wrong when he wrote, “Plaintiffs assert that the Sheriff’s Office’s policies for screening incoming individuals and staff for contraband are insufficient. **Plaintiffs have not provided any evidence that substantiates such claims.**” [emphasis added] The plaintiff’s allegations are supported by depositions, reports from the Citizens Law Enforcement Review Board, the Critical Incident Review Board, the California State Auditor, and others. The fundamental fact that Mr. Vare dismissed is that there are an excessive number of people who die in the San Diego County jails from drug-related causes. There is no silver bullet to eliminate drug contraband. Rather, jails have to use multi-prong approaches that include screening, searches and other efforts for inmates and others who can deliver contraband, such as staff, contractors and other visitors.

**Vare Opinion 7(b): There are various steps being taken to control the introduction of narcotics and other contraband into the San Diego County jails. The current process of addressing narcotics detection and interdiction is comprehensive and appropriate.**

Mr. Vare supports his opinion by touting the SDSA practices of:

- The Detention Investigation Unit and the Contraband Narcotics Interdiction team. Many other jails have similar units but fewer deaths and injuries from drug contraband. This effort is not sufficiently effective.
- The Mail Processing Center. Most jails have similar processes, but many do not have the volume of mail the San Diego County jails presumably receive. The jail system primarily relies upon staff for the initial contraband detection. However, technology exists for rapid detection with far more accuracy. One leading company reported, “MailSecur® uses safe T-rays to provide a real-time 3D view of contents concealed in letters, parcels, and other items – without opening them. It is ideally suited for corrections to detect drugs and contraband in inmate mail. MailSecur is the only screening solution that can effectively detect all forms of drugs and contraband - the smallest quantity of liquids, powders, drugs, electronics, drug-laced papers, suboxone, sharps, and other suspicious items. MailSecur is also the only desktop mail screening

solution designated as a Qualified Anti-Terrorism Technology (QATT) by the US Department of Homeland Security under the SAFETY Act.”<sup>3</sup>

- The use of canines. Mr. Vare did not clarify the prior conflicting evidence as to how many canines are used in the San Diego County jail system. Regardless, as previously explained, the dogs’ ability to search is limited and typically used only in high-probability areas. Searching is a high-energy effort for the dogs and requires frequent periods of rest, which limits their capacity. While they are an important asset, they are a small part of the solution.

Lastly, in his opinion 7(b), Mr. Vare appears to echo the SDSD's statements that sworn staff members could not possibly be the source of contraband. However, it contradicts what he wrote in an earlier opinion when SDSD Captain Watts clearly acknowledged drugs may be coming in by staff: “Captain Watts was asked by the plaintiffs’ counsel about the potential for staff bringing narcotics into the institution. Captain Watts said that the Sheriff’s Office attempts to isolate and identify all the possible ways narcotics enter the jail facilities. Both professional and sworn staff could potentially be compromised. The agency developed an informant program using confidential informants from within the incarcerated population. The primary goal of this program is to quickly identify if any staff members engage in smuggling narcotics into the jails.” While they are less likely to be carriers than healthcare staff, contractors, and other visitors, sworn staff may be responsible for introducing contraband. If the San Diego County jails had very few problems with drug contraband, it may be arguable that the inconvenience of searching staff merited “free passes.” However, with the overdose and drug-related death rate in the jails, every practical effort of increasing interdiction should be used.

**Vare Opinion 8(a): The San Diego County Sheriff’s policies related to safety checks as well as personal observations from my touring of the various jails indicates that the Sheriff’s Office has adequate policies and practices to address the safety concerns of incarcerated persons. Safety checks occur in each of the jails and staff respond appropriately to individuals in distress.**

Mr. Vare appears to have reached this opinion based on deposition testimony, limited personal observation, and an Excel spreadsheet of supervisory audits conducted in 2021. First, he failed to address the fundamental issue of the safety check policy and practice not requiring deputies to establish proof of life. This expectation is essential to generally accepted jail practices but is absent in the SDSD practices and Mr. Vare’s analysis. Second, the spreadsheet that Mr. Vare

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<sup>3</sup> <https://www.corrections1.com/products/contraband-detection/articles/raysecur-is-the-leading-provider-of-mail-security-screening-solutions-and-professional-services-for-the-detection-of-drugs-and-contraband-SpDlyBwbILoLPka/>

referred to did not have any record of the timeliness between checks in a given housing unit. The most important part of the SDSD policy is the timeliness of checks. Without that data in the spreadsheet, it is irresponsible to assert that the safety check practices are adequate.

### **Conclusions**

Mr. Vare's opinions lack support and reference to generally accepted jail practices. He also seems to have ignored or dismissed most of the formal reports by well-established entities like the Citizen's Law Enforcement Review Board and the California State Auditor. The evidence is overwhelming that the SDSD policies and practices in question are insufficient. What remains a mystery is why some of these simple life-saving measures, like ensuring proof of life during safety checks, have not been implemented.

Respectfully submitted,

A handwritten signature in blue ink that reads "Gary Raney". The signature is stylized with a large, sweeping initial "G" and a long horizontal line extending to the right.

Gary Raney