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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,

Defendants.
28

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

**REBUTTAL EXPERT REPORT
OF PAUL PARKER**

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

Trial Date: None Set

1 1. Plaintiffs Darryl Dunsmore, Andree Andrade, Ernest Archuleta, James
2 Clark, Anthony Edwards, Reanna Levy, Josue Lopez, Christopher Norwood, Jesse
3 Olivares, Gustavo Sepulveda, Michael Taylor, and Laura Zoerner, on behalf of
4 themselves and the Certified Class and Subclasses, hereby disclose their non-
5 retained rebuttal expert:

6
7 
8 Email: [paul\[REDACTED\]@m](mailto:paul[REDACTED]@m)

9 2. Plaintiffs reserve the right to amend and/or supplement this rebuttal
10 expert witness disclosure based on review of deposition testimony, documents, and
11 other data that has not been completed or disclosed at this time.

12 3. Mr. Parker will testify to the below issues.

13 4. Defendants’ expert, Lenard Vare, contends that “Plaintiffs’ claim that
14 CLERB has not inspected the jail is not entirely accurate. CLERB has conducted
15 site visits as part of specific investigations that it has conducted into various events.
16 CLERB has always had the authority to conduct jail inspections.” Report of Lenard
17 Vare at 153. Mr. Vare’s contention is incorrect.

18 5. First, CLERB has never inspected the San Diego County Jail facilities.
19 Inspections of jail facilities require walking through the facilities and observing the
20 condition, cleanliness, and safety of different areas and operations, including (but
21 not limited to) booking, intake/holding, medical/clinical spaces, housing units,
22 dining areas, classrooms, visiting areas, personal and institutional storage areas,
23 kitchens, sobering cells, safety cells, court holding areas located in the facilities, and
24 exercise areas. *See* CLERB Detention Facility Inspection Handbook at 7.¹
25 Mr. Vare is wrong to suggest that CLERB has performed such inspections.

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27 ¹ Available at: [https://www.sandiegocounty.gov/content/dam/sdc/clerb/
28 meetings/2023/Att.F-CLERB%20Detention%20Facility%20Inspection
%20Handbook%20-%20Updated%20Draft.pdf](https://www.sandiegocounty.gov/content/dam/sdc/clerb/meetings/2023/Att.F-CLERB%20Detention%20Facility%20Inspection%20Handbook%20-%20Updated%20Draft.pdf).

1 6. Second, while CLERB has appeared on site at jail facilities to
2 investigate deaths, such site visits are typically limited to the discreet area(s)
3 relevant to the specific in-custody death at issue of an investigation. These are not
4 jail inspections. CLERB investigators who conduct site visits in connection with
5 deaths are constricted in what they can observe and who they can speak with.
6 Mr. Vare is wrong to suggest that on-site death investigations are equivalent to jail
7 inspections.

8 7. Third, while CLERB technically has the authority to conduct jail
9 inspections, CLERB has never been provided sufficient resources—including
10 staff—to conduct such inspections.

11 8. Fourth, even if CLERB had sufficient resources to inspect the San
12 Diego County Jail facilities, CLERB’s regulatory authority to conduct such
13 inspections is not clearly defined and the San Diego Sheriff’s Department has
14 restricted CLERB’s authority to conduct meaningful inspections. CLERB’s Rules
15 and Regulations contain one single sentence authorizing CLERB to annually inspect
16 county adult detention facilities: “[CLERB shall have the authority to] Annually
17 inspect County adult detention facilities and annually file a report of such visitations
18 together with pertinent recommendations with the Board of Supervisors facilities
19 and annually file a report of such visitations together with pertinent
20 recommendations with the Board of Supervisors.” *See* Section 4.4 (d) of CLERB’s
21 Rules and Regulations.² The Sheriff’s Department has imposed restrictions on
22 CLERB’s inspections. For example, CLERB must provide “advance notice” prior
23 to any inspection, and must call “two to three days prior to the inspection” to
24 confirm the appointment. *See* CLERB Detention Facility Inspection Handbook at 6.
25 This is in contrast to California’s Board of State and Community Corrections
26

27 ² Available at: [https://www.sandiegocounty.gov/content/dam/sdc/clerb/policies-
28 rules-regs/San%20Diego%20County%20Citizens%20Law%
20Enforcement%20Review%20Board%20Rules%20Regulations%202021](https://www.sandiegocounty.gov/content/dam/sdc/clerb/policies-rules-regs/San%20Diego%20County%20Citizens%20Law%20Enforcement%20Review%20Board%20Rules%20Regulations%202021).

1 (BSCC) and the Los Angeles Office of Inspector General, which are expressly
2 authorized to inspect California jails and L.A. jail facilities, respectively, without
3 notice. *See* Cal. Welfare & Institutions Code § 209(a)(3)(B); L.A. County
4 Ordinance 6.44.190(G). The San Diego Sheriff’s Department also limits CLERB’s
5 inspections by requiring questions to be directed to an “inspection facilitator,” by
6 prohibiting CLERB staff from taking pictures during inspections, and by refusing to
7 provide any documentation to CLERB related to the inspection. *Id.* at 6-7.

8 9. Mr. Vare also suggests that deputies can refuse to meet with CLERB
9 during an investigation because of protections afforded by the California Public
10 Safety Officers Procedural Bill of Rights Act. Report of Lenard Vare at 154. The
11 Act does not provide the basis for deputies refusing to meet with CLERB
12 investigators. Rather, the reason that deputies refuse to meet with CLERB is
13 because there has been a longstanding agreement between the Deputy Sheriffs’
14 Association of San Diego County (a union) and CLERB permitting deputies to
15 waive in-person meetings and instead answer questions in writing. This is another
16 example of inadequate oversight over the San Diego Sheriff’s Department and its
17 administration of the jail system.

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19 DATED: October 2, 2024

Respectfully submitted,

ROSEN BIEN GALVAN & GRUNFELD LLP

By: /s/ Gay Crosthwait Grunfeld

Gay Crosthwait Grunfeld

Attorneys for Plaintiffs and the Certified Class
and Subclasses