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13
14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 DARRYL DUNSMORE, ANDREE
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17 JAMES CLARK, ANTHONY EDWARDS,
REANNA LEVY, JOSUE LOPEZ,
18 CHRISTOPHER NORWOOD, JESSE
OLIVARES, GUSTAVO SEPULVEDA,
19 MICHAEL TAYLOR, and LAURA
ZOERNER, on behalf of themselves and all
20 others similarly situated,

21 Plaintiffs,

22 v.

23 SAN DIEGO COUNTY SHERIFF'S
DEPARTMENT, COUNTY OF SAN
24 DIEGO, SAN DIEGO COUNTY
PROBATION DEPARTMENT, and DOES
1 to 20, inclusive,

25 Defendants.

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

**SUPPLEMENTAL EXPERT
REPORT OF JAMES
AUSTIN, PH.D.**

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

Trial Date: None Set

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I, James Austin, Ph.D., declare:

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

2. The information and opinions contained in this report are based on evidence, documentation, and/or observations available to me. The materials I have reviewed in connection with this report are identified in the index attached hereto as **Exhibit B**. I reserve the right to modify or expand these opinions should additional information become available to me.

Dated: August 28, 2025



James Austin, Ph.D.

EXHIBIT A

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I. Introduction

I have been asked by Plaintiffs' counsel to write a supplemental report regarding the current matter before the court concerning classification and housing issues and the level of violence in the San Diego County jail system. This report is a supplement to my initial expert report that was submitted in August 2024. It relies on updated information about in-custody deaths and assaults at the jail that was not made available to me at that time, and that was produced by Defendants after I submitted my initial and rebuttal expert reports. The opinions in my initial expert report remain unchanged, and the opinions in this supplemental report only further reinforce those opinions.

II. Recent Deaths at the Jail Demonstrate that the San Diego County Sheriff's Office Continues to Fail to Properly Classify and Assign People to Appropriate Housing Locations

Defendants recently produced information about two in-custody deaths arising from attacks at the Jail, Brandon Yates and Eric Van Tine, that exemplify the San Diego County Sheriff's Office continued failure to properly classify and house individuals. I did not have access to the documents that describe either of these deaths when I submitted my initial expert report in August 2024.

A. Brandon Yates

Brandon Yates was booked into the San Diego County Central Jail on January 15, 2024.

██████████. According to records produced by Defendants, he was killed ██████████

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As I stated in my original expert report, the JPMU should be responsible for facility and housing unit assignments. Line or housing deputies can be allowed to make cell assignments in very limited circumstances (such as separating IPs assigned to the same cell or unit who were just involved in a fight or staff assault), but many jail systems allow for these cell assignments to also be controlled by the JPMU. Housing deputies should not make bed or cell assignments for high-risk IPs including those with as a history of violence within the jail or active mental health symptoms. Those housing decisions should be controlled by the JPMU (in close consultation with mental health staff), and in cases where a person with serious mental illness may require specific placement base on that condition, by mental health staff. IPs with serious mental illness should be housed in specialized mental health units, with appropriate clinical treatment and supervision by custody staff with specialized mental health training.

As discussed in my original expert report, there is currently no written criteria for deputies to use in determining which beds or cells to assign people who are coming into a housing unit. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The practice of triple bunking is highly dangerous for IPs; these cells are extraordinarily cramped for three human beings and serve as a kind of caldron for increased stress and violence. Title 24 Minimum Standards For Local Detention Facilities provides specific space and height requirements for jail cells that effectively do not permit for triple bunking. In 2022, the Board of State and Community Corrections (BSCC) found that triple bunking practices at the San Diego County Jail facilities were non-compliant with applicable Title 24 regulations because the square

footage and fixtures do not support the number of people housed in these cells. 2020-2022 BSCC Biennial Inspection Report (June 8, 2022).

III. SDSO’s Staff Assault Rates Continue to Increase

My previous report discusses the high assault rate that permeates the jail system. Since the completion of that report, I have received updated data on the number of assaults on staff by incarcerated persons through 2024. This data was published on the Public Records Act (PRA) portal on SDSO’s website, in response to a PRA request by the Citizens’ Law Enforcement Review Board (CLERB). SDSO did not publish similar data regarding the number of assaults in which an incarcerated person was the victim during this period, given that such information was not included in CLERB’s PRA request.

As shown in the table below, the number of assaults on staff both sworn and non-sworn greatly increased in 2024. This is further evidence that the level of violence remains high.

Incarcerated Person Assaults on Staff - All Facilities - 2016-2024

Assault Type	2016	2017	2018	2019	2020	2021	2022	2023	2024
IP vs Sworn	140	165	133	183	149	139	215	196	229
IP vs Non-Sworn	4	4	2	4	0	6	9	14	27
Total	144	169	135	187	149	145	224	210	256

The deficiencies identified in my prior report are consistent with and likely contribute to this high level of violence:

1. The Jail’s classification and housing system is inadequate, has not been validated, results in over-classification, is racially driven, results in segregated housing units, and thus puts incarcerated persons at increased risk of harm.
2. The out of cell time for incarcerated persons, especially in the restricted housing units, is completely inadequate, constitutes solitary confinement conditions, and thus puts incarcerated persons at increased risk of harm to themselves and others.
3. The various housing units are inadequately staffed and thus place IPs at increased risk of harm by not providing the proper level of supervision.

Summary of Opinions

1. The deaths of Mr. Yates and Mr. Van Tine illustrate the serious deficiencies in current SDSO classification and housing system practices. Both deaths could have been prevented with the use of an adequate, well-functioning classification and housing system with appropriate policies and procedures.
2. The number of staff being assaulted has continued to increase and demonstrates that the level of violence at SDSO facilities remains high.