

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Darryl Dunsmore, et al. v. San Diego County Sheriff's Department, et
al.

Dunsmore · No. 20-cv-406-AJB-DDL · Decided May 14, 2025

SUMMARY

The United States District Court for the Southern District of California addresses Plaintiffs’ motion to file under seal information derived from Critical Incident Review Board reports. Applying Greer v. County of San Diego, the court held that attorney-client privilege covered information from reports concerning four in-custody deaths where the Chief Legal Advisor attended the relevant meetings, but found the record insufficient regarding a report concerning Raymond Dix. The County was ordered to file a supplemental brief addressing the privilege issue for that report.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	David D. Leshner
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 14, 2025
DOCKET	20-cv-406-AJB-DDL
DISPOSITION	other
PROCEDURAL POSTURE	Supplemental order resolving the plaintiffs' motion to file portions of expert reports under seal after an in camera review of underlying Critical Incident Review Board reports and consideration of the Ninth Circuit's decision in Greer.
STANDARD OF REVIEW	In camera review of the documents to determine whether the attorney-client privilege applies under Greer.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Darryl Dunsmore, et al. v. San Diego County Sheriff's Department, et al.

TOPICS

attorney client privilege

discovery dispute

summary judgment

evidence

civil procedure

PRACTICE AREAS

civil procedure

evidence

civil rights

attorney-client privilege

QUESTIONS PRESENTED

1. Whether the attorney-client privilege applies to CIRB report information incorporated into the expert reports of Gary Raney, Kelly Ramsey, and Pablo Stewart.
2. Whether the attorney-client privilege applies to CIRB report information concerning Raymond Dix incorporated into Jeffrey Keller's expert report when the record does not establish the role of the legal representative who attended that CIRB meeting.
3. Whether the legal advisor's active participation is required for the privilege to extend to the entire CIRB report.

HOLDINGS

1. Under Greer, the attorney-client privilege applies to the CIRB report information contained in the expert reports of Gary Raney, Kelly Ramsey, and Pablo Stewart.
2. The Chief Legal Advisor's presence at a CIRB meeting renders the ensuing CIRB report privileged in its entirety regardless of whether the advisor actively participates.
3. The existing record was insufficient to determine whether the CIRB report concerning Raymond Dix was privileged.

KEY QUOTATIONS

“Accordingly, the Court reads Greer to hold the Chief Legal Advisor’s presence at a CIRB meeting renders the ensuing CIRB Report privileged in its entirety regardless of whether the Chief Legal Advisor actively participates in the meeting.” (5)

“The present record is insufficient to determine whether the privilege applies to the CIRB Report information contained in the expert report of Jeffrey Keller.” (6)

FACTUAL BACKGROUND

Plaintiffs' opposition to defendants' partial summary-judgment motion included expert reports containing information from Critical Incident Review Board reports concerning in-custody deaths. The CIRB reports were prepared through meetings involving the Sheriff's Department's legal advisor in several instances. The legal advisor was present at the meetings concerning the deaths of Louis Gomez, Robert Moniger, Lazaro Alvarez, and Joseph Morton, while the record did not establish the role of the legal representative who attended the meeting concerning Raymond Dix.

PROCEDURAL HISTORY

The court previously ordered production of redacted Critical Incident Review Board reports and later maintained them under a protective order pending the Ninth Circuit's decision in Greer. After plaintiffs submitted expert reports containing information derived from those reports in opposition to defendants' partial summary-judgment motion, Judge Anthony J. Battaglia granted in part and denied in part the motion to seal and referred the privilege issue for in camera review. The magistrate judge determined that information from three reports was privileged and required the County to brief the privilege status of the information in the fourth report.

DISPOSITION

other

REMAND INSTRUCTIONS

The County must file, no later than May 21, 2025, a supplemental brief of no more than three pages explaining why the CIRB report concerning Raymond Dix is privileged.

CASES CITED

- Greer v. County of San Diego, 127 F.4th 1216 (9th Cir. 2025)
- Morton v. County of San Diego, et al.