

REVISED MOTION BY SUPERVISORS HILDA L. SOLIS AND December 20, 2022

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Phase Out of Oleoresin Capsicum (OC) Spray at Central Juvenile Hall

In February 2019, the Los Angeles County Board of Supervisors (Board) voted to completely discontinue the use of Oleoresin Capsicum (OC) spray in the County’s juvenile detention facilities¹. Despite this, the use of OC spray continues and, in some facilities, and particular units within those facilities that house vulnerable youth, has increased significantly over the last year.

On November 15, 2022, the Probation Oversight Commission (POC), a body created by the Board to oversee the Probation Department (Department), issued its “OC Spray Deployment Summary” report² on the use of OC Spray for the period of June 1, 2022 to September 30, 2022. The findings were incredibly disheartening and egregious as there was a documented increase in the substantial use of OC spray, specifically at Central Juvenile Hall (CJH), despite its lower population of incarcerated youth

¹ <https://file.lacounty.gov/SDSInter/bos/supdocs/133041.pdf#search=%22juvenile%20halls%22>

² <https://file.lacounty.gov/SDSInter/bos/supdocs/POC22-0228.pdf>

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compared to the other juvenile hall in the County, Barry J. Nidorf (BJN). In fact, “[c]entral had more than double the number of OC spray deployments...”³ Of the 232 OC spray deployments, 157 were deployed at CJH and 75 were at BJN⁴. The largest spike in deployment was in September when there were 88 uses, of which 74 were at CJH⁵.

Additionally, the report notes that among the population being sprayed are youth who “belong to particularly vulnerable demographics...who are identified by the [Probation] Department as ‘Developmentally Disabled’, ‘youth who have open cases with the Department of Children and Family Services (sometimes referred to as DCFS, 241.1 youth, or crossover youth []) and youth identified as victims of commercial sexual exploitation in the category of higher vulnerability.”⁶ The report’s analysis states that these populations “appear to be heavily represented in the units with some of the highest rates of OC spray deployment”⁷:

- Of the 157 deployments, the reports states that 60% occurred in “three of the 13 units housing youth”⁸:
 - PQ (31%) = 48 uses
 - XY (14%) = 22 uses
 - CD (14%) = 22 uses
- The housing units where OC spray is being deployed is targeted toward girls and gender expansive (GGE) youth who have been categorized as

³ Id. at p. 2.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

“emotionally challenged girls” or boys who have been “identified as developmentally disabled or Regional Center clients.”⁹

- The report also notes that it is “imminently likely that youth with CSEC¹⁰ history and/or DCFS¹¹ involvement have been involved in and affected by deployments of OC spray...”¹²

What is also cause for concern is that some of the youth have been sprayed multiple times during the reporting period. Fifty-two youth were sprayed two or more times at Central Juvenile Hall compared to 27 youth who were sprayed two or more times during the reporting time frame.¹³

Despite the Department stating that it would eliminate the use of OC spray by the “end of 2020”¹⁴ in their detailed plan, we have not seen the elimination of the spray, rather the increased use of it.

The Board approved the Department’s training plan to assist in the elimination of the spray, which according to the Department’s 12th Quarterly Report, in response to the Board’s June 2019 motion:¹⁵

- 497 staff reported to training
 - 59 Transportation
 - 198 Central Juvenile Hall
 - 240 Barry J. Nidorf Juvenile Hall

⁹ Id. at p. 6.

¹⁰ Commercial Sexual Exploitation of Children

¹¹ Department of Children and Family Services

¹² POC, OC Spray Deployment Report, Nov. 15, 2022, p. 12.

¹³ Id. at p. 5

¹⁴ <https://file.lacounty.gov/SDSInter/bos/supdocs/137676.pdf>

¹⁵ <https://file.lacounty.gov/SDSInter/bos/supdocs/133041.pdf#search=%22juvenile%20halls%22>

It is unclear if the de-escalation training that the Board approved for the Department is effective in how staff responds to incidents and crises. Given the increases in use of OC spray and the population the report states it is used on the most, there needs to be an evaluation conducted to ensure that the Department's staff is getting the proper training to stop, and not accelerate, the use of OC spray and if the training is making any impact at all in the goal of eliminating OC spray in the youth detention facilities.

How the training is conducted also needs to be evaluated for effectiveness, specifically if the "train the trainer" model works for this type of training and what it looks like in practice. If housing units contain a variety of staff who have and have not participated in the training, it may lead to confusion on how to approach youth and de-escalate situations.

When the POC asked for further information about staff training specific to working with youth identified as developmentally disabled, the Department's leadership noted that staff formerly participated in training provided by the Regional Center that was "provided to staff regarding the housing requirements of youth with developmental disabilities."¹⁶ However, the training ceased due to the COVID-19 pandemic and has not yet been reinstated. This is quite alarming given that the POC's OC spray analysis indicated the high use of OC spray on this population.

This is a population with very specific needs and require tailored care and attention, so the finding that youth with developmental disabilities are met with OC spray instead of de-escalation is problematic and needs to be addressed immediately in a way

¹⁶ Id. at p. 6.

that does not cause more harm and trauma.

The Department noted that one of the contributing factors to the increased use in OC spray is the lack of staffing and the inconsistency of staffing, which is particularly acute at CJH.

The Probation Department also prepares OC Deployment Reports¹⁷ to the Board and the POC to oversee its use and track the progress of the Department's goal of elimination. However, the POC noted that they have concerns with the accuracy and validity of the data produced stating that the Department has provided "varying and inconsistent data...about who precisely has been sprayed...conflicting information about where youth were housed...youth have been repeatedly moved between housing units during the reporting period..."¹⁸ Proper phasing out of OC spray is dependent on data, which should accurately and consistently track the deployment of the spray.

In the County's pursuit of youth justice reimaged, which includes the creation of a new Department of Youth Department (DYD), the Department also needs to re-commit to the elimination of using OC spray. Research and studies, including the recommendation of the POC, show that the use of OC spray deteriorates the relationship and rapport staff have with the youth, the ineffectiveness of OC spray on youth, the impact on uninvolved youth, and the exacerbation of trauma and harm on youth who have a history of polytraumas. The POC has also noted that BJN, where there is decreased use of OC spray could be, in some instances, an example in helping CJH get to the complete elimination.

¹⁷ <https://file.lacounty.gov/SDSInter/bos/supdocs/137717.pdf>

¹⁸ POC, OC Spray Deployment Report, Nov. 15, 2022, p. 1.

The State of California and Los Angeles County are outliers in that 35 states and at least six counties (Santa Clara, Solano, Sonoma, Santa Cruz, Marin, and Sacramento) have banned the use of OC spray on youth.¹⁹

The recent POC's report is not the first concerning uses of OC spray at CJH; in fact, the Board's 2019 motion supporting the elimination of OC spray was in response to the Office of Inspector General's (OIG) report that showed an "increased 338 percent"²⁰ use of OC spray between 2015 and 2017. There was also an instance of six detention officers being charged with "unlawfully using pepper spray" in April 2019²¹.

Los Angeles County has an opportunity to show that it is still committed to eliminating the use of OC spray and to the safety and healing of our youth, starting at Central Juvenile Hall. The time is not now, rather it should have already been done.

I THEREFORE MOVE that the Board of Supervisors:

1. Direct the Probation Department to create an implementation plan, in collaboration with the Probation Oversight Commission (POC) and the Office of Inspector General (OIG), to phase out the use of OC spray, within 45 days, at the housing units that incarcerate youth with developmental disabilities and girls and gender expansive (GGE) youth at Central Juvenile Hall.
2. ~~Direct the Probation Department to work with the Department of Youth Development (DYD) to bring the Credible Messenger Program into the impacted~~

¹⁹ <https://theappeal.org/pepper-spray-is-toxic-experts-say-so-why-is-it-being-used-on-children/>

²⁰ https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/4a221658-26a0-4410-9b5b-db216212b232/Probation_Report_1.pdf

²¹ <https://www.latimes.com/local/lanow/la-me-juvenile-hall-officer-pepper-spray-abuse-charges-20190406-story.html>

~~units within 30 days.~~ Authorize the Interim Director of the Department of Youth Development (DYD) to expand the launch of the Credible Messenger Program Pilot to include Central Juvenile Hall and to work with the Probation Department to implement the expansion in 60 days.

- a. Authorize the Interim Director of DYD to negotiate, execute, and amend (if necessary) agreements not to exceed one year (plus one six-month extension to be exercised at the discretion of the Interim Director or his designee) to support the expansion of the Credible Messenger Pilot Program. The maximum contract sum for all of the agreements shall not exceed a grand total of \$2,000,000, which will be fully supported by funds in DYD's Fiscal Year 2022-23 budget. The agreement(s) and any amendment(s) shall be approved as to form by County Counsel.
3. Direct the POC and the OIG to oversee the implementation and evaluation of the phase out of OC spray at CJH and report to the Board, in writing, every 14 days, until the completion goal of February 3, 2023.
 - a. The evaluation should include, at minimum:
 - i. The status and re-implementation of the Regional Center training and any additional trainings
 - ii. How training is conducted and deployed, including the effectiveness of the "train the trainer" model
 - iii. The effectiveness of training in teams/units versus individuals
 - iv. The impact of training on staff's ability to de-escalate situations
 - v. The impact trained staff have on youth when de-escalation tactics

are deployed

- vi. Interviews with youth in CJH regularly, subject to their attorney's consent, to determine accuracy of the Probation Department's reporting
4. Direct the OIG to track and collect data on staff who are engaging in multiple incidents of OC spray use, and in collaboration with the POC and the Probation Department, develop, review, and update policies on discipline and training regarding OC spray use.
 5. Direct the Probation Department to update the weekly OC Deployment Reports to include the following data:
 - i. A complete listing of units housing youth that includes a brief qualitative description of who is housed in the unit (i.e., 14–16-year-old males, Quarantine Unit, Developmentally Disabled Youth, Females, etc.) for both juvenile halls. This list should be updated and shared every time a unit is reclassified to house a different population, a unit is vacated and no longer used, or a previously empty unit is occupied
 - ii. Notation of involvement of youth with developmental disabilities in an OC spray incident regardless of unit
 - iii. Notation of involvement of gender expansive youth
 - iv. Notation of involvement of any youth identified as CSEC
 - v. Notation of involvement of any youth with DCFS involvement
 - vi. Unit assignment of youth and staff involved and actual location of

the deployment (school, day room, etc.)

- vii. Weekly average number of youth housed on a given unit
- viii. Shift in which the deployment occurred-AM, PM, Overnight
- ix. Information regarding any protocols and training specifically aimed at serving youth with developmental disabilities

6. Direct the Probation Department to update the quarterly OC Elimination Staff Roll-Out Training Report, starting with the 13th report, to include the following:

- a. The number of staff that still need training
- b. The percentage of trained staff per unit
- c. Updated timeline on the elimination of OC spray at each facility
- d. The number of staff who still carry OC spray post-training and, for those who do carry it, how often it is used

7. Direct the Chief Executive Office to evaluate the Probation Department's expenditure on OC spray and reduce funding according to the Board-approved phase out of such use.

8. Consult and/or negotiation with impacted labor organizations as required by the County's Employee Relations Ordinance (ERO).

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