AGN NO. [ ]

**REVISED** MOTION BY SUPERVISORS HOLLY J. MITCHELL AND LINDSEY P. HORVATH

March 21, 2023

**Ensuring the Use of Least Restrictive Placements for Young People in the Probation Department's Care and Custody**

The County of Los Angeles (County) has a sacred obligation to provide a safe, healthy, and rehabilitative environment for the young people in its care. However, many documented inspections and other reports on the conditions in the County's juvenile halls continue to make alarmingly clear it has fallen far short of this. The young people incarcerated in our juvenile halls are paying the price for the neglect that gives way to the deteriorating conditions.

The Probation Oversight Commission and Office of Inspector General reports add to an already troubling history of violence, abuse, and poor conditions in these facilities, including findings of youth using controlled substances; contraband entering facilities; excessive use of room confinement; unsanitary conditions; graffiti on the walls and smashed windows; unprofessional conduct by staff; complaints about the lack of confidentiality during calls between youth and their attorneys; and several other concerning issues. Unfortunately, many other reports detail the Probation Department's (Department's) continued failure to simply meet *basic* standards of care.

The troubling conditions in Barry J. Nidorf Juvenile Hall (BJNJH) and Central Juvenile Hall (CJH) are well documented by multiple failed inspections from the California Board of State and Community Corrections (BSCC). In February 2021, both halls were

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found non-compliant with several BSCC regulations. Some violations were successfully addressed but other areas remained non-compliant. On September 16, 2021, the BSCC again found the halls unsuitable, later finding, on November 18, 2021, that non-compliant areas had been "remedied," allowing the Department to keep the young people in the halls for the time being. However, the BSCC found new violations and ordered the Department to develop and implement a new Corrective Action Plan (CAP).

On the weekend of March 12, 2022, the Department, in an effort to avoid a failed inspection, transferred the young people housed at CJH to BJNJH, a hasty move that resulted in multiple incidents, overcrowding, and many complaints about the inability to provide basic services to the young people. Following a 90-day period in which facility issues were addressed at CJH, the BSCC conducted a re-inspection and found that video and in-person safety checks were not properly conducted. On June 9, 2022, the BSCC found non-compliance with Title 15 safety check regulations, resulting in another finding of unsuitability. While the BSCC found BJNJH to be suitable for continued operation on July 20, 2022, this finding was the bare minimum standard, and the BSCC expressed grave concern about staffing issues and continued problems in the facilities.

On January 13, 2023, the BSCC identified 39 areas of noncompliance between both halls. Many of the longstanding issues persisted, including lack of outdoor and exercise time; rehabilitative programs; and age-appropriate activities. Further, inspectors noted that young people continue to be confined in rooms for longer than the four hours allowed by state law. Despite a lack of preparedness demonstrated by the evacuation of BJNJH during the Saddleridge Fire of 2019, neither facility received its 2022 Fire Inspection clearance. The Department is once again required to submit a CAP by March 14, 2023, and then achieve full compliance by mid-June or risk being ordered to vacate both facilities. The young people in the Department's care could pay the worst price of this potential order, including out-of-County placements and transfers to the adult system.

The Department's inability to meet the minimal obligations to the young people in its care is a painfully clear demonstration of the need to urgently depopulate the halls. With only a few months to achieve full compliance, the Department must seriously consider multiple strategies. The Department regularly attributes the challenges in the

halls to a lack of adequate staffing resulting from callouts, vacancies, and delays in hiring. Depopulation of the halls would alleviate this challenge, requiring fewer staff to manage the population, making it easier to achieve full Title 15 and 24 compliance, and, most importantly, removing some young people from an environment that is not conducive to their health and safety.

The Department must take a much more intentional and urgent approach to the structured release of young people who do not need to be incarcerated. A coordinated system should be developed that facilitates a process by which defense attorneys, district attorneys, the Chief Probation Officer, and, ideally, the courts proactively identify and recommend young people who are suitable for release.

There is no reasonable justification for continuing to incarcerate the young people who do not need to be housed in the Department's locked facilities, especially in an environment where we continue to fail in meeting our basic obligations to them. If a young person does not need to be incarcerated in the halls and camps, they should be safely released into the community or into an alternative placement. A structured release system is needed to ensure that our young people are not incarcerated any longer than is absolutely necessary.

**WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:**

1. Instruct the Chief Probation Officer (CPO), in collaboration with the Public Defender (PD), Alternate Public Defender (APD), and the Independent Defender Program; in close consultation, as legally permissible, with the Director of the Department of Youth Development (DYD), Director of the Department of Mental Health (DMH), Director of the Department of Children and Family Services (DCFS), Executive Director of the Probation Oversight Commission (POC), Inspector General (IG), County Counsel, and other relevant stakeholders, potentially including any retained or contract lawyers as needed; and request the participation of the District Attorney (DA) and the courts; to collaborate on a weekly basis with relevant stakeholders to identify young people who are appropriate candidates for safe and early release from the Probation Department's (Department) camps and halls; take steps that are necessary to secure their

appropriate release and, if the identified youth is not released, confidentially notify the Board and the IG in writing of the reason within 10 days of the decision to deny release. In addition, instruct the CPO to meet with the above-named stakeholders within 10 days of the Board's approval of this motion; and report back in writing in 30 days, and every 15 days thereafter on such efforts to implement this directive. This should include, but not be limited to, youth who are:

a. Incarcerated on the basis of a technical violation; misdemeanor; or non-707(b) felony;
b. Youth awaiting a suitable placement, especially any young person who has waited more than 30 days;
c. Incarcerated because they do not have a safe family or home to return to;
d. Within 60 days of their release date for those who have received their disposition;
e. Able to be safely released into one of the least restrictive options, including, but not limited to, Pine Grove, Dorothy Kirby Center, the Community Detention Program, or supportive housing;
f. Youth who are performing well in programming; or
g. Other groups of young people who may be appropriate for release as they await adjudication or early release after receiving their disposition.

2. Instruct the CPO to share timely and complete data on detained youth with PD, APD, and, as legally permissible, <u>with the Director of</u> DYD, <u>Director of DMH, Director of DCFS,</u> POC, County Counsel, and other relevant stakeholders as described in subsequent directives. Data should be shared on a weekly basis at minimum and should include individualized data on demographic characteristics, underlying offense (with data broken down by charge and/or violation), basis of detention, length of stay, release date if applicable, participation and performance in programs, and any other information deemed necessary by the partners developing release or reentry plans.

3. In addition to the steps described in Directive #1, instruct the PD and APD to provide a release plan for each young person and collaborate with the DA to submit requests for release to the juvenile court in all possible cases.
4. Instruct the CPO, in collaboration with the PD, APD, County Counsel, and, as legally permissible, with the Director of DYD, Director of DMH, Director of DCFS, Executive Director of the POC, IG, and other relevant stakeholders; and request the participation of the DA and the courts, to report back in writing in 15 days with, and implement, a plan for collaboratively and proactively developing reentry plans, including alternative housing and supportive services as needed, for young people who are candidates for early release from the Department's camps and halls, to be conducted on an ongoing basis *at least* until the Department achieves full compliance with Title 15 and 24. When appropriate, these plans should also consider facilitating access to programs that generally support young people in reentry, such as vocational skills training, higher education, and life skills training. In addition, the above-named stakeholders should collaboratively develop these plans regardless of whether the CPO can or intends to release a young person in order to proactively prepare for an opportunity to secure a young person's release by order of the court. This should include, but not be limited to:
    a. A structured process and a review committee comprised of, at minimum, the CPO, PD, APD, and DA.
    b. Criteria that the committee will use to identify and recommend young people for release.
    c. An explanation of how, when relevant, the Department will develop and make recommendations to the court about what it considers to be the most appropriate release option, including why each option is considered "least restrictive".
    d. A plan for the CPO to potentially use his authority under California Government Code Section 8658 to release young people identified and recommended for release by the relevant stakeholders on this committee, including, at minimum, the DA and either PD or APD.

e. Policies and practices that will ensure an individualized release plan for each young person is created before their release is recommended and ordered. Such policies and practices should not be a source of, or used as a reason to justify, any delays.

f. Policies and practices that will ensure all individualized release plans meaningfully address a young person's needs and strengths; including the menu of services; the process by which a young person will be matched to specific services; and the level, sources, and administrators of funding that will be committed to support meaningful release plans.

5. Instruct County Counsel, in collaboration with the CPO, IG, and Executive Director of the POC, to report back in writing in 20 days with a legal analysis of the CPO's ability to release young people early, including a description of any relevant authorities he has and options that require or don't require a court order. This should include an assessment of how long it could take to secure a young person's release under each option, with consideration of the Board's goal of ensuring a young person is not incarcerated for any longer than is absolutely necessary.

6. Instruct the Executive Director of the POC, in close collaboration with the IG, and in consultation with the PD, APD, and other relevant stakeholders to report back in writing in 30 days with any relevant feedback on the CPO's response to Directives #1, #2, and #4, including any comments on the quality of collaboration with the relevant stakeholders; the status of necessary data sharing to inform collaborative decision-making for release and reentry planning; the strength of the CPO's recommendations; an assessment of the steps the CPO is taking to achieve the goal of safely depopulating the camps and halls as quickly as possible; and any recommendations about priority next steps needed to ensure the County is equitably moving towards the goal of safely depopulating the camps and halls.

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