



County of Los Angeles

December 17, 2024

Dawyn R. Harrison
County Counsel

Board of Supervisors

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Supervisor, First District

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Supervisor, Third District

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Kathryn Barger
Supervisor, Fifth District

TO: EDWARD YEN
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS
Litigation Cost Manager

RE: **Item for the Board of Supervisors' Agenda
County Claims Board Recommendation
Agustin Herrera, et al. v. County of Los Angeles, et al.
United States District Court Case No. 2:22-cv-01013**



Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and Summary Corrective Action Plans to be made available to the public.

It is requested that this recommendation, Case Summary, and Summary Corrective Action Plans be placed on the Board of Supervisors' agenda.

AMB:lzs

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Agustin Herrera, et al. v. County of Los Angeles, et al., United States District Court Case No. 2:22-cv-01013, in the amount of \$30,000,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Probation Department's and Department of Mental Health's budgets.

This federal civil rights class action lawsuit contends that the Probation Department and Department of Mental Health failed to ensure safe and habitable conditions for more than 7,000 youth housed at juvenile facilities from 2014 to present.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Agustin Herrera, et al. v. County of Los Angeles, et al.</u>
CASE NUMBER	2:22-cv-01013
COURT	United States District Court
DATE FILED	February 14, 2022
COUNTY DEPARTMENT	Probation Department and Mental Health Department
PROPOSED SETTLEMENT AMOUNT	\$ 30,000,000
ATTORNEY FOR PLAINTIFF	Barrett S. Litt, Esquire McLane, Bednarski & Litt, LLP
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Assistant County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$30,000,000, inclusive of attorneys' fees and costs, a federal civil rights class action lawsuit brought by Agustin Herrera on behalf of himself and other current and prior wards of the County's Probation Department concerning conditions of confinement at the County's Juvenile Halls and Juvenile Camps.</p> <p>Given the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs; therefore, a full and final settlement of the case is warranted.</p>
PAID ATTORNEY FEES, TO DATE	\$ 272,144
PAID COSTS, TO DATE	\$ 202



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	March 30, 2020
Briefly provide a description of the incident/event:	<p>Plaintiff alleges on behalf of himself and the proposed class members which includes approximately 7,000 former and current youth detained in the juvenile halls and camps and extends back to 2014. That following existed in the juvenile facilities:</p> <ul style="list-style-type: none">• Uninhabitable conditions, including failure to provide warm bedding and clothing, restrooms, sufficient clean clothing/underwear, culturally sensitive toiletries, private showers, water, and sanitary food.• Failure to provide access to minimally required programming, exercise, recreation, and religious services.• Inadequate access to communication with family members and attorneys.• Excessive use of mechanical restraints (shackles);• Excessive and unlawful use of room confinement/solitary confinement.• Excessive use of chemical force (pepper spray); and• Inadequate mental healthcare treatment.

1. Briefly describe the root cause(s) of the claim/lawsuit:

Root Cause A

Unsanitary living conditions and food.

Root Cause B

Lack of adequate privacy while showering.

Root Cause C

Lack of access to warm bedding and clothing, restrooms, and sufficient clean clothing/underwear

Root Cause D

Lack of access to culturally sensitive toiletries

Root Cause E

Lack of access to minimally required programming, exercise, recreation, and religious services.

Root Cause F

Inadequate access to communication with family members and attorneys.

Root Cause G

Excessive use of mechanical restraints (shackles).

Root Cause H

Excessive and unlawful use of room confinement/solitary confinement.

Root Cause I

Excessive use of chemical force (pepper spray).

Root Cause J

Inadequate mental healthcare treatment.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

A1 - Living conditions and food

Due Date: Ongoing

Responsible Party: Kimberly Epps

The Probation Department has in-house and contracted custodians that clean living units.

Additionally, the Probation Department developed and implemented routine unit inspections in April of 2023, which assess facility living unit's habitability standards and ensure they meet BSCC's regulations for housing youth. Furthermore, the facility division directors conduct daily visual walkthrough inspections of each unit. During the unit walkthrough, directors actively observe and take copious notes of building cleanliness and organization (unit walls, youth rooms, dayrooms, dining tables, shower area (tile, grout and drains), sinks, urinals, unit office, laundry room, utility room, etc.), staff positioning, supervisor presence in the unit (was the supervisor on the dayroom floor or in his/her office), the activity(s) being conducted in the unit at the time of the inspection and the general tone of the unit. In instances where egregious activities are observed the director shall take immediate and decisive action to stop the activity.

In compliance with BSCC Section 1466, kitchen, sanitation, and food preparation, service, and storage shall comply with standards set forth in Health and Safety Code. The contracted food service providers at the halls clean and sanitize the kitchen and food storage areas on a daily, weekly, and monthly basis depending on the area or items to be cleaned. Contracted food vendors maintain their cleaning logs and kept on file which are also reviewed by Probation's Food and Nutrition Services staff.

In camps, food is prepared daily and passed out by kitchen staff to avoid allegations of tampering by another youth. In addition, an outside cleaning service provides daily clean-up and sanitations of the facility including the youth living group and restrooms area. This service company is required to complete daily check-off list to ensure that the cleaning was completed.

B1 - Privacy while showering

Due Date: Ongoing

Responsible Party: Kimberly Epps

In conjunction with PREA mandates, all juvenile custodial facility showers have dividers and shower curtains that protect the privacy of the youth, covering their entire mid-section. Shower areas provide privacy for youth without mitigating staff's ability to supervise youth. Doors and/or curtains are in all youth community restrooms. Staff are positioned to view the shower room, hallway and dayroom at all times. Staff will not supervise youth of the opposite sex who are showering.

C1 - Provide warm bedding and clothing, restrooms, and sufficient clean clothing/underwear.

Due Date: Ongoing

Responsible Party: Kimberly Epps

As of February 8, 2023, a laundry contract was established that is responsible for the majority of clothing and linens. Service is provided three times a week. In-house staff continues to provide laundry support on a regular and ongoing basis.

The facilities have access to laundry as needed should the distributed laundry be deemed insufficient. Each unit is provided with an overstock of 10% of extra clothing and linen which are delivered Monday – Friday. Youth are also able to request extra clothing as needed via Operations staff. Youth are also provided county issued sweaters and jackets are utilized during winter and when the weather permits.

Outer clothing is exchanged twice a week. Under clothes are exchanged daily. Sheets and pillowcases are exchanged weekly. Blankets are exchanged once a month and towels daily. Bedding may be exchanged sooner if requested.

D1 - Provide culturally sensitive toiletries.

Due Date: Ongoing

Responsible Party: Kimberly Epps

The Probation Department finalized a master agreement to order culturally sensitive products such as shampoo, gel and body wash, etc. for youth at all probation facilities. On August 16, 2022, all juvenile custodial facilities were issued culturally sensitive products. Monthly inventory/audits are conducted to ensure enough products are stored in-house.

E1 - Provide access to minimally required programming, exercise, recreation, and religious services.

Due Date: Ongoing

Responsible Party: Kimberly Epps

The Department will ensure youth have the required programming time each day at Los Padros Juvenile Hall (LPJH) by, among other steps, instituting an Activities Block in the afternoons at the facility. Unit supervisors will do rounds during this block to ensure youth receive programming, and if outside organization is not available or did not complete the full required time, the supervisor or probation staff will fill in the gaps of any missing programming time. Further, the Department will assign staff – Activities and Program Coordinator (APC) --specifically for programming and accountability of outside providers. The Department will also focus on accuracy of paperwork and staff accountability, review of paperwork and CCTV, and staffing trainings/briefings.

All juvenile facilities which include, Detention Service Bureau (DSB), Residential Treatment Services Bureau (RTSB) and Secure Youth Treatment Facility (SYTF) maintain a daily Title 15 Programming Log which is randomly audited.

F1 - Access to communication with family members and attorneys

Due Date: Ongoing

Responsible Party: Kimberly Epps

The policy was initially revised on December 7, 2007 to include protocol by which grandparents, siblings, and supportive adults may be allowed to visit (including the youth's children), with the approval of the Juvenile Hall Superintendent or designee, when such visits are in conjunction with the youth's case plan or in the best interest of the youth; extended visiting hours; provided an option of virtual visits/calls and teleconferences for court/attorney appointments.

On March 4, 2022, the policy was revised again to include: youth shall be allowed to receive visits by parents, guardians, or persons standing in loco parentis and grandparents. Youth are entitled to receive visits from their children (Baby Bonding) just as they are entitled to receive visits from their parents. Youth may be allowed "special visits" with other family members, such as adult siblings and supportive adults, with the approval of a facility administrator or as ordered by the court. These visits shall be in conjunction with the youth's case plan and the best interest of the youth.

The Department continue to adhere to departmental policy which states youth are allowed a minimum of one phone call per week. Youth are not denied phone call for disciplinary reasons and are allowed phone calls to attorneys, upon request. In addition to their mandated weekly phone calls, youth who do not receive a weekend visit are allowed an additional phone calls.

All telephone calls and attorney visits are logged and audited monthly.

G1 - Use of mechanical restraints (shackles)

Due Date: Ongoing

Responsible Party: Kimberly Epps

On August 22, 2023, and December 14, 2023, an instructional memorandum was sent to all staff outlining the requirements of section 1358.5 and Department policy. Additionally, the form utilized by staff will be reviewed to determine if it can be updated to better reflect the requirements of the section.

The Unit Directors will review reports to ensure it includes discussion of all required topics. The Compliance Team will audit to ensure reports are in compliance.

H1 - Room confinement/solitary confinement

Due Date: Ongoing

Responsible Party: Kimberly Epps

In accordance with the BSCC regulation 1354.4, room confinement is to be utilized when youth pose an imminent risk to the safety of other youth or staff.

On January 10, 2024, the Department issued an instructional memo to remind staff of room confinement policy and procedures. The memo also included examples of room confinement.

Unit directors will ensure that any youth on room confinement inside their unit has appropriate documentation, and to educate staff in real time when appropriate documentation is not created for a youth on room confinement. Facility leadership will review room confinement paperwork to ensure all staff are compliant in properly completing the necessary paperwork and are following the policy.

The Compliance Team will review confinement paperwork to ensure all staff and directors are completing necessary paperwork.

Lastly, the Department trained all staff eligible to work in an institutional setting.

I1 - Use of chemical force (pepper spray)

Due Date: Ongoing

Responsible Party: Kimberly Epps

All sworn officers assigned to juvenile custodial or transportation duties that are authorized to utilize physical intervention techniques in the performance of their duties shall receive department-approved training (initial training and annual refresher training) on de-escalation, physical intervention, and

chemical intervention/decontamination techniques prior to being authorized to utilize force. This includes training for officers related to:

- Permitted use of force techniques and methods.
- De-escalation and prevention techniques.
- Physical interventions, physical restraints, and defensive tactics.
- Instruction on the Constitutional Limitations of Use of Force.
- Known medical and behavioral health conditions that would contraindicate certain types of force; Signs or symptoms that should result in immediate referral to medical or mental health staff.
- Use of force policy; reporting and writing.
- Debriefing

Lastly, a memo was issued to staff on September 29, 2023, reminding them of the Post-Incident Review Process that is outlined in DSB Manual Section 1008.

A-J1 - Continued related enhancements made pursuant to prior settlement terms

Due Date: Ongoing

Responsible Party: Kimberly Epps

In addition to the corrective actions already listed, the Department has implemented additional related changes that continue to be tracked and monitored by the Department of Justice and Office of Inspector General.

3. Are the corrective actions addressing department-wide system issues?

- Yes – The corrective actions address department-wide system issues.
- No – The corrective actions are only applicable to the affected parties.


Name: (Risk Management Coordinator)

Signature:  For Crystal Hurtado

Date:
11/01/2024

Name: (Department Head)

Kimberly Epps

Signature: 	Date: 11/01/24
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Chief Executive Office Risk Management Inspector General USE ONLY

Are the corrective actions applicable to other departments within the County?

- Yes, the corrective actions potentially have County-wide applicability.
- No, the corrective actions are applicable only to this department.

Name: (Risk Management Inspector General)

Betty Karmirlian, Acting Risk Management Inspector General

Signature: 	Date: 11/7/2024
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Case Name: A.H. vs. COLA



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	12/01/13
Briefly provide a description of the incident/event:	<p>A. H. was a 19-year-old man detained several times in Central Juvenile Hall (CJH) and Barry J. Nidorf (BJN) Juvenile Hall. During his confinement, A.H reported uninhabitable living quarters & lack of sufficient access to care and needs.</p> <p>In October 2018, the California Attorney General's office conducted an investigation and made findings that the alleged conditions existed and Probations office had addressed some of the deficiencies within the most recent years. In the same year, the County funded the Youth Development Department (YDD) and subsequently created the County Department of Youth Development (DYD) to provide additional supportive services to incarcerated youth.</p> <p>On April 2019, the DMH Director issued a report addressing a response on the Office of Inspector General Investigation and Improving Mental Health Treatment and Safety in Juvenile Facilities. The report was part of the County's plan to eliminate Oleoresin Capsicum Spray (OC Spray). The report also indicated DMH would take on additional non-mental health responsibilities to assist probation. DMH would be a support role to probation with the additional responsibilities and roles to provide mental health services. DMH did not receive additional staffing to carry out the non-mental health services; however, DMH had sufficient staff to provide the mental health services.</p> <p>Proceeding to February 14, 2022, A.H filed a class action complaint seeking damages from the County for due process violations (unconstitutional conditions of confinement, use of mechanical restraints, room confinement/solitary confinement, excessive use of chemical force, and deliberate indifference to mental health conditions) and violations of the ADA Rehabilitation Act.</p>

1. Briefly describe the **root cause(s)** of the claim/lawsuit:

One (1) root cause is identified in the claim/lawsuit. 1. Early intervention for youth crisis and a structure for effective communication between collaborating departments in juvenile halls and CAMPS were not sufficiently developed.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

Recommended corrective action include Root Cause A:

Step 1: began in 2018 and completed on July 2022. Steered by the community members and young people, County BOS created the Division of Youth Diversion & Development (YDD). YDD advanced the County's new youth diversion model. The model empowered community-based health organizations to provide individualized care coordination, in lieu of arrest with the goal of equitably reducing youth arrest. In collaborating with YDD, DMH would assist in developing a care plan to connect individuals to meaningful services such as therapy and mental health treatment.

Step 2: began on July 2022 to ongoing and involved the Department of Youth Development (DYD). To implement Youth Justice Re-Imagined and eliminate OC spray, the County developed an independent County department. The DYD would enhance rehabilitative and recreational services in the juvenile halls. This was a transition from the program previously known as YDD to the newly formed DYD.

DMHs' role coordinates care with DYD to provide mental health services. DMH staff assesses all newly admitted youth and provides ongoing psychiatric services in the juvenile halls. DMH continues to treat youth with mental health matters and collaborates with other providers to benefit the individual. Treatment includes discussions on how to stabilize the client and aftercare plan coordination upon release.

DMH collaborates with DYD who has contracts with Community Based Organizations (CBOs) to bring in Credible Messengers to support, coach, mentor youth, and facilitate re-entry plans. Credible Messengers improved outcomes include reduction in recidivism, and antisocial behavior, increased compliance with court mandates, and increased engagement with programs and services. The Credible Messengers program support enriched relationships between system stakeholders, community members, and has helped communities to advance their capacity to support systems that engage youth.

Step 3: on October 2023 to ongoing, a collaborative effort between LACPD, LACOE, DMH, and JCHS enhanced efforts to develop and implement the Behavioral Management Program (BMP) in (3) major methods: reward positive behavior, discourage inappropriate behavior, and rehabilitative components. Each agency supports the facility-wide expectations for youth through common language, core values, multi-disciplinary team interventions and helps facilitate activities and/or targeted programming through their respective modalities. The program provides incentives to youth for demonstrating pro-social behaviors through-out the day in the unit, in school, and in their work with DMH clinical staff. The BMP allows staff and youth to see and measure growth. Interaction that occurs within BMP are viewed as opportunities to work with youth and to support staff in creating an environment that encourages positive behaviors in youth while in the facilities.


Step 4: November 2023 to ongoing, probation and DMH implement the Crisis Intervention Team (CIT). During normal business hour, the designated co-response team consist of (2) probation staff, and (1) DMH clinician. After business hours, designated officers serve as a member of CIT and are assigned (1) day a week. Consideration on identifying the designated staff to serve on CIT, includes individuals who demonstrate the ability to de-escalate and maintains a good rapport with youth.

CITs primary objective assists and de-escalates youth in crisis. The response team creates a trauma-informed environment and fosters a therapeutic approach to minimize the need for forceful intervention in critical situations and assist youth in crisis. The focus provides an immediate therapeutic- oriented approach to deescalate situations and resolve underlying issues. The initiation of the CIT occurs as an intervention when onsite staff recognizes a need for further support due to unsuccessful measure to de-escalate the crisis.

3. Are the corrective actions addressing department-wide system issues?
- Yes – The corrective actions address department-wide system issues.
 - No – The corrective actions are only applicable to the affected parties.

Name: (Risk Management Coordinator) Curley L. Bonds		
Signature: Curley L. Bonds, M.D.	Digitally signed by Curley L. Bonds, M.D. Date: 2024.09.17 15:21:36 -07'00'	Date: 9/17/2024

Name: (Department Head) Rimmi Hundal		
Signature: Rimmi Hundal	Digitally signed by Rimmi Hundal Date: 2024.09.17 15:26:44 -07'00'	Date: 9/17/2024

Chief Executive Office Risk Management Inspector General USE ONLY	
Are the corrective actions applicable to other departments within the County?	
<input type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability.	
<input checked="" type="checkbox"/> No, the corrective actions are applicable only to this department.	
Name: (Risk Management Inspector General) <i>Betty Karmirlian, Acting Risk Management Inspector General</i>	
Signature: 	Date: <i>9/19/24</i>