PROBATION OVERSIGHT COMMISSION OF LOS ANGELES COUNTY

WENDELYN JULIEN
EXECUTIVE DIRECTOR

COUNTY OF LOS ANGELES
PROBATION OVERSIGHT COMMISSION

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, SUITE 383
LOS ANGELES, CALIFORNIA 90012
(213) 633-5777 ● www.poc.lacounty.gov

MEMBERS OF THE BOARD

HILDA L. SOLIS
HOLLY J. MITCHELL
LINDSEY P. HORVATH
JANICE HAHN
KATHRYN BARGER

March 6, 2023

TO: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

FROM: Wendelyn Julien
Executive Director

SUBJECT: FINAL REPORT BACK ON THE PHASING OUT OF OLEORESIN CAPSICUM (OC) SPRAY AT CENTRAL JUVENILE HALL (ITEM NO. 9, AGENDA OF DECEMBER 20, 2022)

On December 20, 2022, through a motion by Supervisors Solis and Horvath, the Board of Supervisors (Board) instructed the Probation Oversight Commission (POC) and the Office of Inspector General (OIG) to report back every fourteen (14) business days on the Los Angeles County Probation Department's (Probation) implementation plans for and progress on phasing out OC Spray in housing units that incarcerate youth with developmental disabilities, girls and gender expansive (GGE) youth at Central Juvenile Hall (CJH).

To complete the research for this final report back, POC met with Probation leadership on March 1, 2023, communicated regularly with leadership via email, conducted interviews with youth and staff at CJH, and conducted weekly site visits to CJH to verify housing classifications.

Directive 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.

Since the last report of February 10, 2023, Probation's progress toward compliance with the creation of a plan for full phase-out of OC spray in the juvenile halls and for phase out in the specified units at CJH by February 27, 2023, includes:

Plan for Full Phase Out

- Probation provided a draft plan to the POC and OIG on February 27, 2023, attached here as Appendix A. The plan focuses primarily on training and staffing as the obstacles to immediate implementation of the phase out of OC spray and describes the training that will be offered and to whom in detail. The POC will continue to follow up with Probation to obtain the final version of the plan and ensure accountability with the plan going forward.
- The plan does not allude to the 2019 phase out plan, nor does it include any plans to gradually reduce staff's reliance on OC spray. Examples in the former plan included, for example, voluntary relinquishment of OC spray, providing access to OC spray in the units but not having the Detention Services Officers carry OC spray, and other phased approaches.
- The plan provides an update on training, explaining the progress on OC Phase Out Block Week Training for the 106 staff assigned to the identified units. These figures show very little change from the data was first reported to the POC and OIG in January 2023. The plan indicates that consistency in staffing and the increased population at CJH have contributed to the lack of progress in sending staff through training. The training totals are as follows:
    - Completed both Block Weeks: 30 supervision staff
    - Completed Block Week 1 only: 15 supervision staff
    - Completed Block Week 2 only: 10 supervision staff
    - Attended Block Week 1 - missed one or more courses: 2 supervision staff
    - Attended Block Week 2 - missed one or more courses: 2 supervision staff
    - Attended both Block Weeks - missed one or more courses: 11 supervision staff
    - Staff that have not attended either Block Week: 11 supervision staff
    - Staff that do not have OC Spray: 25 supervision staff who are recent graduates of the JCOC Academy.
- The POC's biggest concern about the draft plan is the expected final phase out date for OC spray listed as January 2024 and dates are listed as "tentative" dates. Given the years that have gone into this phase out plan, the POC supports the OIG's recommendation of a much faster full phase out with a goal of July 1, 2023.

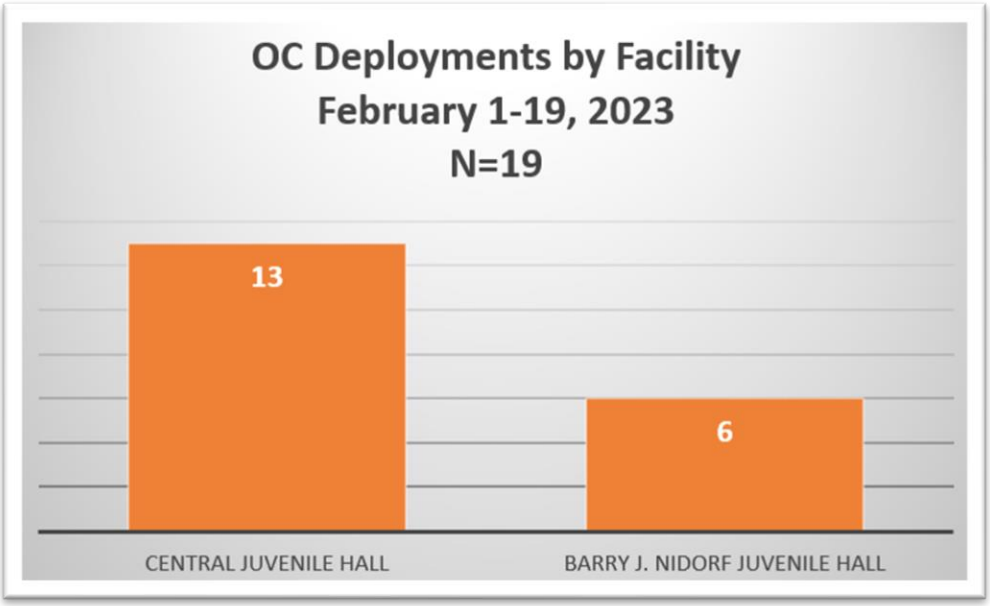
Progress on OC Phase Out and Elimination in Targeted Units

POC and OIG staff confirmed during visits to CJH on February 27, 2023 (OIG), March 2, 2023 (POC), and March 3, 2023 (OIG and POC), and from Executive Leadership during a meeting on March 1, 2023, that staff in the five targeted units at CJH are no longer carrying or using OC spray and staff from other units who might be called to respond to incidents in those units are aware of the new prohibition on spray in these units.

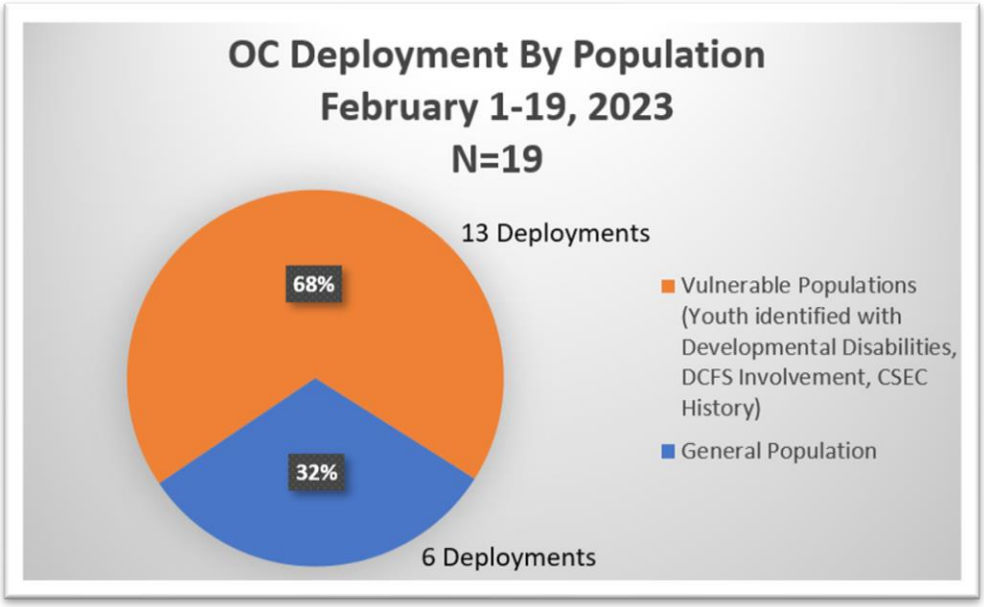
As of March 6, 2023, the POC had received weekly OC Deployment Reports through February 19, 2023, limiting the scope of data available for this report back. The weekly reports have been received with further delay than previously, which may be a result of the increased information provided on the report but prevents timely updates to the POC's analysis. By late January 2023, Probation had made all of the additions to its weekly OC

deployment reports required by the Board motion, including the acknowledged involvement of youth with documented vulnerabilities including those diagnosed with developmental disabilities, commercial sexual exploitation histories (CSEC), and Department of Children and Family Services (DCFS) involvement, which improves the quality of the reports.

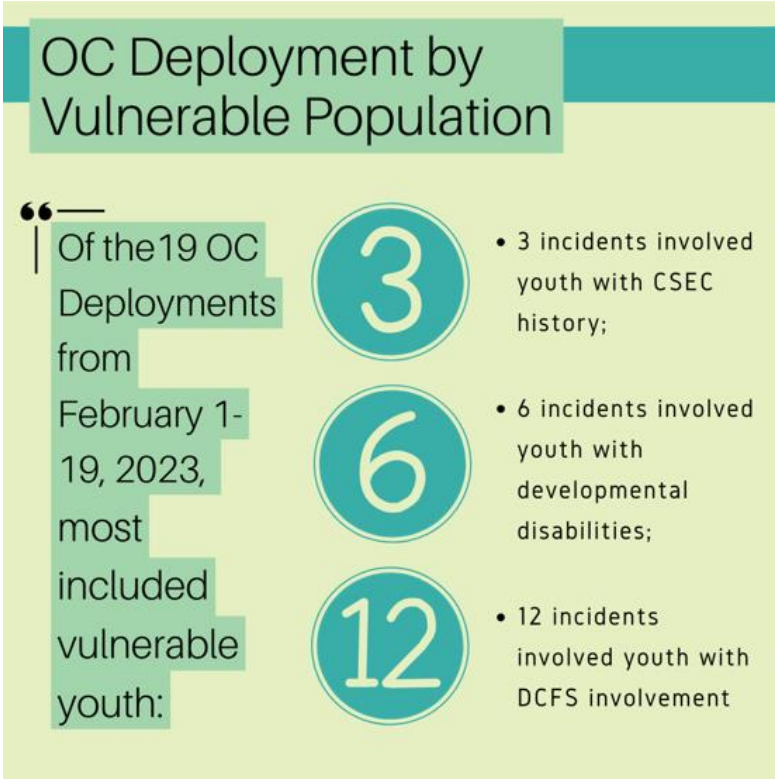
According to the weekly reports, there were a total of 19 OC deployments from February 1-19, 2023 between CJH and Barry J. Nidorf Juvenile Hall (BJN).



Of those 19 total incidents, more than two-thirds involved vulnerable youth, and occurred at both juvenile hall facilities.



In further analysis of vulnerable youths' exposure to OC spray, youth with DCFS involvement were over-represented and were involved in 12 of the incidents, youth with developmental disabilities were involved in six incidents, and youth with CSEC history in three of the incidents.



It is worthwhile to note that while CJH is phasing out OC spray in units that are designated to house youth with developmental disabilities, there were OC deployments on these vulnerable youth while housed on non-designated units in both facilities. At CJH, there was one deployment on a youth in Movement Control, as well as a deployment in Unit RS. At BJN, youth with developmental disabilities were affected in one deployment that occurred in Unit NO, otherwise known as the HOPE Center, and another in Unit X, which houses youth dispositioned to Secure Youth Treatment Facility (SYTF).

Further disproportionality is highlighted in the data wherein girls were sprayed in six of the 19 incidents, or 32% of the total incidents, while making up less than 25% of the population at Central during the period under review.

In continued examination of the weekly OC Deployment data, the POC has posed questions to Probation and Juvenile Court Health Services (JCHS) regarding the data reported under "Injury to youth from OC" to clarify the definition of the word "injury" and who determines that a youth has or has not been injured by OC. Since the POC began receiving OC deployment data points pertaining to May 23, 2022 to present day, only two incidents have indicated injury to youth by OC spray, despite verbal reports by multiple youth to POC staff that they experienced negative and painful effects immediately, and in some cases for an extended period following OC exposure, via exacerbation of existing respiratory problems and skin irritation, including one youth who stated, "My eyes were

irritated for a week." Probation reported that the injury data for youth is derived from JCHS assessment, but JCHS reported that they did not define the term "injury" for the purposes of the weekly OC Deployment Report. It was also reported by JCHS that when a youth is brought for examination, staff note any injury resulting from a use of force, including OC spray, and reports that information back to Probation. To date, the POC has never received an amended report due to a later discovered injury that resulted from OC.

The POC remains unclear on who exactly determines if a youth has or has not been injured by OC, and what the criteria is for assessing "Injury to youth from OC." Given the lack of clarity reported by Probation and JCHS, the POC has serious concern regarding the accuracy of the data reported for injuries to youth caused by OC exposure and will continue to investigate how this is determined and reported.

Because of the lack of clarity regarding what constitutes an injury caused by OC spray, the POC cautions against comparing this data to any future analysis of injuries sustained by other uses of force.

Verification of Unit Classifications at Central Juvenile Hall: 2/23/23 & 3/2/23

POC staff continue to make follow up visits to Central Juvenile Hall to verify housing classifications.

Visit	Date of POC Visit to CJH
1	January 24, 2023
2	January 30, 2023
3	February 7, 2023
4	February 16, 2023
5	February 23, 2023
6	March 2, 2023

During the visit that on February 23, 2023, there continued to be variances between the housing classification documents shared with the POC and the actual reported housing of youth:

- Staff assigned to the Girls ESU/Girls CARE (formerly housed in unit XY and currently housed on unit O) reported that the unit is being utilized for overflow from the other girls unit. It was shared in a previous visit that the housing of youth with widely varied supervision needs caused unsafe conditions including youth on youth violence.
- The Receiving Unit, while labeled solely as a Transportation Pit Stop, is housing the overflow of intakes for Unit W, and staff reported that since it is functioning in this manner, there is a possibility of housing youth with developmental disabilities, though none were housed there at the time of the visit.

During the visit to CJH, it was learned that many Probation staff were unaware of a plan for a staggered phase out of OC spray by unit and had been informed that they would be turning in their OC spray prior to starting their shifts on Monday, February 27, 2023 to

work on the affected units. This coincides with the draft plan provided by Probation on February 27, 2023 but earlier conversations with leadership had included a plan for more gradual removal of the OC spray.

The March 2, 2023, visit to CJH verified that, with the exception of the Girls ESU/Girls care additionally housing unit CD overflow as reported above, youth housing protocols were accurate. Staff on the five units slated for OC Phase Out, Units AB, CD, Boys Care, Boys ESU, Girls Care/Girls ESU, had all either turned in their OC spray or had been instructed to do so immediately. Staff on these units substantially understood that OC was not to be used. Laminated signs were posted on most doors of the targeted units to alert anyone responding to the unit that OC is not to be deployed on the units.

The targeted units are all on one side of CJH's campus, which in the opinion of the POC and as expressed by Probation leadership, supports the implementation of the elimination of OC spray in these units and reduces the chance that a staff member responding to a disturbance in the unit would use OC spray since there is general understanding among staff that OC spray is not to be used on that side of the facility.

Aspects of planning for the phase out had not been clarified with staff throughout the facility, however. One staff member shared that they had not received any instruction about the use of OC if they are called upon to respond to an emergency on a phase out unit. Another staff member assigned to one of the phase out units reported a lack of clarity about what would happen for his regular Sunday shift that takes place on a non-phase out unit and whether he would be able to have OC. Communication with staff should be Probation leadership's priority during this critical period of change to ensure understanding of new procedures and increase staff confidence in phase out planning.
The POC will continue to analyze and report on OC use and phase-out in public meetings and in reports to the Board, emphasizing the importance of Probation tracking and sharing data with oversight bodies and the public.

Directive 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 working days, until the completion goal of February 27, 2023.

The status and re-implementation of the Regional Center training and any additional trainings. How training is conducted and deployed, including the effectiveness of the "train-the-trainer" model.

- See the Office of Inspector General Report Back of March 6, 2023.

How training is conducted and deployed, including the effectiveness of the "train the trainer" model.

- See the Office of Inspector General Report Back of March 6, 2023.

The effectiveness of training in teams/units versus individuals.

- See the Office of Inspector General Report Back of March 6, 2023.

The impact of training on staff's ability to de-escalate situations.
The impact trained staff have on youth when de-escalation tactics are deployed.

Since the last report back, Probation had discouragingly little to report on progress in this area. Executive leadership has not held any additional town halls with staff since the last report back about the phase out, few staff have completed OC spray Cohort Training since the last report back, and Probation has not implemented any new measurement of the effectiveness of the training for staff.

Probation executive leadership continues to report that implementation of the Early Intervention System (EIS) will help to address measurement of individual issues related to effective interventions, but report that labor negotiations and other issues continue to cause delay in the implementation of EIS.

Probation, the OIG, and the POC are continuing to discuss examples of the impact Probation's staff has had on youths with use of de-escalation tactics, including OIG's review of video recordings of use of force incidents.

Interviews with youth in CJH regularly, subject to their attorney's consent, to determine accuracy of the Probation Department's reporting.

Staff from OIG and POC, supported by defense attorneys, conducted interviews at CJH on February 14, 2023, and March 4, 2023. Attached as Appendix D is detailed information about those interviews. Some of them include disturbing reports of youth experiencing pain and fear related to OC spray and incidents that precede the use of OC spray. Major takeaways from the recent interviews include:

- Youth across units report that staff almost always warn them before using OC spray.
    - For example, a youth shared having received "OC warnings" each time he was sprayed. The youth reports his face typically gets sprayed and [it] "burns a lot; last time the spray dripped down my face to my body." Youth adds that he usually has difficulty breathing afterward.
    - Another youth reported having heard "OC warning" before OC is deployed and understands everyone needs to "drop to the floor" when this warning is given.
- Youth report that OC spray is almost always used to stop fights between youth, although some youth report other reasons as well.
    - For example, one youth was sprayed in the back of the head due to having been considered "out of bounds." According to this youth, she was sprayed so much it poured down her body, all the way down to her private parts. She reported that after the OC deployment, another staff used force on her by choking her.
    - Another youth reported that she does not disagree with OC spray deployment when multiple youth are fighting. Youth gave an example of a fight in unit RS where a youth jumped another youth and another youth jumped in, sharing, "the staff needed to get in there to break that up."
- Multiple youth report that staff use excessive amounts of spray during each deployment, resulting in physical discomfort including burning, itching, and trouble breathing. Youth report that spray often drips down their bodies after deployment.

    - For example, one youth reported having been sprayed twice; once at BJNJH and once at CJH; both for fighting. He reported about the OC deployment at BJNJH, that it resulted in severe burning to his face and spray dripping down his face onto his neck and body. He reported not being able to see or walk to the bathroom for decontamination.
    - Another youth reported having experienced effects when OC was deployed in the unit including severe burning sensation to the eyes, coughing, and "tearing up for hours".
    - Another youth believes OC deployments she has witnessed have been fair for the most part but claims when it is used it is excessive, indicating staff don't squirt a small amount, rather they spray, holding the spray can nozzle down for a while.
- Youth interviewed across the units reported that the have access to water quickly after the spray but have concerns about the amount of time they have to wait for proper medical attention after a spray.
    - For example, one youth reported "the worst OC spray incident occurring in July '22, in Unit AB at CJH during which time there was a fight involving multiple youth and the entire dayroom was sprayed, resulting in 'the entire floor being covered in red.' Many youth were directed to their rooms, without eye wash or decontamination. He reports each youth was taken to see the nurse "one by one" and approximately half hour after that deployment. Youth believes this fight started because one youth "disrespected" a female staff member and another youth came to her defense.
- Youth report concerns about certain staff who tend to deploy spray more often. Youth also report that, in their experience, female staff tend to deploy spray more often than male staff.
    - For example, a youth reported witnessing an OC spray incident approximately 2 weeks ago; reported seeing a staff spray multiple youth and that she appeared to be "trigger happy." The incident described by two youth was the result of a use of force between a staff and a youth outside one of the rooms, during which the youth report seeing another youth being 'choked outside the room.'
    - For example, a youth reported noticing that female staff usually spray more often than male staff who more typically restrain kids; he attributes this to a difference in size between male and female staff.
- Youth vary somewhat in their opinions about the big picture question of eliminating OC spray all together, although many provided clear statements about the problems with OC spray and their desire to see it eliminated from the halls. Some express their opinions as follows:
    - One youth does not believe OC spray is necessary, "only if someone is in danger or if a situation gets really out of control."
    - Another youth reports witnessing OC deployment during "riots" in the hall; understands why staff use it but doesn't like it being used on kids – "it burns when they spray, and it shouldn't be used."
    - Another youth reports that approximately two weeks ago, they witnessed a group of girls fighting in the recreation area. Youth believes OC deployment was warranted because too many girls were fighting, remarking, "It's better than the staff slamming them down or breaking their arms."

Interview Demographics: February 14, 2023

Youth ID	Housing Unit	Age	Length of Stay (during this detention)	Entire time at CJH or moved between Halls?	Has been pepper-sprayed?	Has been present when someone was sprayed?
1	Unit J	18	7 months	4 months CJH, 3 months BJNJH		✓
2	Unit J	17	4 months	Entire time	✓	✓
3	Unit AB	15	5 months	2 months CJH, 3 months BJNJH	✓	✓
4	Unit CD	18	4 weeks	Entire time		
5	Unit O	17	2 weeks	Entire time		✓
6	Unit O	13	1 month	Entire time	✓	✓
7	Unit AB	18	1 year 2 months	3 months BJNJH, 11 months CJH	✓	✓
8	Unit AB	17	3 months	Entire time		✓

Interview Demographics: March 3, 2023

Youth ID	Housing Unit	Age	Length of Stay (during this detention)	Entire time at CJH or moved between Halls?	Has been pepper-sprayed?	Has been present when someone was sprayed?
1	Boys' CARE	17	2 months	Entire time		✓
2	Boys' CARE	16	10 months	Entire time	✓	✓
3	Unit AB	16	Unknown	Unknown		✓
4	Unit CD	16	9 months	Entire time		✓
5	Unit O	17	4 weeks	Entire time	✓	✓
6	Unit AB	18	1 month	Entire time		
7	Unit AB	16	4 weeks	Entire time		
8	Unit O	17	4 weeks	Entire time		✓
9	Unit O	17	2 months	Entire time	✓	✓

Directive 5: Direct the Probation Department to update the weekly OC Deployment Reports to include data about vulnerable populations.

Complete**.**

Final Recommendations

Though this report marks the end of the POC's reporting responsibilities as outlined in the Board's motion, however the POC will continue to provide oversight, track and encourage progress, and report those back to the Board and the public, until Probation's plan for OC phase out has been fully implemented.

The POC staff, with regular reporting to the full Probation Oversight Commission and the Board, intends to proceed as follows:

1. Continue monitoring and regular reporting of OC deployment data until a full phase out has been successfully executed and verified for both juvenile hall facilities.
2. Continue regularly scheduled visits to both juvenile halls to verify housing classifications and unit occupancy as they relate to youth exposure to OC and staff experiences. These visits will focus on tracking the housing and potential for use of OC spray on youth identified as developmentally disabled, CSEC or DCFS involved, or girls or gender expansive youth and identify "high use" and "low use" units to work to identify best practices and ensure the Department is on track to meet their goals for phase out in the units identified in the February 27, 2023 draft plan.
3. Continue to pursue data transparency via exploration and identification of Probation's OC data gathering and reporting procedures, including emphasis to clarify definitions of basic concepts including what constitutes injury to youth and how that is identified for reports.
4. Request and analyze Use of Force data beyond OC spray use on a regular basis to promote data transparency and to provide recommendations to the department aimed to increase the integrity of data gathering and reporting processes.

The POC recommends Probation immediately considered the following recommendations:

1. Increase communication and feedback processes with line staff immediately affected by the phase out and all staff working at Central. Staff need direct instruction about the procedures put into place to support the OC phase out, including clarifying unit assignments, protocols for responding to emergencies, and upcoming opportunities for training. Staff repeatedly report a lack of clarity around issues that immediately affect them and report that this affects morale and confidence in the department's ability to make a plan that does not jeopardize their safety.
2. Re-evaluate data gathering and reporting procedures for OC deployment and Use of Force data overall immediately to achieve an acceptable level of accuracy and

consistency in reports. The number of errors, hand-counted data points, and poorly or non-defined terms, such as “Incident”, “Deployment”, and “Injury” have led the POC to determine that the department’s reported OC data has limited use for comparison purposes and needs overhaul for any future consideration of validity. In its current state, Probation’s OC data is not acceptable to be used in analysis comparing injury statistics, or against any other Use of Force data.

3. In the event that Probation does thoroughly re-evaluate data gathering and reporting procedures for OC deployment and Uses of Force generally, and finds, as has been demonstrated throughout this process, insufficient capacity to thoroughly correct these issues, then Probation must find and contract a third party to appropriately manage Use of Force data. Accountability begins with leadership acknowledgement that data remains a struggle and that the department as a whole would benefit from allowing an equipped third party to take charge of this complex task, to bring integrity to reporting and to encourage data driven decision making processes and policies.

The POC will continue to collaborate with OIG and the Probation Department to ensure OC spray is completely phased out as originally instructed in the Board’s 2019 motion.

Please feel free to contact Executive Director Wende Julien at wjulien@poc.lacounty.gov with any questions.

Attachments

c: Fesia Davenport, Chief Executive Officer
Adolfo Gonzales, Chief Probation Officer
Celia Zavala, Executive Officer
Dawyn R. Harrison, Interim County Counsel
Justice Deputies, Board of Supervisors

CENTRAL JUVENILE HALL – INTERVIEW NOTES

February 14, 2023

Interview Teams:

- Erica Reynoso, Ph.D., LCSW
  PD Partner: Vera Koulian, JD
- Daysi Alarcon
  IJD Partner: Erik Rodstrom, JD

Demographic Data

Youth ID	Housing Unit	Age	Length of Stay (during this detention)	Entire time at CJH or moved between Halls?	Has been pepper-sprayed?	Has been present when someone was sprayed?
1	Unit J	18	7 months	4 months CJH, 3 months BJNJH		✓
2	Unit J	17	4 months	Entire time	✓	✓
3	Unit AB	15	5 months	2 months CJH, 3 months BJNJH	✓	✓
4	Unit CD	18	4 weeks	Entire time		
5	Unit O	17	2 weeks	Entire time		✓
6	Unit O	13	1 month	Entire time	✓	✓
7	Unit AB	18	1 year 2 months	3 months BJNJH, 11 months CJH	✓	✓
8	Unit AB	17	3 months	Entire time		✓

NOTES

- One youth indicated witnessing several instances of OC deployment at BJNJH (several months ago) and at CJH (mainly in unit B). He reported having experienced effects when OC was deployed in unit (i.e., severe burning sensation to eyes, coughing and "tearing up for hours").

- A majority of youth reported having heard “OC warning” each time an OC deployment occurred or heard a “stop fighting” command.
- One youth reported “the worst OC spray incident occurring in July ’22, in unit B at CJH during which time there was a multiple youth fight and the entire dayroom was sprayed, resulting in ‘the entire floor being covered in red (pepper-remnants).’ Youth recalls every youth being sprayed during that deployment. Many youth were directed to their rooms, without eye wash or decontamination. He reports each youth (“one by one” was taken to see the nurse) approximately half hour later, after that deployment. Youth believes this fight started because one youth “disrespected” one female staff member and another youth came to her defense.
- Many youth believe OC deployments occur because there is not enough staff in their buildings, especially staff whom they know.
- Youth report generally having immediate access to partial decontamination (splash water) but some report waiting in their rooms for a while before getting full decontamination and/or medical care.
- One youth reported having been sprayed twice; once at BJNJH and once at CJH; both for fighting. He reported when OC deployment occurred at BJNJH, it resulted in severe burning to his face and the spray was dripping down his face onto this neck and body – youth reported not being able to see or walk to the bathroom for decontamination.
- One youth reported having been sprayed outside at CJH when his unit (AB) was out to rec. He reported he and peer were involved in a dispute within the game and it escalated to physical fighting. Youth reported not hearing “OC warning” given but admits he may just not have heard it. Youth recalls when he was sprayed this time it especially burned his face (because it was hot outside) and it seemed it took a long time to get relief (decontamination); but he received cold water from inside his unit and was later taken to see the nurse for post OC treatment.
- Another youth witnessed one OC spray incident approximately 2 weeks ago; youth reported seeing a staff spray multiple youth and that she appeared to be “trigger happy.” The incident described by two youth was the result of a use of force between a staff and a youth outside one of the rooms, in which according to them [these youth], witnessed another youth being ‘choked outside the room.’
- One youth was sprayed due to having been considered “out of bounds.” She was sprayed in the back of her head. According to this youth, she was sprayed so much it poured down her body, all the way down to her private parts. Reportedly, after this OC deployment, another staff used force on her by choking her.
- A male youth also reported that post-OC deployment, [it] dripped down his body, stating that ‘they overspray’ and he washed it on his own carefully because it spreads easily.
- One youth reported severe effects due to having been sprayed during which she could not breathe and coughed up blood.

March 3, 2023

Interview Teams:

- Erica Reynoso, Ph.D., LCSW
  PD Partner: Omid Haghighat, JD
- Daysi Alarcon
  IJD Partner: Erik Rodstrom, JD

Demographic Data

Youth ID	Housing Unit	Age	Length of Stay (during this detention)	Entire time at CJH or moved between Halls?	Has been pepper-sprayed?	Has been present when someone was sprayed?
1	Boys' CARE	17	2 months	Entire time		✓
2	Boys' CARE	16	10 months	Entire time	✓	✓
3	Unit AB	16	Unknown	Unknown		✓
4	Unit CD	16	9 months	Entire time		✓
5	Unit O	17	4 weeks	Entire time	✓	✓
6	Unit AB	18	1 month	Entire time	✓	✓
7	Unit AB	14	Less than 1 month	Entire time		
8	Unit O	17	1 month	Entire time	✓	✓
9	Unit O	17	2 months	Entire time	✓	

NOTES

- Approx. 2 weeks ago, one youth witnessed a group of girls fighting in recreation area. He posits, OC deployment was warranted because too many girls were fighting – youth remarked, "It's better than the staff slamming them down or breaking their arms."
- Most youth shared having received "OC warnings" each time they were sprayed. Several youth reported their face typically getting sprayed and [it] "burns a lot;" a few youth reported experiencing the spray dripping down their face and bodies.
- Several youth agreed that OC spray deployment was needed during fights involving multiple youth. One youth gave an example of a fight in which a youth in unit RS was jumped and other youth jumped in – "the staff needed to get in there to break that up."
- Several youth do not believe OC spray is necessary: "only if someone is in danger or if a situation gets really out of control."

- Several youth reported that when staff restrain youth, female staff should restrain female youth and male youth should restrain males. Further, several youth reported noticing that female staff usually spray and male staff don't use as much spray but typically restrain kids; they attributes this to a difference in size between male and female staff.
- One youth reports being sprayed three times since his detainment; each time OC was deployed (on him) it was due to engaging in fight
- Most all youth described two options staff employ: either pepper-spray us or restrain; youth mixed in their preferences (between OC spray and being restrained)- one youth explained that last summer he was not sprayed but rather restrained by a staff member during an incident at rec – he reportedly 'body slammed him, face hit ground and youth's arm was pinned back and bent behind' him. Youth described this incident as an extreme restraint.
- One youth reported having witnessed OC deployments "more than 20 times" during his detainment
- One youth believes OC deployments she has witnessed have been fair for the most part but claims when it is used it is excessive, indicating staff don't squirt a small amount, rather they spray, holding the spray can nozzle down for a while.
- A few youth expressed some staff over-rely on OC spray use and it is used unreasonably, especially some staff in unit XY (girls' unit). Youth reported a time (approx. 2 months ago) during which this supervisor sprayed a young woman in XY because she knocked her lunch from the table. The youth further explained that this supervisor not only sprayed the young woman at the table, but it [the spray] extended to other girls and their lunches – one girl vomited repeatedly afterward because she ate her lunch that had been covered in pepper spray.
- One youth reported that OC spray "burns in the moment, but I have learned not to panic or breathe the spray in."
- One youth reported that last time she was sprayed (post-deployment), she was sent to her room – where she splashed cold water on face from her sink – but didn't get good relief from the burning until after she was released from her room, approx. 40 minutes later.
- A few youth noted, 'male staff don't pull out spray, they restrain us, but female staff do spray a lot.' Many youth claimed when staff spray it may be necessary because otherwise youth would keep fighting but they also agreed that when they spray it does not have to be excessive.
- Several female youth report many more issues, leading to OC spray in girls unit due to "mixing" of populations – they report seeing more fights during rec time.
- Several female youth fear injury (from being restrained) now that staff are not allowed to use OC spray – many youth expressed "seeing the men in black [reference to SEO] coming" and believe they are "too rough" and 'have free reign on taking us down.' One youth described incurring leg fractures resulting from a restraint by an SEO.
- One youth reported that he is immune to OC spray, and it does not prevent him from fighting.
- Youth reported having heard "OC warning" each time and "stop fighting" commands given.
- Youth noted that male youth are pressured to continue fighting until stopped. Youth would prefer staff step between the youth to have them stop fighting.
- Youth explained he was aware of OC spray and believes being combined with units that have people that don't like each other cause fights.
- Youth believes keeping kids physically separate that don't get along and talking to kids is the best way to deescalate the situation without using spray.

- Youth reported having witnessed OC sprays twice in the O unit Youth since February 16.
- Youth reported when OC deployment occurred multiple people were sprayed. She described incidents occurring on the Girls care patio. OC spray warning was given but they say different things.
- Youths involved had severe burning to face and breast, the spray was dripping down one youths face onto the body – youth reports those involved not being able to see or walk to the bathroom for decontamination. Youth reports that in both incidents girls were sent to their rooms because they can only decontaminate one youth at a time.
- Youth reports that OC spray has now been taken away from the unit and 2 staff involved in the incidents have been moved. OC spray has been completely removed from the unit for a few weeks and now the men in black (a specialized unit of Probation officers that were all black) are called if there is a fight. Youth reports one girl's wrist has been broken and another had a dislocated leg. The men in black are rough, aggressive and the girls fear them.
- Youth stated that a 50/50 program would be more helpful which she describes as splitting up girls into rooms that don't get along. She believes the problems in the unit come from combining ESU enhanced supervision unit girls with girls' care.
- Youth Palma reports having been sprayed several times in the past. Normally for fighting because she will not stop otherwise. Youth reports being over sprayed every incident and the OC Spray causing swelling and burning. She is told to stop fighting but does not know if she is always given the OC warning.
- Youth reports that her last incident was on the girl's patio 2 weeks ago. Youth stated that she was not been allowed to decontaminate immediately and was sent to her room until they get to her.
- Youth are more concerned now that there is no OC spray because the men in black dislocated her leg and hurt her. She also stated that more recreation time would be helpful and splitting up girls who don't get along.

COUNTY OF LOS ANGELES
OFFICE OF INSPECTOR GENERAL

312 SOUTH HILL STREET, THIRD FLOOR
LOS ANGELES, CALIFORNIA 90013
(213) 974-6100
http://oig.lacounty.gov

MEMBERS OF THE BOARD

HILDA L. SOLIS
HOLLY J. MITCHELL
LINDSEY P. HORVATH
JANICE HAHN
KATHRYN BARGER

MAX HUNTSMAN
INSPECTOR GENERAL

March 6, 2023

TO: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

FROM: Max Huntsman
Inspector General
Chief Deputy, Inspector General on behalf of Inspector General Max Huntsman

SUBJECT: **FINAL REPORT BACK ON THE PHASE OUT OF OLEORESIN CAPSICUM SPRAY AT CENTRAL JUVENILE HALL (ITEM NO. 9, AGENDA OF DECEMBER 20, 2022)**

On December 20, 2022, the Board of Supervisors (Board) passed a motion directing the Los Angeles County Probation Department (Probation Department) to create an implementation plan (Plan) in collaboration with the Office of Inspector General and the Probation Oversight Commission (POC) to phase out the use of Oleoresin Capsicum (OC) spray at the housing units that incarcerate youth with developmental disabilities, girls and gender expansive youth (GGE). The motion directed that the phase out occur within 45 days, which was clarified to mean 45 working days. The motion specified that the Office of Inspector General and the POC oversee implementation and evaluation of the Probation Department's phase out of OC spray at Central Juvenile Hall (CJH) with specified areas to be included in the evaluation and directed the Office of Inspector General and POC to report to the Board every 14 working days until the completion goal. After meeting and collaborating with the executive staff of the Probation Department and the POC, the Office of Inspector General provides this final report.

The POC and the Office of Inspector General met with the Probation Department Executive and Detention Services bureau leadership on January 30, 2023, February 13, 2023, and March 1, 2023, communicated regularly with leadership via email, and

conducted interviews with youth and Probation Department staff, and investigated specific incidents to collect the information in this report.

Directive 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, girls and gender expansive (GGE) youth at Central Juvenile Hall.

- The Probation Department was directed by the Board's motion to create an implementation plan to phase out the use of OC spray in the identified units at CJH within 45 business days from the date of the motion. On February 27, 2023, the Probation Department provided the Office of Inspector General and the POC a draft of the plan entitled, *Phase out of OC Spray at Juvenile Hall* (Plan) for review. Because the Plan provided was a draft, it is unclear if there will be changes to the draft Plan by the Probation Department after this final report. The Plan reported that as of February 27, 2023, OC spray has been eliminated in the five identified units. Office of Inspector General staff made an unannounced visit to the units on February 27, 2023 and confirmed that OC spray was not in the possession of Probation Department staff in those units and unit staff was informed that they are no longer permitted to carry or use OC spray. However, according to the Plan, staff assigned to Movement and Control, Resource/Response teams, and Special Enforcement Officers (SEO) responding to assist at the five identified units will be allowed to carry OC spray in the units with the restriction that OC spray is not to be used inside those five units. The Plan does include this exception, "Only if it is over 10 youth involved, out of control or more than 20 min should [OC spray] be considered." It is unclear from the wording of the Plan if the incident requires more than 10 youths *and* it being "out of control" for 20 minutes, or if only one of the two factors allows for the use of OC spray in the designated units. It also recommends handcuffing one youth at a time, if necessary, to gain control of the situation in specialized units. The Plan also indicates that "No OC Spray" signs are now posted in the identified units.

    - The Plan contains the Probation Department's process to completely phase out the use of OC spray in *all* juvenile facilities, while addressing the following areas:

- A Behavior Management Program
- A *credible messenger* program that will be launched June 1, 2023
- Resource teams made up of Probation staff and Department of Mental Health staff to respond to critical incidents
- Employee wellness programs
- Employee support services
- Peer Support Program
- Collection of OC spray

- Since the Board's motion on December 20, 2022, the Probation Department through its academy, has graduated 39 Detention Services Officers (DSO) and 2 Group Supervisors, Nights (GSN.) On February 20, 2023, 14 DSO and 2 GSN were assigned to CJH and will work in pairs in the five identified units. Each new staff member has been assigned a mentor to assist them in their growth and acclimation to their new positions as well as to provide immediate support.

- The Probation Department began collection of OC spray in the identified units on February 26, 2023, as staff reported for their shifts. The OC spray was collected, weighed, and documented that it was collected and then provided to the Bureau Chief. Any Probation Department staff temporarily assigned to the five identified units must either place their OC spray in their vehicles or provide it to management for later retrieval when the staff leaves the facility.

- The Probation Department's Plan provides anticipated dates that the Probation Department intends to phase out the use of OC spray in the remainder of its units as follows:

Central	**Elimination Date**
MOU	April 30, 2023
P/Q	June 30, 2023
R/S	August 31, 2023
KL Security/MC	October 31, 2023

Barry J. Nidorf	**Elimination Date**
MOU	March 31, 2023
L/M	April 30, 2023
Q	May 31, 2023
G/H	June 30, 2023
J/K	July 31, 2023
N/O	August 31, 2023
A/B	September 30, 2023
T/V (SYTF)	October 31, 2023
Y (will be X) W (SYTF)	November 30, 2023
P/X (will be Z) (SYTF)	December 31, 2023
Security/Movement Control	January 31, 2024

As detailed above, the Probation Department intends to gradually eliminate OC spray in all units between April 30, 2023, and January 31, 2024. This estimated timeline does not completely eliminate OC spray until more than three years after the Probation Department's 2019 phase out plan, which called for the phase out of OC spray by September 2020.[1] The Probation Department provided no explanation in the Plan for its delay in complying with the Board's 2019 motion directing the Probation Department to eliminate use of OC spray in the juvenile halls by the end of the 2019 calendar year nor any explanation as to its failure to follow its own phase out plan.

Directive 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 working days, until the completion goal of February 27, 2023.

The status and re-implementation of the Regional Center training and any additional trainings.

- As noted in the Office of Inspector General's previous reports, the Probation Department leadership stated that it had several meetings with the Regional

[1] As of June 30, 2023, youth from the Department of Juvenile Justice (DJJ) will be transferred to the Probation Department. As set forth in the recommendations, the Office of Inspector General identifies this as the appropriate target date for the elimination of OC spray.

Center and provided the Regional Center information for Probation staff to be certified by BSCC. Although the Plan indicates that the Probation Department is currently in the process of scheduling training with the Regional Center, in the last meeting with the Office of Inspector General and the POC, the Probation Department leadership indicated that the Regional Center will not be providing training regarding youth with developmental disabilities; according to the Probation Department, the Regional Center did not provide a reason for declining to provide the training. However, the Regional Center did agree to attempt to identify another agency capable of providing the requisite training and agreed to continue dialoguing with the Probation Department regarding this training.

How training is conducted and deployed, including the effectiveness of the "train the trainer" model.

- The Probation Department's Plan includes its expected efforts to train its staff taking into account the elimination of OC spray. Included in its plan for training are the following areas, which are provided in the OC Phase Out training:

    - Handcuffing (3-hour course)
    - De-escalation (8-hour course)
    - Physical intervention (16-hour course)
    - Physical intervention policy review (1-hour course)
    - Training for Supervision of Developmentally Disabled Youth (4-hour course)

- The Plan reports that as of February 26, 2023, 106 staff have been assigned to the five identified units, including 25 recent graduates of the Probation Department's academy. Although these graduates have not participated in any of the above-mentioned training, they have received similar training in these areas at the academy, and none of the recent graduates were issued OC spray.

  The Probation Department's Plan details the following with respect to the completion or partial completion of OC Phase Out training:

- Completed both Block Weeks: 30 supervision staff
- Completed Block Week 1 only: 11 supervision staff
- Completed Block Week 2 only: 10 supervision staff
- Attended Block Week 1, but missed one or more courses: 2 supervision staff
- Attended Block Week 2, but missed one or more courses: 1 supervision staff
- Attended both Block Weeks, but missed one or more courses: 9 supervision staff
- Have not attended either Block Week: 9 supervision staff
- Staff that do not have OC spray: 11 supervision staff

- As clearly indicated, only a minority of the 106 staff members assigned to the identified units have completed the requisite training. Identifying the number of staff completing each category of training shows that many staff are woefully undertrained:

    - *De-escalation* training completed by 37 of 106 line staff and 3 of 9 supervisors.
    - *Handcuffing* training completed by 20 of 106 line staff and 0 of 9 supervisors.
    - *Physical Intervention* training completed by 69 of 106 line staff and 7 of 9 supervisors.
    - *Supervision of Developmentally disabled youth* training completed by 12 of 106 line staff and 1 of 8 supervisors.

A significant number of the staff needed in the five identified units have not been fully trained, which requires approximately 24 hours of staff time. The Probation Department leadership is concerned about the necessary training time and the staff being away from the units and unable to provide supervision of the youths. Despite this concern, the Probation Department leadership refuses to utilize the *train the trainer* method as previously discussed in prior reports and continues to cite concerns that use of the *train the trainer* model may lead to a watered down version of the initial training in that with each subsequent iteration, important information may not be conveyed.

Although the Probation Department has responded to the directives in the current Board motion by trying to address the lack of necessary training, the delay in implementing

training as set forth in its 2019 plan has impeded the goal of phasing out OC spray as directed by this Board's 2019 motion to phase out the use of OC spray in all juvenile halls. The Office of Inspector General continues to recommend use of the *train the trainer* model as an effective way to quickly train staff when there is a necessity to immediately train a large number of staff, and it is an effective stop gap measure to provide training to ensure there are sufficient trained staff to fill existing vacancies.[2]

The effectiveness of training in teams/units versus individuals.

- As noted in the previous reports, the Probation Department leadership agrees that unit training is more effective than individual training and reported that it continues to seek volunteers to be assigned to the five identified units with the intention of training the unit staff together. The Probation Department leadership continues to believe that this approach is feasible for the five units due to the relatively small group of staff needed for the units. However, there are continuing concerns that reported staff shortages will continue to impede the training process. The Office of Inspector General continues to recommend moving field officers to the juvenile halls as the safety of the youth under the care of the Probation Department is of the utmost importance; failing to train a sufficient number of staff is an abdication of the Probation Department's Constitutional responsibility to safely house incarcerated youth.

The impact of training on staff's ability to de-escalate situations.

- As noted in the previous reports, the Probation Department supervisors will continue to elicit on-the-job feedback from recent trainees in the units where OC spray is eliminated to learn more about the effectiveness of training and other training needs. Since the previous report, the Probation Department has not had any employee town halls or learned of any information to better understand the impact of training on staff's ability to de-escalate situations. However, it plans to continue to utilize town halls and meetings to obtain and evaluate staff input on the training modality to ensure an effective curriculum.

---

[2] The Office of Inspector General has also recommended moving field officers to the juvenile halls to address staffing shortages at the halls and to provide current staff with the necessary time to complete training. *OIG and POC Joint Third Report Back on the Phasing Out of Oleoresin Capsicum (OC) Spray at Central Juvenile Hall* at pages 9, 10, and 17.

The impact trained staff have on youth when de-escalation tactics are deployed.

- The Office of Inspector General, as previously reported, reviewed video recordings of use-of-force incidents and conducted youth interviews to assess the impact on youths of trained staff members utilizing de-escalation techniques. The Office of Inspector General's review of video recordings identified numerous occurrences of staff members attempting to de-escalate incidents, including successful de-escalation. During three interview sessions, youths described situations during which staff in fact utilized de-escalation methods and the success of such methods. The Office of Inspector General recommends the Probation Department continue its efforts to have all staff trained in de-escalation as it has shown to be an effective method in response to disturbances.

Interviews with youth in CJH regularly, subject to their attorney's consent, to determine accuracy of the Probation Department's reporting.

The Office of Inspector General and the POC, along with representatives from defense counsel, interviewed nine youth on February 1, 2023, eight on February 14, 2023, and nine on March 3, 2023. The list of questions used during the interviews was provided in the previous report. In summary, during the three interview sessions, the youths reported, (1) in most incidents, the Probation Department staff members provided the requisite "OC warnings" prior to deploying the OC spray on the youths, (2) decontamination was usually provided, (3) most OC deployments were due to fights between youths, and occur in the dayroom, and (4) some staff members deploy OC spray more readily than other staff members.

However, there were youths who described uses of OC spray by the Probation Department staff without any warning. There was one claim of a youth being sprayed while in handcuffs. The OC spray reports reviewed by Office of Inspector General staff do not reflect any uses of OC spray without warning nor do any of the reports reviewed reflect that a youth was sprayed while handcuffed. However, due to the deficiencies in timely reporting and effective internal investigation at the Probation Department, the

Office of Inspector General has no confidence that such allegations are likely to be properly investigated.

Directive 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.

- As noted in the previous reports, the Office of Inspector General continuously requested reports on the Probation Department staff use of OC spray to determine if staff are engaging in multiple incidents of OC spray use. The first request was made on December 21, 2022, then again during the meetings with Probation Department leadership on January 5, 2023, and February 13, 2023. As of the date of this final report, the Office of Inspector General has not received the necessary information from the Probation Department and therefore, cannot provide an informative response to the Board's directive to track and collect data on staff who are engaging in multiple incidents of OC spray use.

- The Office of Inspector General continues to recommend that all OC spray incidents be reviewed by the Central Intake Team at the meetings conducted by the Probation Department's Internal Affairs Bureau, which reviews allegations of staff misconduct for potential investigation.

Office of Inspector General's Final Report Recommendations

Based on the Office of Inspector General's review of the Probation Department's current draft OC phase out implementation plan, and the Probation Department's 2019 OC spray phase out plan, the following recommendations are made:

- The Probation Department should reassign field staff to the juvenile halls to ensure sufficient staff who are trained in techniques that enable de-escalation without the necessity of employing OC spray.

- The Probation Department should utilize the *train the trainer* model of training as a stop-gap measure as an effective way to quickly and efficiently train a large number of staff. Once a sufficient number of staff are trained using this

model, the Probation Department should continue to provide training using experts to train staff more thoroughly.

- The Probation Department should assess and enhance training for working with youth with mental health and behavioral needs, and youth in acute mental health crises. While such enhanced training may be currently available, it is crucial that sufficient staff have received the training to properly staff the juvenile halls.

- The Probation Department staff should receive further training in the proper and timely completion of all use of force forms. In addition, current reporting deadline policies should be enforced vigorously with discipline imposed for failing to timely complete and submit the forms. Managers who fail to require the timely submission of the forms should also be subject to discipline.

- *Section M* of the Physical Intervention Report, which addresses the use of OC spray, should be answered by the Probation Department staff in the affirmative if *any* staff member deployed or witnessed the deployment of OC spray, and provide details as required by the form.

- All Probation Department staff should receive refresher training on the policies and practices requiring submitting timely and complete reports after use of OC spray and other use of force incidents.

- The Physical Intervention Report form(s) of staff member(s) that deployed the OC spray should be the first page(s) of the Physical Intervention Report Packet.

- Adding a signature line to *Section M* of the Physical Intervention Report form for a supervisor to verify that the section has been reviewed and completed.

- Video recording of each OC spray decontamination.

- All uses of OC spray should be reviewed by the Central Intake Team.

- The Probation Department should eliminate OC spray in all units by June 30, 2023, when it will have custody and care of all Los Angeles County youths currently in DJJ facilities.

- The Probation Department should proceed with plans referenced in its draft Plan to implement:

  - A credible messenger program
  - Resource teams made up of Probation staff and Department of Mental Health staff to respond to critical incidents
  - Employee wellness programs
  - Employee support services
  - Peer Support Program

MH:sf

c: Adolfo Gonzales, Chief Probation Officer
Fesia Davenport, Chief Executive Officer
Celia Zavala, Executive Officer
Dawyn Harrison, Interim County Counsel
Wendelyn Julien, Executive Director, Probation Oversight Commission