



# COUNTY OF LOS ANGELES OFFICE OF INSPECTOR GENERAL

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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

<u>Barry J. Nidorf</u>	<u>Elimination Date</u>
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.<sup>1</sup> 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

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<sup>1</sup> 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.<sup>2</sup>

***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.

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<sup>2</sup> 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

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