



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

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MAX HUNTSMAN
INSPECTOR GENERAL

May 1, 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: **REPORT BACK ON THE OFFICE OF INSPECTOR GENERAL'S
RECOMMENDATIONS FOR A COMMUNICATIONS/REPORTING
PROCESS FROM THE PROBATION DEPARTMENT TO THE BOARD,
OIG, AND POC (ITEM NO. 6, AGENDA OF MARCH 21, 2023)**

PURPOSE OF MEMORANDUM

On March 21, 2023, the Board of Supervisors (Board) passed a motion directing the Office of Inspector General, with support from the Probation Oversight Commission (POC) to report back in writing within 30 days with recommendations for a communications/reporting process from the Probation Department to the Board, the Office of Inspector General, and the POC. The report is to include, at a minimum, (1) detailed lists of the types of incidents that the Probation Department should be required to report to the Board, the Office of Inspector General and the POC, (2) a multi-phase communication/reporting process with specific timelines to ensure the Board, the Office of Inspector General, and the POC receive initial notifications immediately after a reportable incident takes place, and subsequent reports on a set timeline until the reportable incident reaches a final resolution, and (3) a process to ensure that the Board and the Office of Inspector General receive a confidential detailed report of any disciplinary decision that is made by the Chief Probation Officer or a Chief Deputy, including whether the final determination made by those individuals differs

from recommendations made by other staff and/or counsel. After consulting with the POC, the Office of Inspector General provides this report:

A. *Detailed lists of the types of incidents that the Probation Department should be required to report to the Board, the Office of Inspector General and the POC.*

The Probation Department's current policy requires immediate notification to the Board, the Chief Executive Officer (CEO), the Chief Probation Officer, and the Chief Deputy Probation Officer (Chief Deputy) of the following critical incidents (Critical Incidents):¹

- *Any Major Disturbances (10 or more persons involved)²*
- *Any Escape other than those from open placements*
- *Any situation endangering probationers, staff, or the facility*
- *Any significant medical incident or serious injury requiring transport to an off-site medical facility*
- *Any incident or situation that may generate media interest, may result in litigation, or is likely to come to the attention of the Board of Supervisors*
- *Any incident or situation in which it is likely the Chief Probation Officer may be contacted*
- *Any act of violence resulting in serious injury to, or the death of a probationer.*

The current policies do not require notification to the Office of Inspector General or the POC.³ There are also critical incidents for which notification should be made that are not required by the current policies. The Office of Inspector General recommends that the Probation Department, (1) revise its current immediate notification process to add the Office of Inspector General, the Executive Director of the POC and the POC Commissioners, and (2) revise its Critical Incident list to mandate that the following incidents be immediately reported and that the incidents in red be reported to the Office of Inspector General by telephone or text message for the Office of Inspector General staff to rollout to the scene as deemed appropriate by Office of Inspector General staff.

¹Probation Department Directive 1264.

² Probation Department Directive 1259: "A major disturbance is defined as an incident where ten (10) or more minors are fighting at the same time."

³ Recently, the Probation Department has provided notification of some Critical Incidents to the Office of Inspector General and the Executive Director of the POC.

- *Major Disturbances (defined as an incident involving 5 or more youths fighting or involving 5 or more youths that results in a use of force, or significant destruction of property)⁴*
- *Escapes and Attempted Escapes*
- *Any situation endangering probationers, staff, or the facility*
- *Apprehensions after Escapes*
- *Assaults on Staff with any visible injury to staff or requiring medical attention (such as bruising, lacerations, broken bones)*
- *Transportation of youth or staff to the hospital*
- *Youth or staff discharge from hospital*
- *Deaths of Minors*
- *High Profile Matters – Media Attention, including any incident or situation that may generate media interest, may result in litigation, or is likely to come to the attention of the Board, the Office of Inspector General, or the POC*
- *Suicide Attempts*
- *Overdoses/administration of Narcan*
- *Head Strikes on a minor (intentional and inadvertent)*
- *Use of OC spray*
- *Use of force by staff on youth with any visible injury to youth or requiring medical attention (such as bruising, lacerations, broken bones)*
- *Youth on youth fights with any visible injury to youth or requiring medical attention (such as bruising, lacerations, broken bones)*
- *Prison Rape Elimination Act (PREA) allegations made by youth or staff*
- *Arrests of Staff*
- *Any incident in which it is likely the Chief Probation Officer may be contacted or for which Probation Department executive staff expect to be informed.*

This list of Critical Incidents primarily refers to incidents occurring at the Probation Department's juvenile halls and camps. The Probation Department should provide notification of these same Critical Incidents if they become aware of such incidents in any suitable placement facility or in the case of any High Profile Matter for any probationer regardless of the youth's placement, even if that placement is with the youth's parent or guardian.

⁴ This definition changes the definition of a Major Incident requiring notification from Directive 1264 as currently written. Other categories of Critical Incidents on this list have also been modified to clarify incidents requiring notification. Additionally, the notification for "Any act of violence resulting in serious injury to, or the death of a probationer," has been deleted because all such incidents are covered by other categories.

B. A multi-phase communication/reporting process with specific timelines to ensure the Board, OIG, and POC receive initial notifications immediately after a reportable incident takes place, and subsequent reports on a set timeline until the reportable incident reaches a final resolution

Immediate notification of Critical Incidents to the Board and the County oversight agencies is vital to ensure the protection of youths in juvenile detention facilities. It allows the Board, the Office of Inspector General and the POC the opportunity to receive and review information quickly that may warrant immediate investigation, responses, or recommendations. The Office of Inspector General recommends the following process and timeline for notification of Critical Incidents:

Timely Immediate Notification of Critical Incidents

The Probation Department's Critical Incident notification process currently requires "notification must be immediate even if all the facts are not known at the time."⁵ The Office of Inspector General recommends initial notification of Critical Incidents occur **immediately upon discovery** or after the Probation Department staff has gained control of the incident, but no longer than **one hour** after the incident. The immediate notification to the Board, the CEO, the Office of Inspector General, and the POC Executive Director and Commissioners should contain:⁶

- Date of incident
- Time of incident
- Location of incident
- Description of injuries
- Brief description of incident **without names of youth(s) or staff involved.**

The Probation Department staff should provide as much information as it has at the time of the initial notification. Additional information regarding the incident should be provided by the Probation Department to the Board, the CEO, the Office of Inspector General,

⁵ Probation Department Directive 1264.

⁶ The Probation Department's internal notification system for the Probation Department executive staff should be as currently set forth in their policies as far as who receives notifications. The Office of Inspector General recommends that the list of Critical Incidents for which executive staff should be notified be expanded to mirror the recommended list in section A of this report.

and the POC Executive Director and Commissioners as the information is obtained by the Probation Department.

Manner and Recipients of Notification of Critical Incidents

The Board, the CEO, the Office of Inspector General, and the POC should receive the immediate notice with the information listed above by email,⁷ except for the incidents noted in red, which should be telephoned or texted to the Office of Inspector General.⁸ As noted above, the critical incidents noted in red may require the Office of Inspector General to rollout to the scene of the incident to observe any physical evidence and to monitor the Probation Department's response to the incident.

The Office of Inspector General further recommends that the Probation Department send a follow-up email to the Board, the CEO, the Office of Inspector General, and the POC within 24 hours after the incident with an update of the incident and any additional details learned from any written reports or initial interviews conducted. ***As with the initial notification, the names of involved youth and staff should not be included.***

There should be a subsequent notification to the Office of Inspector General within seven days of the incident documenting completion of the Probation Department's Safe Crisis Management Packet. This packet contains all incidents reports, including witness statements and supervisory review. All documents in the packet and a final resolution report should be provided to the Office of Inspector General detailing the incident and the response by the Probation Department to the critical incident. If the Office of Inspector General requests more detailed information regarding the incident prior to the seven days, that information should be provided upon request.

⁷ The email addresses for notifications to the Office of Inspector General, the Executive Director of the POC, and the POC Commissioners will be provided to the Chief Probation Officer. The Office of Inspector General recommends that each Board office provide to the Probation Department the email address or addresses to which the notifications should be sent.

⁸ The Office of Inspector General will notify the Chief Probation Officer and the Chief Deputy Probation Officers of the assigned rollout person each week.

C. Process to ensure that the Board and OIG receive a confidential detailed report of any disciplinary decision that is made by the Chief Probation Officer or a Chief Deputy, including whether the final determination made by those individuals differs from recommendations made by other staff and/or counsel.

The Probation Department's disciplinary review protocol begins with a referral of a potential policy violation to the Central Intake Team (CIT), which is comprised of Probation Department staff from the Internal Affairs Bureau and the Performance Management Unit. The CIT meets to determine if an incident is in violation of Probation Department policies and warrants further investigation.

After completion of an investigation, Probation Department leadership meet and discuss the allegations at a "Roundtable" and to determine if discipline is warranted and the level of discipline.⁹ Discipline can range from a warning, a reprimand, a suspension, an involuntary reduction (a demotion), to discharge. Once the discipline level is determined, a *Letter of Warning*, *Letter of Reprimand*, *Letter of Suspension*, *Letter of Reduction*, or *Letter of Discharge* is prepared advising the employee of the Probation Department's intent to impose discipline.

For *Letters of Suspension*, *Reduction*, and *Discharge*, prior to sending the disciplinary letter, the employee is sent a *Letter of Intent*, which notifies the employee of the intent to impose discipline.

While the Roundtable is not referred to in any Probation Department policy, in practice the discipline imposed by the Probation Department leadership group at the Roundtable meeting is a final decision on the level of discipline absent any presentation of additional information by the employee, including any factors mitigating the employee's conduct, at what is referred to as a *Skelly* hearing.¹⁰ As set forth in section 707 of the Los Angeles County Probation Department Policy Manual (Probation Manual):

⁹ A Roundtable is the designation that Probation Department executives from Internal Affairs and the Performance Management Unit use to refer to the meeting during which the imposition of discipline is determined. This process of discipline is not incorporated into any formal policy. The Office of Inspector General recommends that the discipline process be formalized and standardized in the form of an adopted policy. The Office of Inspector General is invited to and is present at the Roundtable.

¹⁰ This hearing is named for the Case of *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, which held that employees are entitled to a due process hearing prior to the imposition of significant discipline. The minimum standards for such a hearing are set forth in the Los Angeles County Probation Department Policy Manual, section 707.

“The Skelly process enables the employee to provide and/or present information to a reasonably impartial and uninvolved reviewer who can convey information to the decision maker relevant to the disposition of the matter.”

Information presented by the employee at the *Skelly* meeting must be *considered* prior to the imposition of discipline. Because the *Skelly* hearing occurs after the Roundtable, the Office of Inspector General recommends that following the *Skelly* hearing, any reduction of discipline from a 30-day or longer suspension, involuntary reduction (demotion), or discharge should go back to the Roundtable for discussion and agreement on any reduction in discipline.

After the final discipline decision is made, for discipline resulting in discharge, the *Letter of Discharge* is reviewed by the Chief Probation Officer or Chief Deputy Probation Officer, and then reviewed by the Performance Management Unit and signed by the appropriate Bureau Chief.¹¹ For suspensions 30 days or longer or an involuntary reduction (demotion) the letter is reviewed by the Performance Management unit and approved and signed by the appropriate Bureau Chief.¹² After the review, the disciplinary letter is served on the employee and the discipline is imposed.¹³

While there is a Probation Department policy provision that requires the Chief Probation Officer or Chief Deputy Probation Officer to review *Letters of Discharge*, and for Bureau Chief review of *Letters of Suspension* 30 days or longer or *Letters of Reduction*, there is no provision in the Probation Department’s current policies that specifically allows the Chief Probation Officer, a Chief Deputy, or a Bureau Chief to intervene and alter the disciplinary decision made at the Roundtable. Based on the Office of Inspector General’s review of the Probation Department’s discipline policies and practices, previous Chief Probation Officers have requested further information or questioned the factors considered by the Roundtable after the Roundtable has made its recommendation and, in some instances, have changed the Roundtable’s decision on the imposition of discipline. Some of these reductions in discipline may have been based on the information learned at the *Skelly* meeting, but intervention by the Chief of Probation, a Chief Deputy, or a Bureau Chief creates an opportunity for favoritism or undue influence from outside parties to factor into the disciplinary decision.

¹¹See Probation Manual section 706. The Letter of Discharge is signed by the Bureau Chief at the facility where the alleged misconduct occurred.

¹² See Probation Manual sections 704 to 706 for the required approval and signing.

¹³ See Probation Manual section 701 et seq., *Discipline and Corrective Action*.

If the Chief Probation Officer, a Chief Deputy, or a Bureau Chief decides to reduce discipline after the Roundtable's post-*Skelly* review, notification should be made to the Office of Inspector General and the Executive Director of the POC **at least 2 working days** prior to service of the disciplinary letter. Notification to the Office of Inspector General and the Executive Director of the POC should be made by email and should explain the justification for any reduction in the post-*Skelly* Roundtable discipline and include (1) the investigation report, (2) the disciplinary decision made at the pre-*Skelly* and post-*Skelly* Roundtable meetings, (3) the discipline proposed by the Chief Probation Officer, a Chief Deputy, or a Bureau Chief, and (4) the specific reasons for altering the discipline previously imposed.

These recommendations related to the reporting of Critical Incidents and discipline reductions by the Probation Department will ensure proper oversight by the Board, the CEO, the Office of Inspector General, and the POC of significant incidents involving the youths in the juvenile facilities.

MH:sf

c: Karen Fletcher, Acting Chief Probation Officer
Fesia Davenport, Chief Executive Officer
Celia Zavala, Executive Officer
Dawyn Harrison, County Counsel
Wendelyn Julien, Executive Director, Probation Oversight Commission