April 9, 2025

Dear Board Members,

On April 9, 2025, a 3-member appeal hearing panel appointed by Board Chair Linda Penner held a hearing regarding the timely appeal filed by the Los Angeles County Probation Department challenging the decision made by the Executive Director on February 18, 2025. Attached, please find the recommendation by the 3-member appeal hearing panel to deny Los Angeles County's appeal. This recommendation is being provided for the Board's consideration in advance of the April 10, 2025 board meeting. (Cal. Code Regs., tit. 15, § 1314, subd. (f).)

At the April 10, 2025 board meeting, the Board may:

(1) Adopt the proposed decision;

(2) Amend the decision with or without taking additional evidence into consideration; or,

(3) Order a further hearing to be conducted, if additional information is needed to decide the issue.

(Cal. Code. Regs., tit. 15, § 1314, subd. (g).)

Sincerely,

Aaron R. Maguire
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Date: 2025.04.09 16:36:18 -07'00'

AARON R. MAGUIRE
Executive Director

cc: Guillermo Viera Rosa, Chief Probation Officer, Los Angeles County Probation Department

Decision of Appeal Hearing Panel on
Los Angeles County

Procedural History

Section 1314 provides an appeal process concerning the Board's application and enforcement of minimum standards and regulations for juvenile facilities. A county may appeal on the basis of "alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion." (Cal. Code Regs., tit. 15 § 1314.) If a county is dissatisfied with the decision of the Executive Director of the Board of State and Community Corrections (BSCC), it may appeal the decision and request an appeal hearing with the Board "within 30 calendar days after receipt of the Executive Director's decision. (*Id*. at subd. (e).)

This appeal arises from the Executive Director's denial of Los Angeles County's (County) January 8, 2025 appeal, which disputed the findings of BSCC's staff reinspection of Los Padrinos Juvenile Hall on December 5-6, 2025. (Exh. C.)

On January 8, 2025, Los Angeles County submitted a first level appeal to the BSCC Executive Director concerning the findings of the December 2025 reinspection. (Exh. A.)

On February 18, 2025, Executive Director Maguire denied the County's appeal, finding that the county was correctly assessed as being out of compliance with Section 1321 (Staffing). (Exh. B.)

On March 20, 2025, Los Angeles County filed a second level appeal to the Board and requested an appeal hearing.

On March 27, 2025, pursuant to Section 1314 of Title 15 of the California Code of Regulations, the Chair of the Board selected Board members Linda Penner, Norma

Cumpian, and Eric S. Taylor to hear the appeal, and provided timely notice to the county that its appeal would be heard on April 9, 2025.

On April 9, 2025, the 3-member panel met and considered Los Angeles County's arguments.

Factual Background

Concerns about noncompliance and the suitability of Los Angeles County, Los Padrinos Juvenile Hall (Los Padrinos) have persisted since 2022. The following is a summary of the most recent actions taken by the Board:

On August 14 -18, 2023, BSCC inspected Los Padrinos and identified twelve items of noncompliance, mostly related to staffing issues. In response, the county submitted a corrective action plan on October 16, 2023, which BSCC approved with a deadline to remedy items of noncompliance no later than January 10, 2024.

From January 29 to February 3, 2024, BSCC staff conducted a follow-up inspection and found that only one item had been corrected. Eleven items of noncompliance had not been remedied, including section 1321 (staffing).

On April 11, 2024, the Board deemed that Los Padrinos is suitable for the confinement of youth based on the prior items of noncompliance. The Board also directed staff to conduct inspections of Los Padrinos at a minimum of twice a month to monitor compliance.

Between April 2024 and September 2024, BSCC staff conducted a total of nine (9) inspections.

In June 2024, BSCC staff conducted a targeted inspection and provided the county with an initial inspection report, noting inconsistencies between the documentation of youth's participation in activities and the video of unit activities.

In July 2024, BSCC staff conducted a targeted inspection, and on August 12, 2024, BSCC staff provided county staff with another initial inspection report, finding continued noncompliance with section 1321 (staffing), noting many areas of operation continued to

be impacted by lack of staffing including education, recreation and medical appointments, and stating that a CAP was due to the BSCC by October 11, 2024.

On October 1, 2024. BSCC staff reached out to the Los Angeles Probation staff to offer technical assistance and received no response.

On October 10, 2024, the County provided a draft CAP; however, BSCC staff informed the County that the draft CAP would not be approved as drafted because there was no detail on what steps would be taken to resolve the item of noncompliance and many elements that were required by BSCC policy were not included.

On October 11, 2024, the County submitted a final CAP, which the BSCC denied because it did not adequately outline how the Department plans to correct the issue of noncompliance nor does it provide reasonable timeframes for resolution of the staffing deficiencies, including ensuring that "there are an adequate number of personnel sufficient to carry out the overall facility operation and its programming, to provide for safety and security of youth and staff, and meet established standards and regulations." (Cal. Code Regs., tit. 15, § 1321, subd. (a).) The CAP also does not provide information on how it will "ensure that no required services shall be denied because of insufficient numbers of staff on duty absent exigent circumstances." (Cal. Code Regs., tit. 15, § 1321, subd. (b).)

On October 13, 2024, the County submitted a revised, untimely CAP, which was denied both on procedural grounds and on the merits.

On October 14, 2024, BSCC Board Chair Linda Penner formally noticed Los Angeles County Probation Department that Los Padrinos Juvenile Hall was unsuitable to do the failure to submit an approved CAP under Welfare and Institutions Code, Section 209(d), and that they had 60 days to discontinue using the facility for the confinement of youth.

On December 2, 2024, the County requested a reinspection of Los Padrinos to determine compliance with section 1321.

On December 5 – 6, 2024, BSCC staff reinspected Los Padrinos and determined that the facility remained out of compliance and that timely delivery to medical programs,

attendance at school, and access to program, recreation, and exercise continued to be negatively impacted by the lack of staff.

Standard of Review

A county, city, city and county, or joint juvenile facility may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures. (Cal. Code Regs. tit. 15, § 1314.) If a county is dissatisfied with the decision of the Executive Director of the Board of State and Community Corrections (BSCC), it may appeal the decision and request an appeal hearing with the Board "within 30 calendar days after receipt of the Executive Director's decision. (*Id*. at subd. (e).)

Issues on Appeal

1. Los Angeles County argues that the BSCC applied the wrong standard to assess staffing levels, specifically noting that Los Padrinos was in compliance with required staffing levels at the time of the inspection. The county argues that BSCC applied the County's own Staffing Assessment that the County developed to comply with the Stipulated Judgment in a separate DOJ matter.

2. Los Angeles County asserts that BSCC committed other errors.

    a. The County also contends that the Board erred when it delegated authority to the Facilities Standards and Operations Deputy Director to approve or deny CAPs and failed to place the CAP item on the November 2024 agenda.

    b. The County argues that the BSCC lacked statutory authority to conduct targeted monthly inspections.

c. The County argues that BSCC abused its discretion in denying its October Corrective Action Plan.

d. The County claims that issuance of the 60-day notice of unsuitability was an unreasonable application of the Board's regulations and the law.

Discussion

Claim #1

Los Angeles County argues that the BSCC applied the wrong standard to assess staffing levels because it used the County's own Staffing Assessment instead of applying the state law's minimum standards. The County explained that Staffing Assessment was developed in consultation with the DOJ Monitor as part of its efforts to comply with the Stipulated Judgment and are more stringent than Section 1321. The County further asserts it is in compliance with section 1321 minimum standard ratio requirements.

BSCC did not assert that Los Padrinos was out of compliance with section 1321 based on the facility not meeting the required staffing ratios. Ratios are one component of section 1321 (see § 1321, subd. (h)); a facility must comply with all the factors outlined in subsections (a) through (h) in order for a facility to be compliant with section 1321. For example, section 1321 states, in part, that:

Each juvenile facility shall:

(a) have an adequate number of personnel sufficient to carry out the overall facility operation and its programming, to provide for the safety and security of youth and staff, and meet established standards and regulations;

(b) ensure that no required services shall be denied because of insufficient numbers of staff on duty absent exigent circumstances;

[…]

Under section 1321, each county must determine the adequate number of staff sufficient to operate each facility, which can change depending on the number of youth, type of programing, and facility size and layout. The BSCC does not define what adequate staffing is or set the minimum number per facility.

In assessing compliance with section 1321, BSCC used the County's Staffing Assessment as a tool or one piece of evidence to determine compliance. This usage was not a misapplication of the regulation. Nor was it the only tool used in assessing compliance. BSCC staff also reviewed the Daily Facility Reports, Shift Staffing Schedules, incident reports, unit documentation, activity logs, medical appointment logs, Los Angeles County Office of Education documentation, and video recordings, and interviewed youth and staff to get a complete and total assessment of compliance with all applicable requirements of section 1321.

After reviewing this other evidence, it was further determined that programs, recreation, and exercise were not consistently occurring, that youth continued to be held in room confinement without documentation and held in their locked rooms for excessive periods of time, that youth continued to be late to school, and that youth were not getting to medically necessary appointments due to lack of staffing. These factors, combined with staffing falling below the County's staffing assessment plan, led to the finding that the facility remained out of compliance with section 1321, subdivisions (a) and (b).

Claim #2

The County also raises several additional legal issues related to the process by which the facility became unsuitable. As correctly noted in the prior response to the December 13, 2024 Notice of Appeal, these claims are untimely and were therefore properly denied. However, as further explained below, even if these claims were timely, they would still be denied.

A. *The Board appropriately delegated authority to the Deputy Director to approve or deny CAPs.*

Los Angeles County also contends that the Board erred when it delegated authority to the Facilities Standards and Operations Deputy Director to approve or deny CAPs and failed to place the CAP item on the November 2024 agenda. The County argues that the approval or denials of CAPs should have been determined by the Board in an open meeting.

A government officer is authorized to delegate their powers and duties to subordinates. Government Code section 7 states that '[w]henever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise." Furthermore, the BSCC is vested with explicit statutory authority to delegate duties to subordinate officers. Specifically, Penal Code section 6025.6 provides that the BSCC "may delegate any ministerial authority or duty conferred or imposed upon the board to a subordinate officer subject to those conditions as it may choose to impose."

On May 23, 2023, the Board formally delegated authority to the BSCC staff pursuant to section 6025.6 until a CAP process was finalized. On July 11, 2024, the Board approved the finalized CAP process, which included continued delegation of authority to the FSO Deputy Director. Therefore, the delegation of authority was proper.

As noted in the Executive Director's denial letter, there are instances in the Penal Code and Welfare and Institution codes, where the term "board" is used interchangeably to refer both to the body of appointed board members responsible for governing mandated duties and obligations, and to the state agency and its staff, who perform the daily operations and tasks. The County provides no authority that the approval or denial of CAPs is not a ministerial or other delegable duty.

B. The BSCC may inspect local detention facilities more frequently.

Los Angeles County asserts that BSCC lacked statutory authority to conduct targeted monthly inspections, citing Welfare and Institutions Code section 209(a)(3)(A) and stating the Board is restricted to conducting only biennial inspections.

At the April 11, 2024 board meeting, the BSCC Board determined that Los Padrinos was suitable. However, the Board expressed concerns regarding the sustainability of the facility and its ability to adhere to the Board's minimum standards. As such, the Board directed staff to continue monitoring the conditions at Los Padrinos. Thereafter, BSCC staff conducted monthly targeted inspections.

Welfare and Institutions Code section 209 does not exist in isolation. Penal code sections 6030 and 6030.1 are among the BSCC's enabling statutes that establish the BSCC's powers, duties, and authority; in particular, the sections bestow power on the BSCC to conduct biennial inspections of all local detention facilities in the state at a minimum. The overall inspection framework and authority of the Board and the Enhanced Inspection process adopted in 2020, which provides for Targeted Inspections during the biennial cycle. These are not separate and independent inspections but rather provide for follow-up inspections on items of noncompliance identified in the biennial inspection.

If the Board was not able to conduct follow-up or multiple inspections, the BSCC would be unable to determine whether the county followed through with its corrective action plans or further determine whether a facility was or was not suitable. The County's interpretation is consistent with the statutory framework and undermines the purpose of these provisions in ensuring that youth are confined in safe and suitable environments.

C. *The BSCC did not abuse its discretion by disapproving the County's October CAP.*

Los Angeles County argues that BSCC abused its discretion in denying its October Corrective Action Plan. This argument was properly rejected. The October 11, 2024 corrective action plan was not approvable because it failed to outline how the county planned to correct the issue of noncompliance nor provide reasonable timeframes for the resolution of staffing deficiencies. Both the October 11 and October 13 plans failed to address how youth will continue to receive required programs and services that are compliant with all related Title 15 regulations. It should also be noted that the maximum time to correct the issues of staffing was 90 days following the submittal of the CAP or no later than January 9, 2025. As of January 9, the County had not resolved the issues of noncompliance. Because the County was unable to correct the items of noncompliance

within the maximum time allowed under the law, the BSCC correctly assessed that the County would be unable to do so and appropriately rejected the CAP.

D. *The BSCC's issuance of the October 14, 2024, Notice of Unsuitability was reasonable.*

Los Angeles County claims that issuance of the 60-day notice of unsuitability was an unreasonable application of the Board's regulations and the law. The County reasons that the "BSCC's insistence on vacating Los Padrinos constitutes an unreasonable decision that should be overturned." In support of its contention, the County only offers descriptions of potential negative impacts of closing Los Padrinos. Under Welfare and Institutions code section 209, the Board determined Los Padrinos was not suitable; the BSCC did not decide that the facility must close. Section 209 provides for no alternate remedy when a facility is deemed unsuitable for the confinement of juveniles. This contention was properly denied.

Recommendation

The hearing panel recommends that the Board deny Los Angeles County's appeal.

Linda Penner

/s/ Norma Cumpian

Norma Cumpian

/s/ Eric S. Taylor

Eric S. Taylor