



April 12, 2023

Linda Penner, Chair
Board of State and Community Corrections
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Sacramento, CA 95833
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Via email only

Re: Unsuitability of Los Angeles County's Central and Barry J. Nidorf Juvenile Halls

Dear Chair Penner and Board Members,

We write to ensure that the Board of State and Community Corrections complies with its mandatory duty to issue notice of unsuitability to Los Angeles County's Central Juvenile Hall and Barry J. Nidorf (BJN) Juvenile Hall. Specifically, it is our position that the law requires the Board to issue notice to Los Angeles County that, upon its failure to submit an approved corrective action plan by the statutory deadline, its facilities are by law unsuitable for the confinement of youth under Welfare and Institutions Code Section 209.¹

The memorandum from staff to the Board,² posted yesterday, April 11, 2023, recommends that the Board to defer action with respect to Los Angeles County's juvenile halls. The law does not permit this delay. Under Section 209(d), because Los Angeles failed to file an approved corrective action plan within 60 days of receiving notice of its noncompliance with minimum standards, the facilities *shall* be unsuitable. Accordingly, the Board is now required to issue notice of unsuitability under Section 209(a)(4).

The April 11, 2023, memo recommending that the Board delay taking action raises significant concerns that the Board may fail to comply with its legal obligations during its April 13, 2023, meeting. We urge you to revisit the legal requirements as they apply to this situation and ensure that the Board takes the necessary steps to meet its statutory duty to enforce the minimum standards for children confined in Los Angeles County's juvenile halls.

As an additional matter, we note that the April 11, 2023 memo raises a question as to whether youth with orders committing them to the Secure Youth Treatment Facility (SYTF) in BJN may remain there after 60 days following a notice of unsuitability.³ The memo concludes

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise noted.

² Memorandum to BSCC Chair and Members, "Determination of Suitability – (Welf. & Inst. Code, § 209(a)(4) & (d).), Barry J. Nidorf Juvenile Hall, Los Angeles County, Central Juvenile Hall, Los Angeles County, **Requesting Approval**," posted April 11, 2023, p. 5, *available here*: <https://www.bscc.ca.gov/wp-content/uploads/Agenda-V-Special-Order-of-Business-Inspection-of-LA-Co.-Juvenile-Halls-Determination-of-Suitability-FINAL.pdf>.

³ *Id.* at p. 4.

that “any determination of suitability would extend only to the juvenile hall operations of BJN,” and therefore would not apply to youth in the same juvenile hall building who are serving SYTF commitments. This conclusion appears to rest on a distinction without a difference. As noted in that same memorandum, “[c]urrently, post-dispositional SYTF youth are being comingled with pre-adjudicated youth at BJN and there are not clear delineations between what would constitute the juvenile hall portion of the facility and the SYTF portion of the facility.” We see no legal basis for allowing any youth to remain in a facility that has been found unsuitable for their confinement.


While we understand that the timelines and requirements for correcting compliance issues may, at times, appear burdensomely short or inflexible, we remind you that these timelines do not feel short to children living in dangerous facilities that are unable to meet the relatively low standards set forth in the laws and regulations. From the perspective of young people being routinely, illegally confined to their cells, denied access to the outdoors, forced to urinate in bottles for lack of access to a bathroom, unable to consistently attend school, and enduring other abuses and indignities, the time granted to facilities to achieve compliance with regulations they should never have been violating in the first place is agonizingly long.

The Board is obligated to inspect facilities and enforce the minimum standards. It may, and should, assist counties to develop and implement corrective action plans within the allowable timeframes. However, when a county does not file an approved corrective action plan by the deadline, the facility *shall* be unsuitable, and the Board is obligated to issue notice of unsuitability. That is the only legal option before the Board tomorrow with respect to Los Angeles County’s juvenile halls.

We ask that the Board review the circumstances and procedures outlined in Section 209 and issue a notice of unsuitability as required by law. We look forward to hearing it do so during its scheduled meeting. However, if the Board is unwilling or unable to meet its statutory duty, we reserve the right to seek resolution of this matter through litigation.

If you would like to discuss, we can make ourselves available at any point between now and the beginning of tomorrow’s meeting. Please feel free to contact us at the numbers below.

Sincerely,



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