

MEETING DATE: April 13, 2023

SPECIAL ORDER OF BUSINESS

TO: BSCC Chair and Members

FROM: Allison Ganter, Deputy Director, Allison.Ganter@bscc.ca.gov
Lisa Southwell, Field Representative, Lisa.Southwell@bscc.ca.gov
Aaron Maguire, General Counsel, Aaron.Maguire@bscc.ca.gov

SUBJECT: 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**

Summary

This agenda item requests that the Board make a determination of suitability within the meaning of Welfare and Institutions Code section 209, subdivisions (a)(4) and (d) for the Barry J. Nidorf Juvenile Hall and the Central Juvenile Hall in the County of Los Angeles.

Background

The Board of State and Community Corrections (BSCC) establishes the minimum standards for juvenile halls, camps, and secure youth treatment facilities (SYTF) and conducts biennial inspections of those facilities. (Welf. & Inst. Code, §§ 209, 210, 875, & 885.) Regulations setting forth these minimum standards can be found in Sections 1300-1511 of Title 15 of the California Code of Regulations.

Welfare and Institutions Code section 209, subdivision (d), provides:

Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action

plan, the board shall make a determination of suitability at its next scheduled meeting. (Emphasis added.)

Summary of 2020 - 2022 Biennial Inspection

On January 13, 2023, following the inspection of Los Angeles County's juvenile facilities, the BSCC notified Los Angeles County's probation department of several items of noncompliance with the Board's regulations at the Barry J. Nidorf Juvenile Hall and Central Juvenile Halls. A copy of the final inspection report dated March 16, 2023, is in Attachment 5; at the time of the publication of the final inspection report, the facilities were out of compliance with the following regulations:

Barry J. Nidorf Juvenile Hall

1. § 1321. Staffing.
2. § 1325. Fire Safety Plan.
3. § 1327. Emergency Procedures.
4. § 1328. Safety Checks.
5. § 1354.5. Room Confinement.
6. § 1357. Use of Force.
7. § 1360. Searches.
8. § 1370. Education Program.
9. § 1371. Programs, Recreation, and Exercise.
10. § 1390. Discipline.
11. § 1230.2.10 Security glazing
12. § 1230.1.7 Single occupancy sleeping rooms
13. § 1230.2.6 Lighting
14. § 1230.1.5 Living unit.
15. § 1230.1.11 Physical activity and recreation areas

Central Juvenile Hall

1. § 1321. Staffing.
2. § 1328. Safety Checks.
3. § 1354.5. Room Confinement.
4. § 1357. Use of Force.
5. § 1358.5. Use of Restraint Devices for Movement and Transportation Within the Facility.
6. § 1360. Searches.
7. § 1370. Education Program.
8. § 1371. Programs, Recreation, and Exercise.
9. § 1374. Visiting.
10. § 1390. Discipline.
11. § 1230.2.10 Security glazing
12. § 1230.1.7 Single occupancy sleeping rooms
13. § 1230.2.6 Lighting
14. § 1230.1.5 Living unit.
15. § 1230.1.11 Physical activity and recreation areas

Pursuant to Welfare and Institutions Code section 209, the agency was required to submit a corrective action plan (CAP) to the BSCC within 60 days or by March 14, 2023.

At the February 9, 2023 Board Meeting, the BSCC Board considered the county's initial inspection report and discussed at length the concerns about the seriousness of the items of noncompliance, especially considering the issues regarding suitability and the extensive Board oversight that was required in the previous inspection cycle. The Board approved a motion to request an appearance by then-Chief Gonzales at the April Board meeting to provide an interim update on the status of the implementation of the county's anticipated corrective action plan.

On March 14, 2023, the BSCC received the agency's CAP (Attachment 4). A CAP must outline how the agency intends to correct the issues of noncompliance and how they will come into compliance within a reasonable timeframe, not to exceed 90 days or by June 12, 2023. (Welf. & Inst. Code, § 209, subd. (d).)

After review of the CAP, BSCC staff determined that it did not provide sufficient detail about the specific plans that will be relied upon to correct the items of noncompliance and did not provide a reasonable timeframe for resolution. Due to this lack of information, the CAP was not approved by BSCC staff. The Los Angeles County Probation Department was notified of this action on March 23, 2023 (Attachment 3). On April 3, 2023, the department submitted a Supplemental CAP (Attachment 1). The information in the supplemental CAP is an improvement over the initial submission, but it remains unclear whether the items of noncompliance will be corrected within a reasonable time frame not to exceed 90 days.

The most serious items of noncompliance at the juvenile halls can be directly linked to issues with staffing. Both facilities are currently out of compliance with Section 1321 of Title 15 of the California Code of Regulations, Staffing, and as a result, they are unable to carry out the overall facility operation and programming and provide for the safety and security of youth and staff.

Moreover, youth are regularly not being provided with required services because of insufficient numbers of staff on duty. This ongoing and consistent lack of staffing also contributes to the noncompliance with several other sections of Title 15, including the following:

- Section 1354.5, Room Confinement
- Section 1357, Use of Force
- Section 1360, Searches
- Section 1370, Education
- Section 1371, Programs, Recreation and Exercise

While the Supplemental CAP goes into greater detail about how hiring challenges and staffing shortages will be addressed with reassigned staff, a recruitment, hiring and retention plan, supplemental operational changes, and a supplemental plan for reducing the youth census, it fails to provide a specific plan about how these actions will fix the current staffing issues at the two juvenile halls and bring them into compliance with the above noted items of noncompliance. The Supplemental CAP notes that the CEO is currently conducting a

staffing analysis of the department, which is due to the County Board of Supervisors on April 18, 2023. It is imperative the County conduct an immediate staffing analysis of the two juvenile halls and clearly outline how the actions noted in the Supplemental CAP will provide relief by the numbers of staff assigned to specific posted positions and, in turn, how those staff will directly affect the items of noncompliance directly tied to staffing.

SYTF v. Juvenile Hall

One issue that has been raised regarding the determination of suitability for Barry J. Nidorf (BJN) Juvenile Hall is to what extent the items of noncompliance reflect issues involving the Secure Youth Treatment Facility, which is co-located at BJN. As part of the continued follow up with the county, BSCC staff has determined that the notice¹ of SYTF operation provided by Los Angeles County does not accurately reflect the operations of BJN. Currently, 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. Consequently, while the inspection report for BJN accurately captures the systemic problems of noncompliance with the entire facility, it is not clear how a determination of unsuitability for the juvenile hall would affect the operations of the facility or if the expectation would be that only pre-adjudicated youth would be required to vacate the facility since the Board does not have similar enforcement authority over the SYTF. Pursuant to Welfare and Institutions Code section 209, any determination of suitability would extend only to the juvenile hall operations of BJN.

Procedural Background – Effect of Los Angeles Not Having an Approved Plan

As noted above, staff did not approve Los Angeles County's Corrective Action Plan. Per Welfare and Institutions Code section 209, a facility that fails to file an "approved corrective action" plan within 60 days should be considered "unsuitable." Staff has neither approved nor disapproved the supplemental corrective action plan filed by Los Angeles County. The supplemental corrective action plan fails to substantively address the issues related to staffing; however, there are areas where the supplemental corrective action plan could be approved after further analysis. BSCC staff would then conduct on-site inspections to verify completed corrective action in those specific areas. The Board should consider the following options when evaluating the submittal of the plan and determining the suitability of the Los Angeles County Juvenile Halls:

- (1) The Board could reject staff's determination of the March 14 plan, deem it approved, and allow Los Angeles to proceed with its corrective action plan;
- (2) The Board could deem the new supplemental plan as approved;
- (3) The Board could reject both plans and, as such, find that both facilities are not suitable for the confinement of youth;

¹ <https://www.bscc.ca.gov/wp-content/uploads/LA-County-SYTF-12.23.2021.pdf>

- (4) The Board could determine both facilities unsuitable based on the most recent inspection and ongoing items of noncompliance (Welf. & Inst. Code, § 209(a)(4)) notwithstanding the submission of the corrective action plans; or
- (5) Defer making decisions on the corrective action plans and determination of suitability to a future board meeting.

Recommendation/Action Needed

Staff recommends that the Board:

1. Defer further action on the Los Angeles County Juvenile Halls to a future board meeting for the following reasons: the county has proactively moved to make improvements to both facilities, filed a supplemental plan, and has hired new key personnel. As such, the Board should take additional time to evaluate whether the county has “fail[ed] to meet its commitment to resolve noncompliance issues outlined in the corrective action plan....” (Welf. & Inst. Code, § 209, subd. (d).)
2. Request the county file a new, detailed SYTF form under Welfare and Institutions Code section 875, subdivision (g)(4), delineating the SYTF portions of Barry J. Nidorf.
3. Schedule an additional board meeting for mid-May for the Board to reassess suitability; that timeframe will allow for additional staff analysis of the supplemental corrective action plan and on-site inspections by BSCC staff to verify any completed corrective action to inform the recommendation for further Board action.

Attachments

Attachment 1: April 3, 2023 – LA County Probation Department Supplemental Corrective Action Plan

Attachment 2: March 27, 2023 – Notice Letter to Interim Chief Fletcher

Attachment 3: March 23, 2023 – BSCC Response Letter to LA County Probation Department Corrective Action Plan

Attachment 4: March 14, 2023 – County of Los Angeles Probation Department Corrective Action Plan

Attachment 5: 2020-2022 Biennial Inspection Report of Los Angeles County Probation Department’s Juvenile Detention Facilities