

Board of Supervisors
County of Los Angeles, California
c/o Executive Officer of the Board
Kenneth Hahn Hall of Administration
500 West Temple St., Ste. 383
Los Angeles, CA 90012
Sent via email only: executiveoffice@bos.lacounty.gov

June 13, 2019

Regarding: Historic Transformation and Real Oversight of the Los Angeles County Probation Department

Dear Supervisors Solis, Ridley-Thomas, Kuehl, Hahn and Barger,

Los Angeles County has the largest Probation Department in the world, with a budget of over one billion dollars and supervising a population of over 45,000. Yet the day to day reality for those subject to the Department's power is a far cry from the original intent of probation -- it offers anything but a rehabilitative alternative to confinement in jail or prison. On October 3, 2017, this Board passed a Motion, authored by Supervisors Ridley-Thomas and Hahn, that recognized that, "[f]or decades, the Los Angeles County (County) Probation Department (Department) has been challenged to fulfill its mandate of rehabilitating youth and adults under its care. From excessive uses of force, federal monitoring and class action lawsuits, the mismanagement of funds allocated for community support, and the lack of continuity due to a steady change in administration, there are myriad concerns that have needed core correction." The Motion went on to cite sixteen audits in the last three years and over 100 previously drafted reports, each of which were designed to reform the Department, and almost none of which were implemented. Importantly, the Motion also charted a course forward, including a vision for a new oversight body and a deep and meaningful reform plan, to achieve the historic transformation that the Department needs, and that this County deserves and expects. We write on behalf of a broad coalition representing tens of thousands of your constituents, many of whom have been directly harmed by the Department, to demand that you adopt a transformational reform plan and create new Probation Oversight Commission (POC). A transformation of the Department and real, powerful and independent civilian oversight could make Los Angeles a leader in the field of justice reform. This is a historic opportunity and a weak reform plan or POC would be a historic failure.

On May 1, 2018, as part of its vision for change, the Board created the Probation Reform and Implementation Team (PRIT) and tasked that body with developing specific recommendations for a new Probation Oversight Commission (POC) and a synthesized reform plan for the Department. In over a dozen community meetings, the PRIT explored the long-standing problems in the Department with subject-matter experts and firsthand testimony. Members of the public who attended those meetings heard from former probationers who were left without connection to

much-needed services, like help finding a job or re-enrolling in school, and from others who were trapped unnecessarily in a brutal jail--at huge costs to LA County taxpayers--because Probation's pretrial assessment was slow or ineffectual. Still others described being crippled by debt, unable to pay the dehumanizing fees and fines charged by the Department. There were descriptions of emotional, physical and sexual abuse of youth in custody, and the testimony of "million-dollar youth"¹ who declared that they would have been much better off had Los Angeles County invested in their education rather than their continued incarceration at a cost of hundreds of thousands of dollars a year. There were statements from members of the Sheriff's Civilian Oversight Commission about the challenges of holding a rogue sheriff and his department accountable given the limits of that Commission's powers and the need for more robust powers for a POC.

During this same period, additional concerns continued to be documented outside of the PRIT process, both by community groups and by the press. Many of the signatories to this letter sent no fewer than six letters to the PRIT, Board and Department outlining concerns and detailed recommendations, including concerns around pepper spray, use of force, sexual assault and an analysis of the legally mandated power to subpoena documents and testimony that any POC must have (see attachments). Similarly, the following news headlines reflect just a sample of the ongoing challenges facing the Department:

- *Six Los Angeles Probation Officers Criminally Charged in Pepper Spray Case*²
- *'Unreliable' data threatening reforms at L.A. County's juvenile detention centers*³
- *Despite Allegations of Sexual Assault on Kids by Staff, LA Probation Youth Facilities Are Still Failing Federal PREA Standards*⁴
- *Nearly \$80 Million Sits Unspent at Los Angeles County Probation*⁵

Most importantly, there has been a consistent and clear call for transformation from experts, advocates and community members who have experienced great trauma only to find themselves

¹ Kent Mendoza and Reddin Cubas, "An important shift on youth justice in LA," *Los Angeles Daily News*, May 5, 2019. <https://www.dailynews.com/2019/05/05/an-important-shift-on-youth-justice-in-l-a-county/>

² Jeremy Loudonbeck, "Six Los Angeles Probation Officers Criminally Charged in Pepper Spray Case," *Chronicles of Social Change*. April 5, 2019. <https://chronicleofsocialchange.org/news-2/6-l-a-probation-officers-criminally-charged-in-pepper-spray-case>

³ Matt Stiles, "'Unreliable' data threatening reforms at L.A. County's juvenile detention centers," *Los Angeles Times*, March 16, 2019. <https://www.latimes.com/local/lanow/la-me-county-juvenile-detention-pepper-spray-20190316-story.html>

⁴ Celeste Fremon, "Despite Allegations Of Sexual Assaults On Kids By Staff, LA Probation Youth Facilities Are Still Failing Federal PREA Standards," *WitnessLA*. April 23, 2019. <https://witnessla.com/despite-continued-allegations-of-sexual-assaults-on-kids-by-staff-la-probation-youth-facilities-still-failing-federal-prea-standards/>

⁵ Lolita Lopez and Jason Kandel, "Nearly \$80 Million Sits Unspent at Los Angeles County Probation," *NBC 4*, March 25, 2019. <https://www.nbclosangeles.com/investigations/Nearly-80-Million-Sits-Unspent-at-Los-Angeles-County-Probation-507647131.html>

swept into a Probation system that perpetuates that pain and fails to provide much needed healing and restoration.

Transformational Reform Plan Recommendations

In order to achieve the transformation imagined by the Board and demanded by community, any reform plan must be guided by a set of core principles and practices. These principles and practices will make programming more effective, reduce recidivism and abuse, and bring LA County's vision and programs in line with 21st Century practices for youth and community justice.

The reform plan adopted by the Board to implement the PRIT's work must reflect the following understanding of these core principles:

- Data Collection and Transparency - collecting and sharing data on who is under Probation custody and supervision by race, age, gender, zip code, charges (as per AB 953); defining recidivism to include adult system confinement and death (if related to violence or crime); providing data on revocations, reason for revocation and how long individuals are reincarcerated (disaggregated by race, gender, age and zip code); reporting on all uses of force and solitary confinement, as well as sustained allegations of sexual misconduct and dishonesty on the job; comply with data sharing requirements of SB 1421; map and regularly update community resources and opportunities throughout the county and ensure easy access of all residents to that information; and collect and report on county run and contracted programs as to their outcomes and costs.
- Decriminalization - work with community organizers and advocates to pass and fully implement local changes (to municipal code, school districts' policies and county code), as well as changes to state law to transform the Penal, Health & Safety, Vehicle and Welfare & Institutions Codes to ensure that people and communities are not overly targeted and trapped in a punitive system
- Diversion - Prevent youth and adults' contact with law enforcement, courts, detention, incarceration and ICE recognizing that even minor system contact can have lasting and devastating impacts on a person's ability to succeed financially, educationally and emotionally. Ensure that diversion is implemented by community service providers and non-law enforcement public agencies. Implement the data collection and sharing recommendations described above and establish ongoing training and technical assistance to ensure greater success of community to provide diversion services.
- Decarceration - Downsize the jail system and close youth prisons in favor of youth and community development, trauma-informed care, harm reduction, and mental health and substance abuse treatment
- Divestment - Bring balance to the county's budget and work with LA Counties' 88 cities and approximately 140 unincorporated areas through divesting from the punitive criminal

legal system and in particular: (i) Invest savings accrued through decreased arrest, detention and incarceration costs to community-based, owned and operated alternatives; (ii) Fund the county's Office of Diversion and establish a Department of Youth Development for jobs and job training, alternatives to arrest, court, detention and incarceration, youth centers open 365 days a year, and a free Metro pass for all youth in LA County, K through college to ensure youth and families' access to employment, schools, health and social services, parks, museums, natural resources throughout the county, understanding the transportation is essential to connect people to resources beyond the violence, underground economies and isolation that undermines safety, stability and success.

The Reform Plan adopted by the Board must also reflect, and be implemented in a way that reflects, the following essential practices:

1. Remove youth from the custody, care and supervision of Probation and into a new Youth Development Department⁶
2. Incorporate best practices on rehabilitation and trauma informed care and supervision, including diversifying Probation and Youth Development staffing to include social workers, educators, arts and recreation therapists, and vocational instructors
3. Reduce confinement as a last resort and to the least restrictive conditions feasible. Prioritize and fund community-based alternatives to arrest, court, detention and incarceration and create mechanisms for people to be moved to unsupervised release, to earn time off their probation terms and to be granted early discharge from supervision.
4. Institute proportionate responses to alleged supervision violations, such as the use of administrative sanctions rather than incarceration.
5. Cap the number of days a person can be detained for a probation violation without establishing at a hearing that there is clear and convincing evidence that a violation has occurred and cap the maximum period of detention for a probation violation at 72 hours.
6. Employ least restrictive measures of community supervision, prohibiting any imposition of conditions that would interfere with an individual's ability to seek employment, education or vocational training, medical treatment or to meet caregiving responsibilities - including by limiting Probation terms to one year
7. Eliminate adult fees and fines (following elimination in 2010 and through SB 190 of youth fees and fines)
8. Shift pre-trial assessment to Department of Health Services and focus instead of pre-arraignment assessment within four hours of arrest
9. Use historic and dramatic drops in arrests and court referrals to shorten arraignment periods for youth and adults to 24 hours including weekends and holidays

⁶ Building a Positive Future for LA's Youth: Reimagining Public Safety with an Investment in Youth Development, September 16, 2016, Youth Justice Coalition

10. Maximize involvement of community-based, owned and operated organizations, especially those run and employed by people who are formerly incarcerated, including establishing greater opportunities for contracting, organizational mentorship, and training in service delivery and organizational management for youth and community development providers
11. Given that facilities are operating at less than 30 percent capacity as well as the dehumanizing and dilapidated conditions that exist in the halls and camps, immediately close at least one juvenile hall and four Probation camps and develop a plan to end youth incarceration in LA County by 2025

Oversight Powers Recommendations

Any vision for transformation adopted by the Board will require the monitoring and oversight of the POC to be successful. The POC will need strong powers, independent authority and ample staffing and resources to ensure that this unique opportunity for transformation of LA's Probation Department is not lost, and that the vision for change articulated by the PRIT and the community does not join - on a dusty shelf or forgotten computer file - the recommendations of the 100+ other reports and an earlier Probation Working Group process, all of which were never implemented.

Given tremendous input from the community - including people currently or formerly under Probation supervision and custody - the recommendations of the PRIT are expansive in breadth and depth. While all are important, there are core powers which we feel are essential for creating an oversight body capable of carrying-out a transformational reform plan with true accountability and transparency. We feel the following elements are necessary prerequisites to achieving the oversight the Board seeks to create, and we see them as indivisible.

The POC must have the power, staff and resources to:

- Exercise independent power to inspect facilities and investigate grievances (both directly and via the Office of the Inspector General)
- Have recourse to subpoena power in order to get documents and testimony;
- Secure meaningful community POC membership and engagement;
- Advise the Department on the development and implementation of policy and budget (and demand a response from the Department for any advice not taken);

The need for these powers is illustrated by the repeated failure of the Department to implement recommendations by scores of reports, experts, and even by the Board of Supervisors in recent years - all while grave abuses and failures were systemic at the Department. A robust, independent and fair oversight mechanism cannot depend on leaders with reformist credentials or principles, relationships or good faith but must be reflected in an oversight body that gives public

both information about and a measure of control over the complete transformation of and then ongoing operation of the Department.

Inspections and grievances: Real and effective oversight depends on a POC that is able to gain access to information. This necessarily must include securing information by inspecting facilities at which youth are detained and in which probationers engage with officers or receive services. It must also include overseeing a grievance or complaint process that allows those served or affected by the Department or other members of the public to alert the Commission to individual or systematic problems (anything from sexual abuse in custody to financial abuse). This must also include being able to direct the Office of the Inspector General to undertake specific investigations and to generally enhance the POC's oversight of the Department (ranging from spot checks of internal affairs investigations to detailed review of Department records, personnel records, and the juvenile case file in response to credible allegations of abuse) -- and to secure and make public information from the OIG on an ongoing basis and to the maximum extent permitted by law.

Subpoena power: Effective oversight also requires the Commissioners have access to testimony and records. As signatories of this letter have demonstrated in testimony before the PRIT and a detailed White Paper on the history of probation oversight in LA County, subpoena power is a necessary prerequisite to establishing clarity about the Department's duties to respond fully and completely to POC requests for information. Because state law provides that the existing Probation Commission can exercise subpoena power, any failure by the Board to give the POC subpoena power - once the existing Probation Commission is dissolved - could expose the County to legal liability. In the end, as the experience of other oversight bodies shows, this is a power that may never be used -- but it is one that the POC can exercise through a court, involving a neutral arbiter of information and interests who decides what should and should not be disclosed in whatever rare situations might arise where there is a legitimate conflict over information the POC seeks.

Community membership and engagement: Transformation and meaningful oversight must reflect the expertise of the communities who have suffered most and longest under a failing Department. Thus, POC membership must prioritize representation of individuals youth, adults and families with experience in the criminal legal system - who have been directly affected by coercive detention, incarceration and supervision. Membership should prioritize non-law enforcement representation, geographic and identity diversity and the diverse demographics of the county.

Advising the Department on budget and policy: The implementation of a transformed vision for probation in Los Angeles County and the shifting of engagement with youth in conflict with the law out of the Department and into a new Youth Development Department requires that the POC

be able to use its oversight and advisory power to impact the development and implementation of policy and budget priorities. A POC that oversees a new Board-mandated reform plan but cannot direct the Department to shift budget and policy priorities - or require a response from the Department in response - will neither serve those supervised or detained by the Department, nor the public or Board.

Finally, the POC must have adequate staff and resources to discharge these core elements. At a minimum, this should include the power and budget to hire experts to supplement expertise on its staff, such as additional auditors, medical, behavioral health, or other professionals, or independent legal counsel. The POC must also have adequate staff to have a presence and build bridges into communities, so that - above and beyond community participation in the membership of the POC - community members will be able to make use of the POC to help craft the Department. A POC without adequate staffing and resources, even if they have key powers, will likely be inadequate to the charge of overseeing a sprawling Department and the implementation of a major transformation.

Conclusion

A new reform plan for the Department and the creation of the POC present an indispensable opportunity to transform our broken Probation Department as well as to establish a new vision for youth and community justice. The POC will arguably play the most important role in ensuring that the Department actually and effectively implements the reform plan. But to do this, the POC needs strong powers, ample resources and meaningful community representation. We feel that the powers outlined above—including advising on policy and budget, subpoena power, and the ability to inspect and fully investigate grievances—are indivisible and essential to creating an oversight body that can create meaningful change. Strong powers and a principled reform plan will help transform the Department to one that defends and protects the human rights and dignity of every person, responds to current best practices, makes better use of taxpayer dollars, and reflects our values as a community.

A strong POC is also an investment in improving program effectiveness, ending practices which exacerbate recidivism, prevent and better intervene to address abuse and neglect, and helping to mitigate litigation risks. Even as leadership in the Department and the County have taken important steps to reform the Department, deep problems persist, harming the youth and adults under the Department's custody and supervision, as well as robbing families of essential financial and emotional resources and contributing to the fact that communities that are less capable and less safe than they could be.

Perhaps, most important, a strong POC is essential to ensure that changes made today in vision, policies, programming and budget will be institutionalized and survive beyond the current Board

and Department leadership. Without a commitment to establish and implement a strong POC, the PRIT process will have been a meaningless extraction of time, resources and community imagination and solutions.

LA County owes much more to the millions of residents who have long suffered the highest Probation, detention and incarceration numbers in the world while youth and adults currently or formerly on Probation, as well as their families, are burdened with fees and fines for services that are substandard, and too often abusive and dehumanizing.

The LA County BOS must take bold action and create a transformational reform plan to be implemented by a strong, community-driven body to create a new vision for justice and safety in LA. What will your legacy be as county officials - to transform Los Angeles County to establish a new vision for youth and community justice? Or to ensure that your great grandchildren will still live in the County with the largest, most costly, and arguably most brutal and most ineffective injustice system in the world?

Sincerely,

ACLU of SoCal
Alliance for Boys and Men of Color
Anti-Recidivism Coalition
Arts for Incarcerated Youth Network
Brotherhood Crusade
Brothers, Sons, Selves Coalition
California Conference for Equality and Justice
Centinela Youth Services
Children's Defense Fund
Coalition for Engaged Education
Community Coalition
Fair Chance Project
Families United to End LWOP (FUEL)
FREE LA High School
Freedom 4 Youth
Healing Dialogue and Action
Homeboy Industries
Homies Unidos
Inner City Struggle
Labor Community Strategy Center
Let's Get Free Coalition / #DebtFreeJustice
Los Angeles Youth Uprising Coalition
Paving the Way Foundation
Policy Link
Public Counsel

Social Justice Learning Institute
Somos Familia Valle
South Central Arts
Stop the Violence, Increase the Peace Foundation
Urban Peace Institute
Youth Justice Coalition



