BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection No. **1642084**
LOS ANGELES COUNTY PROBATION DEPARTMENT dba BARRY J. NEEDORF JUVENILE HALL	**DECISION**
Employer	

Statement of the Case

The Los Angeles County Probation Department (Employer) is a government entity that administers correctional programs for detained juveniles. Beginning on December 14, 2022, the Division of Occupational Safety and Health (the Division), through Tomas Micheo (Micheo), Associate Safety Engineer, conducted an accident inspection at Employer's juvenile facilities at Barry J. Nidorf Juvenile Hall, located at 16250 Filbert Street, in Sylmar, California (the facility).

On January 23, 2023, the Division issued two citations to Employer for alleged violations of sections of the California Code of Regulations, title 8.[1] Citation 1, Item 1, classified as Regulatory, was not appealed. Citation 2, Item 1, classified as Serious, with an Accident-Related characterization, alleges that Employer failed to implement and maintain an effective Injury and Illness Prevention Program in two instances: (1) failing to identify and evaluate workplace hazards; and (2) failing to include methods and/or procedures to correct unsafe work practices by allowing high risk inmates to be housed in unlocked rooms. Employer filed a timely appeal of the citation, contesting the existence of the violation, the classification of the citation, and the reasonableness of the abatement requirements and the proposed penalty. Employer also raised a series of affirmative defenses, including that independent employee action caused the violation.

This matter was heard by Leslie E. Murad, II, Administrative Law Judge (ALJ) for the California Occupational Safety and Health Appeals Board (Appeals Board). On October 10, 2024, December 4 and 5, 2024, January14, 2025, and February 26 and 27, 2025, ALJ Murad conducted the video hearing from Los Angeles and San Bernardino Counties with all participants appearing remotely via the Zoom video platform. Attorney Steven G. Gatley of Lewis Brisbois, Bisgaard and Smith, LLP, represented Employer. William C. Cregar, Staff Counsel, represented the Division. The matter was submitted on February 20, 2026.

[1] Unless otherwise specified, all references are to California Code of Regulations, title 8.

Issues

1. Did Employer establish, implement, and maintain an effective Injury and Illness Prevention Program?

Findings of Fact [2]

1. During the inspection period, Employer had an operative written Injury and Illness Prevention Program (IIPP).

2. Aaron Spillman (Spillman) was employed by Employer as a Probation Officer Group Supervisor Nights (GSN). Spillman was assigned to the Barry J. Nidorf Juvenile Hall Unit N/O (the facility) on July 23, 2022, to supervise a minor (M.B.) who was identified as a mental health Level 3 (L-3) juvenile ward due to threats of self harm and suicidal thoughts.

3. The facility had a required Open Door Policy for L-3 juvenile wards.

4. The Probation Officers received training on how to conduct one-on-one observation and controlling L-3 juvenile wards and protecting themselves from violent wards. Since 1993, Spillman had received approximately 1,200 hours of training including subjects on 1) basic physical restraint; 2) enhanced supervision; 3) use of pepper spray; 4) disturbance settings-open setting; 5) mechanical restraints; 6) safe crisis management (16-hour refresher course each year); 7) radio procedures; 8) de-escalation techniques; and 9) suicide prevention.

5. Spillman was assigned to watch M.B. From the time that Spillman arrived for his shift, M.B. was always out of his room and in the hallway.

6. Spillman and M.B. had an altercation in the hallway.

7. Probation Officers are trained to de-escalate situations such as the M.B. altercation by methods such as use of de-escalation techniques, pepper spray, and using a radio to call other officers nearby for assistance. These techniques were not used at the time of the altercation.

[2] Finding of Fact numbers 2 and 3 were by stipulation of the parties.

8. The hazard of the assault of a Probation Officer by a ward was identified by Employer and training was provided to Probation Officers to correct this hazard.

Analysis

1. Did Employer establish, implement, and maintain an effective Illness and Injury Prevention Program?

Citation 2, Item 1, alleges a violation of section 3203, subdivisions (a)(4) and (6), which provide:

> Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:
>
> (4) Include procedures for identifying and evaluating workplace hazards including scheduled periodic inspections to identify unsafe conditions and work practices.
>
> [. . .]
>
> (6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:
>
> > (A) When observed or discovered; and,
> > (B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

In Citation 2, Item 1, the Division alleges:

> Prior to and during the course of the inspection, including, but not limited to, on July 23, 2022, the employer did not establish, implement and maintain effective procedures for correcting workplace violence hazards to employees working in the Hope Center located inside Unit N/O, (the Halls). Specifically, Department policy required high risk inmates to be housed in unlocked rooms, thereby allowing the possibility for violent inmates to leave their rooms and assault staff. As a result, on or about July 23, 2022, an employee was seriously injured when an inmate left his room and physically assaulted the employee.

The Division bears the burden of proving a violation by a preponderance of the evidence. (*Howard J. White, Inc*., Cal/OSHA App. 78-741, Decision After Reconsideration (Jun. 16, 1983).) "Preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighed with that opposed to it, has more convincing force and greater probability of truth with consideration of both direct and circumstantial evidence and all reasonable inferences to be drawn from both kinds of evidence. *(Nolte Sheet Metal, Inc.,* Cal/OSHA App. 14-2777, Decision After Reconsideration (Oct. 7, 2016).)

Employers must actually implement their written IIPP procedures. (*Papich Construction Company Inc.*, Cal/OSHA App. 1236440, Decision After Reconsideration (Mar. 26, 2021) (hereafter *Papich)*.) Implementation of an IIPP is a question of fact. (*National Distribution Center, LP, Tri-State Staffing,* Cal/OSHA App. 12-0391, Decision After Reconsideration (Oct. 5, 2015).) Therefore, the Appeals Board's findings on this issue are specific to the facts and the record of each case. (See *L&S Framing, Inc.,* Cal/OSHA App. 1173183, Decision After Reconsideration (Apr. 9, 2021).) The Appeals Board has further explained, "Employers are given wide latitude in how they choose to correct hazards..." *(MCM Construction, Inc*., Cal/OSHA App. 13-3851, Decision After Reconsideration (Feb. 22, 2016).)

Background

Spillman was employed by Employer as a GSN. He was assigned to the facility on July 23, 2022, to supervise minor M.B., who was identified as an L-3. Spillman testified that he arrived for his shift on July 23, 2022, at 10:00 p.m. M.B. was already out of his room using the facility telephone when Spillman arrived.

A ward who is identified as an L-3 is required by policy to have the ward's room door open so the ward can be observed at all times. This open door policy is found in Employer's Enhanced and Specialized Supervision Manual. (Exhibit L.)

One-on-one supervision of an L-3 ward by a GSN was a required policy which was followed by Probation Officers for the entire time Spillman worked in this facility.

Spillman further testified that, in order to have direct visual supervision of a ward, the Los Angeles County Department of Mental Health made a recommendation to the Probation Department that the doors on the L-3 ward's rooms were to be left open so staff could sit in a chair and have direct visual observation of the wards at all times. Spillman further testified that he was required to comply with this directive since it was a written Probation Department policy. The Open Door Policy was established in 2001. The Probation Officer must be within eight to twelve feet of the ward at all times in order to keep good visual contact of the wards.

Due to the hour, the telephones had been shut off in this facility. M.B. was angry and asked to have the telephones turned back on. That request was denied and M.B. was asked to return to his room. He refused. Two other Probation Officers were in the hallway watching their wards at the time.

Since M.B. was angry over having no telephone services, he was defiant. Spillman asked him to return to his room. M.B. refused and instead picked up Spillman's backpack that was on the floor outside M.B.'s room and threw it down the hallway some 20 feet.

Spillman had a radio and could have asked for assistance with managing M.B., but he did not. Other Probation Officers were also present on this Unit, but he did not ask them for assistance.

Spillman went to retrieve his backpack that was down the hallway and M.B. followed him. When Spillman turned around, M.B. was very close to his face. Spillman extended his hand on to M.B.'s chest and told him to back off. M.B. instead pushed Spillman. Spillman fell backwards causing him to fall and break his hip.

Did Employer violate section 3203, subdivision (a)(4)?

The Division does not specify the hazard that should be evaluated under section 3203, subdivision (a)(4). This subdivision requires employers to establish, implement, and maintain procedures for identifying and evaluating workplace hazards.

The Alleged Violation Description (AVD) talks about housing wards in unlocked rooms, thereby allowing the possibility for violent inmates to leave their rooms and assault staff. The Division does not contend that Employer's written IIPP procedures are deficient. Rather, the Division contends that there was a "failure of implementation."

Although it contends there was a failure of implementation, the Division does not identify which IIPP procedures were not implemented. Instead, the Division specifies a hazard with unlocked rooms with open doors at the facility. An unlocked door does not apply here. The Open Door Policy was observed and evaluated by Employer through Employer's Enhanced and Specialized Supervision Manual (Exhibit L). To be able to fully observe the suicidal ward, complete unrestricted observation must be maintained. An open door is required.

The Division asserted through testimony from Micheo, that a door with a window should have been used. Los Angeles County Department of Mental Health (County) psychologist Dr. Karen Streich (Streich) testified that she has worked for 32 years for the County and that she works at the subject facility and evaluates L-3 wards. Streich further testified that the Open Door Policy has been in place in the facility since at least 2001. The Open Door Policy

requires one-on-one observation of an L-3 by a qualified and trained probation officer. The policy also requires that the L-3's door always remain open so the officer can have constant visual observation of the ward. The policy also requires the officer be within eight to twelve feet of the juvenile. However, the Open Door Policy was not an issue in the M.B. assault. The door was never an issue since M.B. was never in his room leading up to the altercation with Spillman.

Spillman testified he was aware of the Open Door Policy and the one-on-one observation of L-3 wards by Probation Officers. He had been trained on how to maintain security and safety when observing L-3 wards.

Employer identified and evaluated the hazard of possible assault by L-3 wards. This hazard was addressed by training provided to the Probation Officers. The Open Door Policy had nothing to do with Spillman's argument with M.B. M.B. was out of his room during the entirety of his confrontation with Spillman.

In sum, Employer established procedures regarding identification of workplace hazards. The evidence does not show that Employer failed to implement any of its established procedures. Therefore, the Division did not meet its burden to prove a violation of section 3203, subdivision (a)(4).

Did Employer violate section 3203, subdivision (a)(6)?

"Section 3203 (a)(6) requires employers to have written procedures for correcting unsafe or unhealthy conditions, as well [as] to respond appropriately to correct the hazards. [Citations omitted.]" (*BHC Fremont Hospital, Inc.*, Cal/OSHA App. 13-0204, Denial of Petition for Reconsideration (May 30, 2014).) "The safety order requires employers to have procedures in place both to identify hazards as they arise, and to take appropriate corrective action to abate the hazards." (*National Distribution Center LP, Tri-State Staffing*, *supra*, Cal/OSHA App. 12-0391.)

"An Employer's IIPP may be satisfactory as written, but still result in a violation of section 3203, subdivision (a)(6) if the IIPP is not implemented, or through failure [to] correct known hazards." (*National Distribution Center, LP, Tri-State Staffing*, *supra*, Cal/OSHA App. 12-0391.)

The Division does not contend that Employer's written IIPP procedures are deficient. Rather, the Division contends that there was a "failure of implementation." Implementation of an IIPP is a question of fact. (*Papich*, *supra*, Cal/OSHA App. 1236440.) Proof of implementation requires evidence of actual responses to known or reported hazards. (*Ibid*.)

Although it contends there was a failure of implementation, the Division does not identify which IIPP procedures were not implemented. Instead, the Division specifies a hazard at the

facility of an Open Door Policy that Employer did not correct. The Open Door Policy does not apply in this case. Thus, the Division's argument regarding a hazard that was not corrected does not establish that Employer failed to implement its IIPP procedures. It was alleged in the AVD that an employee was seriously injured when an inmate left his room and physically assaulted the employee. M.B. was never in his room immediately before the incident. He was always outside his room when Spillman arrived for work the day he was assaulted.

Employer identified the hazard of a ward assaulting a Probation Officer and trained the Probation Officers to protect themselves from the hazard. Spillman testified he had been employed since 1993 and had received over 1,200 hours of training over the course of his career. (Exhibit E.) Much of his training was relevant to the assault on the night of the incident, such as radio procedures, basic physical restraint, safe crisis management, and de-escalation techniques. All Probation Officers had been trained to de-escalate an agitated youth and use their de-escalating techniques such as the use of pepper spray, and to use a radio to call for assistance, if needed.

Employer had methods and procedures in place to protect employees from assault. A procedure was in place to correct this hazard. There was no violation of section 3203, subdivision (a)(6).

Conclusion

The Division failed to establish a violation of section 3203, subdivision (a)(4) or (6). The citation is dismissed.

Order

It is hereby ordered that Citation 2, Item 1, is dismissed and the penalty is vacated.

/s/ Leslie E. Murad, II

Dated: 02/13/2026

Leslie E. Murad, II
Administrative Law Judge

The attached decision was issued on the date indicated therein. If you are dissatisfied with the decision, you have thirty days from the date of service of the decision in which to petition for reconsideration. Your petition for reconsideration must fully comply with the requirements of Labor Code sections 6616, 6617, 6618 and 6619, and with California Code of Regulations, title 8, section 390.1. **For further information, call: (916) 274-5751.**

If no petition is filed, the penalty amount set forth in the Summary Table is due and payable 30 days after the Order or Decision is issued. If the Appeals Board approved a payment plan, all payments are due in accordance with the dates indicated in the Summary Table. If a Petition for Reconsideration is filed, no payment should be made until the final outcome of the appeal.