BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection No. **1652861**
LOS ANGELES COUNTY PROBATION DEPARTMENT dba BARRY J. NIDORF JUVENILE HALL	**DECISION**
Employer	

Statement of Case

Los Angeles County Probation Department (Employer) is a governmental agency that oversees the Barry J. Nidorf Juvenile Hall. From February 17, 2023, to October 6, 2023, the Division of Occupational Safety and Health (the Division), through then Associate Safety Engineer Tomas Micheo[1], conducted an inspection of Employer's worksite at the Barry J. Nidorf Juvenile Hall at 16350 Filbert Street in Sylmar, California (the worksite).

On October 6, 2023, the Division issued two citations to Employer, alleging two violations of the California Code of Regulations, title 8.[2] Citation 1, Item 1, classified as a Repeat Regulatory, alleged that Employer failed to report a work-related serious injury. Citation 2, Item 1, classified as Serious with an Accident-Related characterization, alleged that Employer failed to establish, implement, and maintain an effective Injury and Illness Prevention Program (IIPP). Employer timely appealed the citations on the grounds that the safety orders were not violated, and raised multiple affirmative defenses.

This matter was heard by Administrative Law Judge Ka H. Leung for the California Occupational Safety and Health Appeals Board (Appeals Board) on August 6, 2025, September 30, 2025, and October 8, 2025. Steven G. Gatley, Esq. of Lewis, Brisbois, Bisgaard & Smith, LLP, represented Employer. Kathryn J. Woods, Esq., Staff Counsel, represented the Division. The matter was submitted on February 20, 2026.

Issues

1. Did Employer fail to timely report a work-related serious injury?

[1] At the time of the hearing, Tomas Micheo was a District Manager for the Division.
[2] Unless otherwise specified, all references are to California Code of Regulations, title 8.

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

Findings of Fact

1. On April 10, 2023, Supervising Detention Service Officer Paul Ordonez (Ordonez), while performing his duties, was cut multiple times by a juvenile detainee using an improvised weapon.

2. Ordonez was treated at an emergency room, released within 8 hours, and was not hospitalized. His injuries did not involve amputation or loss of an eye.

3. Ordonez has visible scarring to his face and body from his injuries.

4. The visible scarring on Ordonez's face is readily apparent and not concealable by ordinary clothing.

5. Ordonez is uncertain as to when his scarring would be permanent.

6. Employer had a written Injury and Illness Prevention Program (IIPP) in effect at the time of the incident.

7. Beginning in 2022, the worksite operated as a Secure Youth Treatment Facility, housing youths who had been sentenced for delinquency, which created a detainee population with increased violent tendency.

8. Prior to the April 10, 2023, incident, Employer received grievances alleging understaffing at the worksite.

9. Employer's written IIPP includes a section addressing methods and procedures for correcting unsafe or unhealthy conditions.

10. Employer provided training and instruction to Ordonez.

11. Deputy Probation Officer II Shirley Kirkman (Kirkman) is a court officer for Employer and worked as a liaison between the court and Employer.

12. Kirkman was assigned to work at the worksite in 2023.

13. Kirkman's additional duties at the worksite include administrative tasks, opening bathroom doors, and assisting in the medical unit.

14. Following her assignment to the worksite, Kirkman received use-of-force training, 40 hours of facility-specific training, and 59 hours of transfer training

Analysis

1. Did Employer fail to timely report a work-related serious injury?

Citation 1, Item 1, alleged that Employer violated section 342, subdivision (a), by failing to report a work-related serious injury. Section 342, subdivision (a), requires employers to immediately report any serious workplace injury, illness, or death to the Division, but in no event later than eight hours after the employer knows, or with diligent inquiry would have known, of the serious injury. The report must be made by telephone, email, or through the Division's designated online reporting system, if available.

The Division's alleged violation description reads:

> The employer failed to immediately report to the Division a serious injury suffered by an employee, who was assaulted with an improvised weapon on or about April 10, 2023.

The Division bears the burden of proving, by a preponderance of the evidence, that a cited safety order was violated. (*Lone Pine Nurseries,* Cal/OSHA App. 00-2817, Decision After Reconsideration (Oct. 30, 2001).)

On February 17, 2023, the Division's Associate Safety Engineer Tomas Micheo (Micheo) initiated an inspection of the worksite in response to an anonymous complaint. The worksite is a Secure Youth Treatment Facility that houses juvenile offenders who had court dispositions and were sentenced for their delinquencies as well as youth awaiting court disposition. During the inspection, in June 2023, Micheo learned that an employee injury had occurred on April 10, 2023.

Supervising Detention Service Officer Ordonez testified that on April 10, 2023, at approximately 10:23 p.m., he and three other Detention Service Officers were instructing a group of four to five youths in the day room to return to their rooms. (Aug. 6, 2025 Transcript (Tr.) p.146, lines 5–8; p.147, lines 10–15.) During the process, an individual who Ordonez believed was complying suddenly attacked him with an improvised weapon. Ordonez sustained cuts to his face, shoulder, neck, and chest. He was treated in the emergency room and released in less than eight hours. Ordonez is unsure when he realized his scarring would be permanent but testified that his scars appeared permanent after "maybe a few months." (*Id*. at p. 136 lines 7-15.) Ordonez did not return to work until August of 2024. Ordonez testified that, even in retrospect, he does not know if anything in particular could have been done to prevent the assault.

Under section 330, subdivision (h), "'Serious injury or illness' means any injury or illness occurring in a place of employment or in connection with any employment that requires

inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone."

Although Ordonez was not hospitalized and did not suffer amputation or loss of an eye, photographs admitted into evidence show visible scarring on his face and body. (Exhs. 8 and 9.) The facial scarring is readily apparent and cannot be concealed by ordinary clothing. The photographs demonstrate that the disfigurement is not minor or superficial, but obvious, lasting, and materially alters his appearance. Based on the totality of the evidence, Ordonez's injury is found to constitute a serious degree of permanent disfigurement. Accordingly, Ordonez suffered a serious injury within the meaning of section 330, subdivision (h).

Section 342, subdivision (a), clearly states that an employer's reporting obligation arises when the employer knows, or with diligent inquiry would have known, of a serious workplace injury. In *Alpha Beta Company*, Cal/OSHA App. 77-853, Decision After Reconsideration (Nov. 2, 1979), the Appeals Board explained that employers should not rely on technical distinctions to avoid their duty to report serious injuries and emphasized that the purpose of the reporting requirement is to allow the Division to conduct timely inspections of potentially hazardous conditions. However, the Division must still establish that the reporting obligation was triggered.

Here, on April 10, 2023, Ordonez was treated and released from the emergency room. There was no inpatient hospitalization, nor was there amputation or loss of an eye. The only potentially qualifying category at that time was "any serious degree of permanent disfigurement". However, the record does not show that the permanence of the scarring was apparent on the date of the incident. Ordonez testified that he was uncertain when he realized the scars would be permanent, stating only that they appeared permanent after "maybe a few months." He did not return to work until August 2024. The Division issued the citation for failure to report on October 6, 2023. The Division presented no evidence establishing that, at any time between April 10, 2023, and October 6, 2023, Employer knew, or reasonably should have known, that Ordonez's injury would result in any serious degree of permanent disfigurement.

Because the Division failed to establish when Employer knew, or with diligent inquiry would have known, that Ordonez's injury constituted a serious injury under section 330, subdivision (h), it has not proven a violation of section 342, subdivision (a). Accordingly, Citation 1, Item 1, is vacated.

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

Citation 2, Item 1, alleged that Employer violated section 3203, subdivision (a), by failing to implement an effective Injury and Illness Prevention Program. Particularly, the Division alleged that Employer violated section 3203, subdivision (a)(6) and (7), which reads:

> (a) 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:
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> […]
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> (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,
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> (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.
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> (7) Provide training and instruction:
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> (A) When the program is first established;
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> Exception: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.
>
> (B) To all new employees;
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> (C) To all employees given new job assignments for which training has not previously been received;
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> (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
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> (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,

> (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

The Division's alleged violation description reads:

> Prior to and during the course of the investigation, including but not limited to, on February 17, 2023, the employer did not effectively implement their Injury and Illness Prevention Program in that:
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> Instance 1: The employer did not implement effective controls, including, but not limited to engineering and work practice measures, to minimize employee exposure to violent assaults by juvenile detainees at Barry J Nidorf Juvenile Hall. Ref. 3203(a)(6).
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> Instance 2: The employer did not ensure that field staff have received the required training prior to working units housing juvenile detainees, and did not ensure that sufficient numbers of staff are available to prevent and immediately respond to work place violence incidents during each shift. Ref. 3203(a)(7).
>
> As a result, on, or about April 10, 2023, a Supervisor [sic] Detention Service Officer was assaulted by a juvenile detainee who used a shank, causing serious injuries.

"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*, Cal/OSHA App. 12-0391, Decision After Reconsideration (Oct. 5, 2015).) Employers must actually implement their written IIPP procedures. (*Papich Construction Company Inc.*, Cal/OSHA App. 1236440, Decision After Reconsideration (Mar. 26, 2021).) Implementation of an IIPP is a question of fact. (*Id*.) Proof of implementation requires evidence of actual responses to known or reported hazards. (*Id*.)

The parties do not dispute that Employer established and maintained a written IIPP. Employer submitted its written IIPP into evidence, and it includes all required elements set forth in section 3203, subdivision (a). (Exh. 20.) The Division does not contend that the written IIPP is deficient. Rather, the Division alleges a failure of implementation under section 3203, subdivisions (a)(6) and (a)(7).

a. Did Employer implement methods and/or procedures for correcting unsafe or unhealthy conditions in accordance with section 3203, subdivision (a)(6)?

Section 3203, subdivision (a)(6), requires implementation of procedures to identify and correct unsafe conditions. Section F of Employer's IIPP addresses hazard correction, as required by section 3203, subdivision (a)(6). It requires staff to identify, evaluate, and resolve unsafe

work conditions as soon as practicable, to correct hazards when observed or discovered, and to prioritize imminent hazards.

The record reflects that, prior to the April 10, 2023, incident, grievances had been filed alleging understaffing at the worksite and extended work hours. These grievances demonstrate that staffing concerns were raised. However, Senior Detention Service Officer Brian Lindsey (Lindsey) testified that, notwithstanding what he described as increasing violent tendencies among detainees, additional staffing was not required. (Sept. 30, 2025 Tr. p.96, lines 19–25.) The evidence therefore does not conclusively establish that staffing levels were recognized as unsafe.

With respect to the April 10, 2023, incident, Lindsey expressed the opinion that more staff should have responded and suggested that an appropriate staffing ratio would be two staff members for every youth. Lindsey did not personally observe the incident, and the record does not establish how long after the assault he arrived at the scene. By the time he arrived, Ordonez had already been removed.

In contrast, Ordonez testified that he and at least three other officers were supervising approximately five youths before the assault occurred. When one youth became assaultive, multiple officers were already present to respond and additional officers promptly arrived to assist. The record does not demonstrate that staff failed to respond or that the situation was not addressed as it unfolded.

Section 3203, subdivision (a)(6), does not impose strict liability for employee injuries but requires proof that Employer failed to implement procedures to identify and correct known hazards. An opinion that staffing could have been higher during a particular incident does not, by itself, establish a failure of implementation. The Division presented no evidence that Employer ignored reported staffing concerns, failed to evaluate them under its hazard correction procedures, or declined to take corrective action where required. Accordingly, the Division has not proven a violation of section 3203, subdivision (a)(6).

b. Did Employer fail to provide training and instruction in accordance with section 3203, subdivision (a)(7)?

Section G of Employer's IIPP addresses employee training. It requires safety training for new employees, employees assigned new duties, and when new hazards are introduced, as well as refresher training when needed. Training includes instruction on the IIPP, hazard recognition and reporting, safe work practices, emergency procedures, and employee rights and responsibilities. The section also requires specialized training before employees perform higher-risk or specialized tasks and prohibits employees from performing such tasks without appropriate training and authorization.

The Division did not present evidence or argument that Ordonez lacked required training. To the contrary, Ordonez testified regarding his training, and Employer submitted documentation reflecting the training he received. (Exhs. A and B.) Instead, the Division relied on testimony from Deputy Probation Officer II Kirkman, who asserted that she was not properly trained to work at the worksite because she did not receive the 168-hour juvenile correction officer training. Kirkman was not injured in the April 10, 2023, incident, did not witness the incident, and did not respond to the incident.

Kirkman serves as a court officer acting as a liaison between Employer and the Court. In 2023, she was assigned to work at the worksite, where her additional responsibilities included administrative tasks, opening bathroom doors, and assisting in the medical unit. Following her reassignment, Employer provided her with use-of-force training, 40 hours of facility-specific training, and 59 hours of transfer training. (Sept. 30, 2025 Tr. p.25, line 13 – p.26, line 9; Exh. L.) Although Kirkman worked alongside juvenile correction officers, the evidence shows that she served in a supportive role.

The Division did not demonstrate that the training provided to Kirkman failed to meet the requirements of section 3203, subdivision (a)(7). Nor did the Division demonstrate that completion of the 168-hour juvenile correction officer training was required to comply with section 3203. Finally, the Division presented no evidence that any alleged training deficiency contributed to the April 10, 2023, incident. Based on the evidence presented, the Division has not proven a failure to implement the training provisions of Employer's IIPP.

Accordingly, the evidence does not support a violation of section 3203, subdivisions (a)(6) and (a)(7). Therefore, Citation 2, Item 1, is vacated.

Conclusion

For Citation 1, Item 1, the Division failed to prove that Employer failed to report a serious injury.

For Citation 2, Item 1, the Division failed to prove that Employer did not implement its IIPP.

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Order

It is hereby ordered that Citation 1, Item 1, is vacated.

It is hereby ordered that Citation 2, Item 1, is vacated.

/s/ Ka H. Leung

Dated: 03/10/2026

Ka H. Leung
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.