

MOTION BY SUPERVISOR HILDA L. SOLIS

September 10, 2019

Study the Creation and Funding of a Comprehensive Civil Justice Defense

Program

The Los Angeles County (County) Board (Board) of Supervisors has taken unprecedented steps in establishing a proactive policy agenda to address prominent issues with vulnerable populations. With each issue area, there have been new programs established, adding to the County’s vast network of programs. There is now an opportunity to build a comprehensive and strategic programmatic system, in collaboration with community-based stakeholders, which will provide legal representation and advocacy to support Los Angeles County constituencies on issues that affect their quality of life, including immigrant rights, tenant protections, consumer protections, and workers’ rights.

Currently, the County’s Justice System Partners have not been tasked with having a substantial role in providing quality civil justice defense to indigent and underrepresented populations. While the County, in partnership with the City of Los Angeles, philanthropy and legal aid organizations, established the LA Justice Fund pilot

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project, which offers legal assistance to immigrants facing deportation, and is currently exploring establishing a legal representation program and other support for tenants, it is time that the County move towards a more coordinated and integrated civil justice defense program which includes the justice-involved.

In addition, on August 26, 2019, the CEO and the Department of Consumer and Business Affairs (DCBA) submitted a joint report to the Board discussing options for a legal representation program and other interventions for tenants. In that report, the CEO and the DCBA identified the collaborative role the Public Defender and Alternate Public Defender can play in providing legal representation for justice-involved tenants and their families. The report also identified multiple concurrent County efforts to provide legal representation to those who most need it, and suggests the County take steps to quantify the investment and impact across all of these efforts by creating a strategic plan for legal services.

The justice-involved members of our community are an extremely vulnerable group which should be included in any strategic plan moving forward. A criminal case puts in jeopardy more than criminal consequences for an individual. Collateral consequences, due to incarceration or pending litigation, impact individuals, families and communities. Many justice-involved individuals and their families face housing instability, difficulty obtaining public benefits, family court issues, immigration issues, employment law issues, and other civil justice needs. Addressing these needs early can prevent the manifestation of chronic consequences, often financial, which too often tear at the fabric of our communities. Preventing sustained collateral consequences provides a prophylactic measure against homelessness, recidivism, family dysfunction, and

disparities in childhood opportunities.

The County's Office of the Public Defender, along with the Alternate Public Defender, is in a unique position to be able to identify the needs of this substantial population at a very early stage. The Public Defender has a constitutionally mandated obligation to confer with clients. This obligation in turn requires the Sheriff to make accessible to the Public Defender indigent clients in custodial settings, often within 72 hours of arrest. No other community organization or government department has this sort of timely access with the incarcerated population. No other entity can ascertain the civil justice needs of the justice-involved, while simultaneously protecting their confidentiality afforded under the 6th Amendment of the U.S. Constitution. A primary role in civil justice defense for the Public Defender is a natural extension of a continued proactive agenda.

Section 6, paragraph 23 of the County Charter provides authority for the County's Public Defender to "defend such persons in all civil litigation in which, in his judgment, they are being persecuted or unjustly harassed." Until such time as the rampant disparity in access to civil justice, based on economic means, is obliterated, the Public Defender's civil representation of the indigent population is indeed the representation of the unjustly harassed.

With additional funding and staff, the Public Defender could assist the justice-involved indigent population with housing instability and eviction defense needs. The Public Defender would work with existing legal resources, nonprofit groups, community-based organizations and city and county departments. The main role of the Public Defender would be to navigate to available resources the appropriately identified client

population.

Under “Civil Gideon” principles, which hold that all indigent individuals should be provided legal representation in matters that substantially affect their Constitutional or human rights, the Public Defender may also represent, in-house, those individuals where representation is not otherwise available. This aspect of the Public Defender role would be merely to provide concurrent service to those offered by existing service providers, and to collaborate with them in a complimentary role. The Public Defender representation would occur only when clients would otherwise be ineligible for representation by others.

Staffing in a Public Defender Civil Justice Defense Unit would be comprised of a limited number of attorneys, and proportionally a greater number of social workers, paralegals and advocates.

I, THEREFORE, MOVE that the Board of Supervisors:

- 1) Direct the Chief Executive Officer, or her designee, in coordination with the Public Defender with the Director of the Department of Consumer and Business Affairs to:
 - a. Study the feasibility of creating a new Civil Defense Justice Unit within the Public Defender Office and possible integration or coordination of existing efforts underway such as legal representation for tenants and the LA Justice Fund pilot project;
 - b. Engage relevant internal and external stakeholders to help inform how the County can complement and enhance existing community-based resources for civil representation;
 - c. Study civil defense models in other jurisdictions to help inform the County’s own

program;

- d. Evaluate developing a strategic plan for legal services that will evaluate the investment and impact across all programs in which the County funds civil legal representation, and guides the development of future similar programs and policies; and
 - e. Report back to the Board in writing within 120 days with recommendations, an implementation plan and timeline, an evaluation of funding and staffing needs, potential funding partnerships, and streamlining of existing funding sources for civil representation programs in order to provide resources for the establishment of a unified and comprehensive Civil Justice Defense Unit.
- 2) Direct the CEO, or her designee, in coordination with the Public Defender and County Counsel, to enter into an agreement with a consultant, as needed, to ensure coordination of activities required per the above directives.

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