

**MOTION BY SUPERVISOR MARK RIDLEY-THOMAS**

**May 12, 2020**

**ESTABLISHING A COUNTYWIDE PROGRAM TO REDUCE THE COURTS' FAILURE TO APPEAR RATE**

At the beginning of this year, the inmate population of the Los Angeles County (County) jails exceeded 17,000 and currently, the population is less than 12,000. COVID-19 has prompted unprecedented levels of releases from the jails as a prophylactic measure to curtail a viral spread which could have otherwise threatened to overrun the health care system and threaten many lives. This reduction of over 5,000 individuals in the jails has also provided the Sheriff's Department with space to quarantine and isolate individuals within the jails as necessary.

Many of the individuals recently released have pending court dates set as early as June 2020. Many other criminally charged individuals have been arrested and released under emergency court provisions. They too have pending court dates set to occur soon. This spike in the number of people ordered to appear in court presents numerous issues. The two most salient issues for the Public Defender (PD) and Alternate Public Defender (APD) involve: 1) making sure those ordered to appear in court make their appearances so as to avoid the devastating consequences that failing to appear can have, especially in regard to those from low-income communities, including the possibility of re-arrest, ending up back in jail, and exacerbating the County's ability to control the pandemic; and 2) making courtrooms and courthouses

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as safe as possible for everyone in light of the numbers ordered to appear in court.

The PD has been considering several options to ensure their clients return to court and do so safely. For example, the PD is developing a process to negotiate cases with prosecutors before the courts begin to fully open. Additionally, the PD is considering a process that will allow attorneys to continue to a later date the cases of sick clients without warrants being issued for non-appearance.

However, every effort made toward having presumed innocent clients make their court appearances safely begins with the need to notify them of their actual court date and starts with contacting them regularly in this currently chaotic environment.

In recent years, startup companies formed to address this business challenge and work closely with public defender offices around the country to engage clients through the automatic issuance of text messages. Features of those emerging technology solutions include allowing for weekly check-ins, service referrals, two-way communications, data analytics, seamless integration into case management systems, and mobile apps provided to public defender staff.

With the expected increase in heavy caseloads given COVID-19 related releases, automated devices like these will provide essential communication for a robust yet safe return to court, while the savings associated with preventing failures to appear should prove to be considerable. A study by the National Criminal Justice Reference Service indicates that several jurisdictions have successfully implemented reminder programs that effectively reduced the number of failures to appear (FTAs). For example, the Cook County (Illinois) Juvenile Court's postcard reminder program reduced the FTA rate from 38% to 13%.

In 1997, the American Legislative Exchange Council submitted a "Runaway Losses" report for the Los Angeles Criminal Justice Task Force indicating that every FTA imposes substantial public costs. In the case of the County, the weighted average

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cost for each FTA is \$1,273.81. On a more recent report, Merced County reported that each FTA cost their operations \$1,677.70 for each case.

Access to cellphones has increased significantly over the past ten years, improving the effectiveness of communicating with clients about court dates. In 2019, the Pew Research Center reported that 96% of Americans now own a cellphone, almost a 100% increase from its 2011 survey. With discounted cellphone services available through programs such as Lifeline, cellphones services are also made available for indigent residents with a variety of services including unlimited voice and text.

With the majority of the County's residents having access to cellphones, it is imperative to explore technology solutions that provide the PD and APD a two-way communication means with their clients to improve case outcomes and reduce operational costs. Piloting a low-cost text message-based communication and engagement tool can help low-income clients appear in court and mandatory appointments, thus preventing technical violations leading to the issuance of bench warrants and resulting in costly warrant execution and incarceration. This is an important long-term goal in criminal justice reform, and increasingly important now given the current pandemic and high volume of upcoming court dates.

**I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:**

Direct the Public Defender and the Alternate Public Defender, in coordination with the Chief Executive Officer, to:

1. Enter into a one-year pilot (Pilot), at no additional net County cost, using the appropriate technology solution in order to reduce failure to appear cases in the County of Los Angeles, produce better outcomes for justice-involved individuals, and, through proactive measures, make courtrooms and courthouses safer; and keep the jail population down in an effort consistent

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with preventing the spread of COVID-19;

2. Report back to the Board of Supervisors in writing in 120 days after the Pilot's implementation with progress and outcomes of the Pilot, including data on communications and reminders dispatched through this system; and
3. Ensure coordination of the Pilot with any electronic reminders that will be sent out as a result of the Los Angeles Superior Court's bail reform pilot, in order to minimize duplication of services.

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