

REVISED MOTION BY SUPERVISORS JANICE HAHN AND
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March 23, 2021

Expanding Los Angeles County’s Felony Incompetent to Stand Trial-Community Based Restoration Program

In June of 2018, the Board of Supervisors accepted a grant from the California Department of State Hospitals (DSH) in the amount of \$44,213,875 in state funds over three years to implement the Department of Health Services-Office of Diversion and Reentry’s (ODR) pioneering community-based competency restoration program for individuals charged with felony offenses and found by the courts to be incompetent to stand trial (FIST) and whose county of commitment was Los Angeles County.

At that time, the DSH had experienced a 33% increase in the number of FISTs referred annually to DSH programs. Felony defendants who are deemed incompetent to stand trial are placed on a waitlist to be transferred to State Hospital to be restored to competency. The waitlist as of May 2018 included nearly 500 Los Angeles County incarcerated people, which leads to lengthy jail stays for some of the most unstable and vulnerable individuals with serious mental health needs in the County jails. Community-based restoration removes individuals who are on the state hospital waitlist from jail and places them more quickly into community-based restoration, therefore reducing the

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number of individuals with mental disorders in the jail. ODR's FIST-Community Based Restoration (FIST-CBR) program was awarded funds through the DSH based on the success of ODR's Misdemeanor-Community Based Restoration program that serves misdemeanor defendants 3 years prior.

With the initial award of funds in 2018, ODR was expected to serve 150 individuals. This was increased to 215 individuals through a program amendment executed on 12/24/20. However, ODR was able to expand the reach of those funds to serve 230 individuals at any given time, serving a total of over 440 individuals in the past three years. ODR's program has been very successful. The overall retention rate is 80% for FIST-CBR, and for the 20% who are not retained, ODR will take appropriate and robust measures to keep them in the program.

Despite the significant decrease in the number of people in the County jails that has taken place since March 2020, in response to COVID-19 and the County's commitment to a Care First, Jails Last approach, the number of people with serious mental health needs in the jails has increased to over 6,000 individuals, comprising over 40% of the total jail population. Currently, the number of people awaiting transfer to DSH based on findings that they are currently incompetent to stand trial in the County jails is 375, many of whom have been waiting for several months, because transfers to the DSH have been essentially halted due to concerns about COVID-19. Meaning that people with serious mental health needs are languishing in our jails because they do not have access to facilities for their care.

Based on the successes of ODR's FIST-CBR program, the DSH is seeking to provide an additional \$34.7 million in additional funding to increase the FIST-CBR program from 215 individuals to 415; provide an additional \$20.7 million to augment the 2018 grant award, and extend the agreement term through October 31, 2022. This would

allow for bed spaces for at least an additional 200 individuals at any given time, to be served in the community, rather than languishing in our jails. The grant from DSH is sufficient to cover all costs related to the existing 215-bed program and to augment the program by an additional 200 beds at no cost to the County.

WE, THEREFORE MOVE that the Board of Supervisors

1. Authorize the Director of the Department of Health Service or her designee (Director) to 1) accept the amended agreement award of up to \$99,629,580 through October 2022, and manage implementation of the program; 2) sign and execute the amended Department of State Hospital Agreement (Agreement) and all other necessary documents to accept the agreement, effective upon execution; and 3) execute any future no-cost amendments to the Agreement and all other related documents; subject to prior review and approval as to form by County Counsel and prior notice to the Board and the Chief Executive Office.
2. Delegate authority to the Director to execute new agreements and amendments, including amendments to existing agreements with community-based organizations that are necessary to implement the amended Agreement, subject to prior review and approval as to form by County Counsel and prior notice to the Board and the Chief Executive Office.

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