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Removing Financial Burdens for Families: Providing Free Phone Calls and Eliminating Profits and Mark-Ups on Commissary Items in the LA County Jails and Juvenile Camps and Halls

Incarceration disproportionately impacts Black, Indigenous, and people of color (BIPOC), especially those who have come from communities that have historically been underserved, unserved, and heavily enforced and overly surveilled by law enforcement. In fact, about 85% of the people incarcerated in the LA County jails are Latinx (56%) or Black (29%) and according to the Probation Department’s data, 93% of the incarcerated youth in the camps and halls are Latinx (63%) or Black (30%).

Research has also shown that both the visible and hidden cost of incarceration excessively impacts low-income communities and communities of color as well as penalizing people in custody who are held pre-trial. Currently, almost 40% of people incarcerated in the LA County jails are awaiting trial.

Additionally, when someone is incarcerated, the family is also impacted and often, that emotional impact is compounded by financial hardship. Paying for phone calls and high-priced commissary items to supplement meals take an unnecessary

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financial toll on these families at a time when assets are strained, due to the COVID-19 pandemic.

Receiving letters, phone calls, and in-person visits from a loved one can bring an element of happiness, a sense of belonging, and connection for someone who is incarcerated. This connection can also uplift the mood of someone in custody as well as help them feel more hopeful about their future, which can benefit their mental and spiritual health and overall well-being.

With the onset of COVID-19, the temporary moratorium on in-person visits to the LA County jails have yet to be fully lifted resulting in a higher dependence on phone calls to fill the gap of social connectivity. Since Saturday, May 8, 2021, only one facility, Century Regional Detention Facility (CRDF), is allowing in-person visits. The LA Sheriff's Department, Correctional Health Services, and the Department of Public Health are working to restart in-person visits in the other facilities by the end of the month. The LA County Probation Department has resumed a modified version of in-person visitations in the camps and halls since summer of 2020.

In 2020, people in custody at the LA County jails, ranging from 17,000, pre-COVID-19, and at its low, at 12,000, made a million more phone calls and the number of call minutes increased by 20 million compared to the last three years. Of the nine facilities in the system, including the Inmate Reception Center and the Jail Ward at the LAC + USC Medical Center, most of these calls were made from people in custody incarcerated at the Men's Central Jail and the Pitchess Detention Center – North County Correctional Facility. With each minute costing twenty-five cents, the Sheriff's Department generated over \$20 million dollars in revenue for Public Communications

Services, Inc. (PCS), the vendor that provides the phone services to the jails, for the phone calls made in 2020, which is about \$4-5 million more compared to the past three years. Sadly, 99.95% of these calls were paid for by families who already are trying to find ways to survive during a time of economic instability.

Though the LA County Sheriff's Department was able to secure, in May 2020, one free, five minute COVID-19 courtesy call per incarcerated person a week with PCS, this is, unfortunately, not sufficient for someone who hasn't seen their family or friends in over a year. The courtesy calls are due to conclude when the contract expires on October 31, 2021.

Communication with family and friends is incredibly important to not only the mental health of a person in custody, but it is also advantageous and seen as a positive for when they are released from custody. Studies and research have shown that that this connection plays an important role in someone's risk of recidivism, general success, and whether someone might be eligible for diversion or early release.

Though PCS provides a \$15 million annual guarantee to go toward the Inmate Welfare Fund (IWF) and \$59,000 to the Juvenile Institution Services Budget (JIS), the idea of profiting off families who have been hit the hardest during COVID-19 and have been trying to survive pre-pandemic doesn't seem fair, equitable, or moral.

In August 2018, New York City became the first U.S. city to make phone calls free in the city jails. Two years later, in August 2020, San Francisco became the first U.S. county to announce that all phone calls from county jails were going to be free and recently, in March 2021, San Diego County made phone calls from the jails free. It is due time for LA County to remove financial burdens associated with incarceration—

making phone calls free would do just that.

Another hidden cost of incarceration are the high prices on basic, commissary items. These items are marked up with the justification that the profits will go towards the IWF. Some of these items include lip balm, toothpaste, mouthwash, cocoa butter lotion, cotton swabs, shorts, greeting cards, assorted ramen, and candy bars.

Food-related grievances that have been filed by people in custody are typically about food services, dietary restrictions, religious and medical meal requests. Those who are fortunate, who have family support, can supplement their meals by purchasing items off a pre-approved list, depending on security, medical, and mental health classification.

The Office of Inspector General's 2019 presentation on IWF provides examples of the enhanced costs of commissary items: The sale price of an eight-ounce bag of "Flamin' Hot Cheetos" is \$5.33, but the cost to the Sheriff's Department is \$2.51, which is a 47% mark-up.¹ Additionally, in review of other items on the commissary list, there are hefty mark-ups like: The sale price of a four-ounce bag of "Keefe Instant Coffee" is \$7.47, but the cost to the Sheriff's Department is \$3.51, which is a 47% mark-up. The sale price of a packet of "Beef Ramen" is \$1.15, but the cost to the Sheriff's Department is \$0.55, which is a 48% mark-up. The items in the vending machines are also marked up like: The sale price of a "Snickers" candy bar is \$1.35, but the cost to the Sheriff's Department is \$0.83, which is a 61% mark-up. The sale price of a 20-ounce bottle of "Diet Coke" is \$2.15, but the cost to the Sheriff's Department is \$1.32, which is a 61%

¹ <http://file.lacounty.gov/SDSInter/bos/supdocs/InmateWelfareFundPresentation-OIG-9-17-2019.pdf>

mark-up.

In addition to food, people in custody can also purchase hygiene items outside of what is provided by the Sheriff's Department in the form of "hygiene kits" that contain only the basics.

Just as there are concerns with the food, there are those in custody who have skin allergies, sensitivities, and other needs that need to be supplemented by purchasing curative items on the pre-approved commissary list.

The same Office of Inspector General's presentation in 2019 on the Inmate Welfare Fund (IWF) provided examples of the mark-ups on hygiene items such as: The sale price of a 3.2-ounce bar of "Irish Spring Soap" is \$1.45, but the cost to the Sheriff's Department is \$.0.68, which is a 47% mark-up.² The sale price of a 2.75-ounce "Freshmint" toothpaste is \$2.16, but the cost to the Sheriff's Department is \$1.02, which is a 47% mark-up.³

The costs of and profits from these items, in essence, shift the cost of incarceration and "inmate programming" to incarcerated people and their families, which ultimately benefit private companies, such as Keefe Commissary Network, the current vendor of the county jails' commissary items.

In addition to the immense costs to people who are incarcerated and their families, it is concerning that the money is transferred to a fund through a largely opaque process managed by the Sheriff's Department and some elements overseen by the Inmate Welfare Commission (IWC) with commissioners selected by the Sheriff.

² Ibid.

³ Ibid.

According to State law, the IWF “shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail.”⁴

In April 2021, the County’s Auditor-Controller (A-C)’s reported on the IWF process⁵ and identified several concerns, such as the lack of Key Performance Indicators (KPI) to track and evaluate the effectiveness of their programs; and limitations of the Inmate Welfare Commission (IWC), that is responsible for overseeing the programs and track expenditures.

The A-C conducted a second audit in April 2021 that compared LASD’s IWF expenditures with other local counties, such as Orange County, San Bernardino, and San Diego. The report again identified multiple concerns like the lack of a multi-year spending plan that would “better account for the IWF balance.”⁶

The audit points out that despite LASD having a large IWF balance due to the sheer size of the jail population, “the Sheriff appears to spend a lower percentage of their IWF revenue on inmate programs, compared with the other local counties reviewed.”⁷ In fact, in the A-C review, the other comparison counties spent a higher percentage of their IWF on services related to “inmate programs.”⁸ It also noted that the “higher average expenditures per inmate appears to be the result of the Sheriff collecting more IWF revenue than the other counties...”⁹

⁴ <https://codes.findlaw.com/ca/penal-code/pen-sect-4025.html>

⁵ http://file.lacounty.gov/SDSInter/auditor/audit_reports/1106036_2021-04-22Sheriff_sDepartment-InmateWelfareFundProcessReview.pdf

⁶ http://file.lacounty.gov/SDSInter/auditor/audit_reports/1106219_2021-04-28Sheriff_sDepartment-InmateWelfareFundFinancialComparisonReview.pdf

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

Additionally, the Sheriff has not reviewed the mark-up fees and rates that people in custody are charged nor its impact and whether they continue to be “reasonable and appropriate.”¹⁰ Lastly, the A-C noted that “the Sheriff cannot ensure that their 51%/49% split methodology is consistent with the intent of [California Penal Code] Section 4025...[a]s a result, the Department may be supplanting jail maintenance expenditures with IWF revenues that should be funding through the Sheriff’s normal budgeting process.”¹¹

At a time when the County is in recovery mode from the pandemic and is dedicating resources to provide relief and supportive services for families to get back on their feet, the same effort should be accorded to those who have been impacted by incarceration. It should also ensure that profits made off people in custody and their families, in the form of phone call and commissary revenues, are being used appropriately per law and there is proper and accurate accounting of such.

In the County’s embrace of an anti-racist, equitable and “care first” public safety agenda, this is an opportunity to evaluate and assess how the current systems and infrastructure in place, that are in direct opposition to that framework, can be removed and accountability and transparency be strengthened, including those systems inside the County’s jails.

I, THEREFORE, MOVE that the Board of Supervisors:

1. Direct the Chief Executive Office (CEO), in collaboration with the LA Sheriff’s

¹⁰ Ibid.

¹¹ Ibid.

Department, the Office of Inspector General, and other relevant Departments, to submit a report back in writing in 90 days containing:

- a. Fiscal impact of making telephone calls from LA County jails and the Probation Department's camps and halls at no cost to people in custody and their support network.
- b. Other no-cost telephone call options for people in custody, like Voice over Internet Protocol (VoIP).
- c. Analysis of policy changes in other jurisdictions, including those of San Francisco and San Diego regarding no-cost phone calls in the jails, and applicability to LA County.
- d. The annual amount of revenue generated by the LA Sheriff's Department from telephone fees for the Fiscal Years 2017-18, 2018-19, 2019-20, and 2020-21.
- e. Fiscal impact of offering commissary and vending machine items at cost to people in custody in the county jails, camps, and halls.
- f. The annual amount of revenue that the LA Sheriff's Department has generated from commissary and vending machine items mark-ups and profits for Fiscal Years 2017-18, 2018-19, 2019-20, and 2020-21.
- g. Recommendations on how LA County can provide no-cost calls to people in custody, including an analysis of moving to a fixed-rate contract.
- h. Recommendations on how LA County can offer commissary and vending machine items at cost to people in custody.

- i. An itemized statement of the Sheriff's Department's expenditures of Inmate Welfare Fund revenues on "maintenance of county jail facilities" (as defined in California Penal Code 4025), including a description of each expenditure and the amount allocated.

I FURTHER MOVE that the Board of Supervisors:

2. Direct the Chief Executive Office and the Department of Auditor-Controller to perform a financial and compliance audit and report back to the Board of Supervisors in writing in 120 days of the Inmate Welfare Fund, covering Fiscal Years 2017-18, 2018-19, 2019-20, and 2020-21 containing:
 - a. An evaluation of the Sheriff's Department's usage of Inmate Welfare Fund revenues and whether the expenditures complied with the California Penal Code 4025.
 - b. An evaluation of the Sheriff's Department's efficiency and effectiveness in reaching the Inmate Welfare Fund purpose, goals, and objectives.
3. Direct the Chief Executive Office, County Counsel, with the Sheriff and Chief Probation Officer, in close collaboration with other relevant stakeholders with expertise in providing rehabilitative services to incarcerated populations, prior to issuing a new Request for Proposals (RFP) for in-custody phone services, report back to the Board of Supervisors in writing in 90 days with a draft scope of work and other relevant RFP language that will help ensure that the County contracts for phone or tablet services that come at no cost to inmates and their families and enhance rehabilitative outcomes.

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