AGN NO. [ ]

MOTION BY SUPERVISORS HOLLY J. MITCHELL AND SHEILA KUEHL

June 22, 2021

Sustaining Jail-Based Diversion

The Office of Diversion and Reentry (ODR) was created in September 2015 to serve the County's jail population with the greatest needs. Since the creation of ODR, it has removed more than 6,100 individuals from Los Angeles County (County) jails and connected them to community-based treatment and various types of supportive housing. This program provides supportive services - including housing, wrap-around services, and mental health treatment - to individuals with severe mental illness.

Ninety percent of incarcerated individuals served by ODR successfully remain housed after six months, and only 15% had a felony conviction within the next year. ODR and its community and County partners have also served over 25,600 individuals through its reentry programs, at an average cost of $10 per day per client, by connecting individuals to community-based providers. Providers offer a range of services, including physical and behavioral healthcare, legal and employment assistance, education, family support services, and family guidance and support by a case manager with lived experience.

The average cost of ODR's permanent supportive housing jail-based diversion program (housing program) is $115 per person per day (and $137 per person per day for interim housing) and primarily includes intensive case management services, clinical services for those with serious mental disorders, and housing funded by ODR.

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Alternatively, incarceration in the County jails is estimated to cost at least $600 per person per day.

ODR recently demonstrated its ability to quickly scale up its programs and services in response to the COVID-19 pandemic. ODR and its community-based partners, with the support of one-time federal COVID-response funding, quickly diverted and housed 211 individuals who were released from County jails and provided thousands of individuals with wraparound reentry services. As a result, many vulnerable residents were diverted from homelessness and removed from an environment where they were at high risk of becoming infected with the COVID-19 virus.

Despite substantial jail depopulation due to COVID-19 related policies, progress towards diverting incarcerated individuals with serious mental health needs has slowed. During the COVID-19 pandemic response, the percentage of the County jail population with serious mental disorders increased from 30% pre-pandemic to comprise approximately 40% of the total incarcerated population, and nearly 70% of the population of incarcerated women. A 2020 study by the RAND Corporation (RAND study) showed that up to 61% of individuals incarcerated in County jails with mental health needs (about 3,600 individuals) could be diverted into community-based services, if they met specific legal/court requirements, but only 5% of the eligible population were being diverted.

Despite the efficacy of the ODR model, and numerous efforts by the Board of Supervisors to develop a funding road map, including motions in May 2019 and in July 2020, sufficient funding has not been identified to sustain current operations, much less scale up diversion efforts to keep pace with the growing need. Despite the Superior Court's support for expanded diversion programs, and the readiness of community partners, thousands of eligible individuals remain in jail due to a lack of resources. ODR currently has one-time funding that will sustain current operations through Fiscal Year (FY) 2021-22 but is expected to be exhausted during FY 2022-23.

Sustaining ODR's jail-based diversion work is essential to ensuring individuals currently in housing can continue to be housed and receive critical care. Moreover, jail-based diversion and removing people with serious mental illness from County jails is an

important part of keeping the jail population down to avoid overcrowding (currently overseen by the Jail Population Review Council).

While jail-based diversion is an impactful program and a critical piece of the County's justice reform work, it is part of the array of "Care First" services provided by ODR. As ODR is primarily funded with one-time funding, the Chief Executive Officer (CEO) has previously been tasked with providing recommendations to secure ongoing funding, to maintain ODR's work for existing clients and address the impending "fiscal cliff" it faces when current one-time funds are fully expended. In response to the July 2020 motion requesting $30 million for ODR jail-based diversion expansion and a sustainability plan for ODR, the CEO submitted a report to the Board on November 17, 2020 with an update on their efforts to identify ongoing funding for ODR. In that report, the CEO noted that the Measure J Advisory Committee process may likely identify funding for ODR. Additionally, the CEO noted it was pursuing multiple funding options, including: pursuing additional ongoing funding options through Assembly Bill 109 (AB 109), Senate Bill 678, Proposition 47, Mental Health Services Act, Measure H, and/or State Realignment. The CEO explained in this report that with "the various options described above, CEO can sustain ODR's existing operations and evaluate opportunities for expansion through the Measure J spending plan recommendations," and committed to providing updates to these recommendations in the next 90 days and further recommendations in future budget phases.

To achieve the "Care First" vision, the County must sustain and eventually expand diversion-related services. The Board must continue to demonstrate its commitment to sustaining ODR's services and Board-delegated responsibilities. Given the County is on the brink of approving its FY 2021-22 budget and that the CEO and other stakeholders will soon be reporting back with recommended spending plans for Measure J and recommendations for revamping the County's AB 109 spending plan, it would be helpful for the Board to hear an update on the CEO's efforts to identify ongoing and sustainable funding for ODR's jail-based diversion work.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

1. Direct the Chief Executive Officer (CEO) to provide an update in writing in 60 days, and every 90 days thereafter, on their efforts to identify a sustainability plan with ongoing funding for the Office of Diversion and Reentry's (ODR's) jail-based diversion work, as directed by the Board of Supervisors (Board) in May 2019 and July 2020, including updates on the options laid out in the CEO's November 17, 2020 report back to the Board on ODR's budget, which includes identifying additional funding for ODR through ongoing, bonus, or unspent reserve Assembly Bill 109, Senate Bill 678 (SB 678), Proposition 47, Mental Health Services Act (MHSA), cost savings from reducing incarceration levels of youth and adults in the County of Los Angeles (County), and other funding streams and strategies.
2. Instruct the Director of the Department of Health Services (DHS), in collaboration with the Director of the ODR, CEO, the Director of the Department of Public Health (Substance Abuse and Prevention and Control), the Director of the Department of Mental Health, County Counsel, and other relevant stakeholders, to report back in writing in 45 days with a preliminary analysis of the feasibility of using California Advancing and Innovating Medi-Cal ("CalAIM") to sustain and eventually expand diversion related services, including ODR's existing beds. This report back should include an analysis of:
    a. Available local or state funds that could be used as a match to leverage available federal Medicaid funds;
    b. Available federal, state, and local funds that could be used to cover housing related supports (like rent subsidies or acquisition and construction of housing) and other diversion-related services ineligible for CalAIM funding;
    c. Opportunities to get Medicaid financing for services rendered prior to the release of an incarcerated individual;
    d. Opportunities to engage trusted stakeholders, like community health workers and public defenders, to ensure clients successfully engage with the medical and behavioral health system; and

   e. Opportunities for community engagement with local MediCal managed care plans to support inclusion of potential services.

3. Instruct the Director of the Department of Mental Health (DMH), in collaboration with the CEO, County Counsel, Director of DHS, Director of ODR, and other relevant stakeholders, to report back in writing in 90 days with a feasibility analysis and recommendations for using mental health funding sources, including Medi-Cal, Short-Doyle Act, realignment and MHSA funds, to sustain ODR community-based diversion related services. This analysis should include a detailed discussion of:
   a. How much funding is available for ODR diversion services from each mental health funding source;
   b. Specialty mental health plan services provided to individuals on parole, probation, or Post Release Community Supervision (PRCS); and
   c. Any legal limitations/restrictions for each mental health funding source in relation to funding ODR jail-based diversion.
4. Request the Chief Probation Officer in collaboration with the CEO, Director of DHS, Director of ODR, and County Counsel, to report back in writing in 90 days on any options to improve the efficiency, flexibility, and productivity of SB 678 funds allocated per the Board's September 1, 2015 motion creating the ODR, as well as consideration for future SB 678 allocations to ODR beyond the current 5-year spending plan. This report should include a detailed discussion of allowing ODR additional flexibility and autonomy in how to best use these funds, including carrying over unused dollars in order to expand or implement new programs; and an analysis of relevant mandates to help maximize the use of SB 678 funds, including how these funds can be used to fund ODR housing.
5. All of these report backs should assume provision of any diversion related services will be done pursuant to any Board approved agreements required by County Code, State, and federal law as well as any contractual obligations.

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