

SEPTEMBER 17, 2013

SUBSTITUTE MOTION BY SUPERVISOR MARK RIDLEY-THOMAS

Reviewing Juvenile Indigent Defense Contracts

Ensuring that youths charged with crimes in the Los Angeles County (County) delinquency courts have adequate and competent attorney representation is both a constitutional and moral imperative. The Sixth Amendment to the United States Constitution provides that defendants in a criminal action have a guaranteed right to counsel to aid them in their defense. In addition, the Fourteenth Amendment applies the right to counsel to the states through the doctrine of incorporation; a right that was extended to juvenile defendants in 1967 by the U.S. Supreme Court. The Supreme Court has interpreted the Sixth Amendment as a guarantee that extends the right-to-counsel to indigent defendants in both felony and misdemeanor cases. While the Sixth amendment provides that there is an adversarial process in which prosecutors represent the government against the accused who is represented by a defense attorney, the criminal justice system frequently fails to

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balance the scales of justice, sometimes leading to an inequitable system of justice.

This issue is particularly prevalent within the juvenile justice system. It is well settled that the County has the largest juvenile justice system in the nation with a Probation Department that supervises approximately 16,000 young people, including approximately 1,800 who are detained in 13 probation camps and 3 juvenile halls. According to a recent report by the Loyola Law School Center for Juvenile Law and Policy (Report), 50,000 youth are arrested on an annual basis resulting in 20,000 being formally charged and processed through the juvenile justice system which in Los Angeles County consists of ten juvenile courthouses. The Report, entitled: "Kids, Counsel and Costs: an Empirical Study of Indigent Defense Services in the Los Angeles Juvenile Delinquency Courts", raises serious questions about the manner in which the County provides a system for the representation of youth who are indigent and cannot be represented by the Public Defender due to a conflict of interest. In particular, where the Public Defender has a conflict in a delinquency case, a panel of contracted attorneys step in and they are paid a single, per-case flat fee ranging from \$319 to \$345 dollars to provide all legal services for the case.

This nation was founded on the principles of fairness, equality and justice. As stated in the Report, "California's juvenile delinquency laws are written to give attorneys the opportunity to litigate almost every procedural or constitutional issue available to adults in the criminal justice system" thus bolstering the necessity of ensuring that youths who have been charged with a crime receive an adequate defense. The data suggests that a flat-fee compensation system does not provide a sufficient degree of resources to defend against

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the combined resources of the government. Moreover, when compared to the dispositional outcomes obtained by the County's Public Defender's office, the Report suggests the County is operating an inequitable system that results in higher costs to the County.

The Sixth Amendment does not guarantee equitable resources for indigent defendants even though it guarantees the right-to-counsel. This lack of equity, particularly within the County's juvenile justice system is untenable. The current contracts for juvenile indigent defense attorneys expire on October 31, 2013. The Board of Supervisors has a responsibility to review the current system for providing representation in the juvenile delinquency courts and determining if there are alternative ways to address any disparities that exist.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

- 1) Direct the Chief Executive Officer, in collaboration with the Auditor-Controller, to conduct an analysis of the County's juvenile indigent defense system that should include the following:
 - a. An analysis of the number of case filings in juvenile delinquency court over the past 10 years relative to the population in the camps, halls and Department of Juvenile Justice youths (from LA County) over the past 10 years;
 - b. A summary of the overall costs to prosecute and defend indigent juveniles, including the related staffing and investigative costs borne by law enforcement agencies, including the Probation Department;

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- c. A comparative analysis of the per-case costs borne by the prosecution, public defender, and conflict panels;
 - d. A review of the compensation models and systems for juvenile indigent defense contracts in other counties;
 - e. A review of the existing contracts and development of a process to provide annual contract performance audits and a quality assurance and evaluation tool for juvenile indigent defense contracts; and
 - f. Recommended options for providing representation to juveniles in instances where the Public Defender has a conflict;
- 2) Direct the Chief Executive Officer to engage a subject matter expert to facilitate a working group consisting of the District Attorney, Public Defender, Alternate Public Defender, Probation Department, delinquency court judges, academics and other relevant stakeholders to review the overall system of delinquency representation, including the provision of services, and make recommendations to improve the system that should include a fiscal impact analysis of the costs to the County and the potential sources of revenue; and
- 3) Direct the Chief Executive Officer to report back to the Board in 60 days on proposed recommendations to improve the current system for consideration by the Board.

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