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Building a System of Alternatives to Incarceration

Throughout the 1960s, California’s leaders oversaw the deinstitutionalization of tens of thousands of our sickest and most vulnerable community members. Compelled by the belief that better care could be provided in a system of community-based facilities that would be developed one day soon, and looking to relieve pressure on the State’s budget, California made drastic cuts to its psychiatric hospital system. However, despite the promise of new federal support for the development of community-based mental health treatment facilities in 1963’s Federal Community Mental Health Act, the robust system of community-based treatment envisioned was never funded or built. The absence of adequate community-based mental health resources, combined with a shrinking number of state psychiatric hospital beds and the new barriers to involuntary treatment posed by 1967’s Lanterman-Petris-Short Act, yielded devastating results for people with serious mental illness in California. Over the next several decades, as more and more people with serious mental health disorders fell through the cracks of the State’s fraying and shrinking mental health safety net, thousands of our most acutely ill community members ended up

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in a separate publicly funded system that was never designed to address their needs – our criminal justice and incarceration system.

Shortly after the State began dismantling our psychiatric hospital system, California's leaders enacted laws, and the electorate adopted a number of ballot initiatives, that led to the expansion of the State's and counties' prison and jail systems. During this same period, the nation's War on Drugs was leading to sharp increases in incarceration rates for drug-related charges. Over the past several decades, this expansion of the incarceration system, combined with the shrinking number of psychiatric hospital beds available, and the increased prosecution for drug-related charges, led to drastic increases in the number of incarcerated people with behavioral health needs. In 1994, California adopted one such sentencing regulation, known as "Three Strikes," that called for harsh penalties for individuals who were convicted of multiple crimes. While the primary stated goal of California's Three Strikes law was to deter individuals from committing crimes, it instead led to the pervasive and unjust sentencing of people to harsh criminal penalties for minor offenses. As a result of this and other similar policies, California's and Los Angeles County's jail population increased dramatically, exacerbating the problem of mass incarceration.

Today, Los Angeles County operates the largest jail system in the United States and holds more than 17,000 people, including over 2,000 women, daily. Over 5,000 incarcerated individuals, more than thirty percent of the entire population, also require significant mental health services. In addition, an estimated sixty percent of the jail population suffers from substance use disorders. The profile of incarceration in the County is consistent with national research showing that a disproportionate number of people admitted to jails are sick, impoverished, homeless, struggling with mental health and substance use disorders, or any combination of these factors.

The same policies that resulted in expansions of the incarceration system also have had a disproportionate effect on communities of color—especially those experiencing poverty, homelessness, substance use disorders and untreated trauma. In both the County and in national trends, people of color are disproportionately impacted by the justice system. Research demonstrates the harmful result of inequitable incarceration rates in communities of color. As the Alternatives to Incarceration (ATI) Work Group’s final report highlights, incarceration triggers a host of “collateral consequences” that devastate entire communities, including but not limited to: job loss, lost wages, children going into foster care because they are not allowed to live with a parent with a criminal record, and high levels of childhood and family trauma due to families being separated by incarceration.

Studies also indicate that incarceration can exacerbate mental health issues for individuals while they are in jail. While the Sheriff and our Departments of Health Services and Mental Health have improved the health and mental health services that are offered within the jail in recent years, they are still challenged to provide high-quality care in an environment that was designed to cage people, not heal them. Local clinical experts have repeatedly testified to the Board about how jail leads to further decompensation for the individuals with serious mental illness in our jail system. Furthermore, local statistics show us that when these individuals suffering from mental illness and substance use disorders, many of whom are in unstable housing or homeless, are released from jail, a significant portion of them are doomed to end up back on our streets, in hospital emergency rooms, or back in jail.

In the last several years there has been an emerging conversation at the national, state, and local levels about how we can shift our criminal justice systems away from the model of mass incarceration that was adopted decades ago, away from the War on Drugs, and move towards a more equitable justice system. In recent years, State policy began

evolving to decriminalize specific behaviors, reduce sentences for certain offenses, and establish pathways to divert people out of the jail system. In line with these emerging national and state policy shifts, the Los Angeles County Board of Supervisors (Board) has also taken several significant steps to reform the County's criminal justice system in the past five years. This Board has engaged in this conversation with the desire to not only create a more just system, but to also address the fact that in the aftermath of a shrinking state system of psychiatric hospitals, and with the broken promise of Federal funds to create a robust community-based system of mental health treatment, our County jail system has become the de facto largest mental health facility in the nation. With over one-third of our jail population, which translates into over 5,000 individuals who are incarcerated, experiencing some form of mental health disorder, we must look to other solutions in order to provide them with appropriate care and treatment. And with an estimated sixty percent of our jail population, which translates into over 10,000 individuals, suffering from substance use disorders, it is clear that we must also find ways to address the enormous amount of unmet need for substance use disorder treatment.

In the past several years the Board has worked to address this challenge in two main ways: by improving our system of care and treatment facilities both inside and outside of the jail system, and by increasing our efforts to divert people out of our incarceration system at the earliest point possible.

In 2015 the Board sought to better serve the physical health and mental health needs of those who are incarcerated in our County jails by centralizing and unifying the administration of all health services in a new unit in our Department of Health Services. This Board has also recently approved funding to support the expansion of substance use disorder treatment services within our jail system. The Board has also repeatedly supported efforts and funded capital projects that are designed to provide appropriate

levels of care in community-based settings. Such initiatives include: the development of restorative care villages and mental health crisis residential treatment facilities on our County hospital campuses, the establishment of Recovery Bridge Housing to provide stable housing for those who are receiving substance use disorder treatment, the expansion of Permanent Supportive Housing throughout the County, and continuous advocacy for the State to address the chronic under-funding of our Adult Residential Facilities (also known as “board and cares”). All of these resources help keep vulnerable clients housed and out of jail and our emergency rooms while they receive vital treatment services.

The Board has also endeavored to establish and support initiatives that will help us keep our sickest community members from ever falling into the criminal justice system, as well as initiatives to help those that have already entered the criminal justice system to get out and into treatment instead. In 2015 the Board established the Office of Diversion and Reentry (ODR), and charged the new Office to develop and implement countywide criminal justice diversion for people with mental illness and/or substance use disorders, to provide reentry services, and reduce youth involvement in the justice system. After witnessing ODR’s early success in safely diverting thousands of people with mentally illness out of jail and into treatment in the community, this Board realized that we need to expand our thinking regarding what might be possible in terms of diversion and system reforms.

On February 12, 2019, the Board established the Alternatives to Incarceration Work Group (ATI), bringing together community advocates, service providers, community members, people directly impacted by the justice system, and staff from multiple County departments to develop a roadmap for diverting people away from the criminal justice system and into a system that was designed to provide “care first, jail last.” The Board directed the ATI to draft a comprehensive plan to build a more effective justice system by

looking specifically at diversion and re-entry data, treatment options, and alternatives to custody.

The ATI Work Group consisted of 25 voting members; 15 were County departmental representatives, and the other ten were community leaders with experience serving, or advocating for, impacted populations. Over the course of nine months, there were 50 ATI meetings and community convenings involving more than two dozen departments, over 100 community organizations, and over 1,000 participants. Special attention was paid to engaging people with lived experience of incarceration and the criminal justice system, including listening sessions in County jails and heavily impacted communities. Through an open and transparent process based on consensus-building, ATI developed 114 recommendations that aim to provide treatment and services - instead of arrest and jail - to those in need. The recommendations describe a vision for promoting community health and safety throughout the County, outlining a public health approach focused on providing “care first” and utilizing jail only as a last resort for vulnerable members of the community, including those with clinical mental health and/or substance use disorders. The recommendations also seek to reduce and eliminate the racial disparities in our criminal justice system by utilizing a racial equity framework to build a system of care that supports communities of color to heal and flourish.

It has become apparent in Los Angeles County, as in so many other places across the nation, that we cannot incarcerate our way to safer communities. Nor can we continue to allow our jail system to serve as the nation’s largest mental health institution. However, despite the magnitude of the problem, there is reason for optimism. Research published last year by ODR shows that people who were formerly incarcerated who participate in ODR’s programs demonstrate significantly lower recidivism rates than those who are not in ODR’s programs. Furthermore, the Rand Corporation found that over 61% of the jail’s

mental health population (translating into over 3,000 incarcerated people) could be safely diverted out of jail custody and into community-based treatment. We know that diversion works - we simply have to determine how we can do more of it.

The time has come to focus on how to avoid incarceration and involvement with the County's justice system, and how to increase holistic, community-based supports for those who are at risk of justice involvement, while working to reduce and eliminate longstanding and profound racial disparities in our justice system. With the County taking several significant steps to reduce its reliance on incarceration and to expand diversion and treatment in recent years, the time is right to begin the work of implementing transformative change of the system of care that is the bedrock of the Board's "care first, jail last" mission. The foundational recommendations from the ATI Work Group provide this Board with an excellent starting point for this next phase of this critical conversation.

WE, THEREFORE, MOVE that the Board of Supervisors thank the Work Group members for their time and dedicated work in helping the County and the Board achieve the vision of providing "care first, jail last," and take the following actions:

1. Adopt the five strategies outlined in the Alternatives to Incarceration Work Group's final report;
2. Instruct the CEO to establish an organizational unit – The Alternatives to Incarceration Initiative (Initiative) - within the CEO's Office, charged with vetting, planning, coordinating, and overseeing the implementation of ATI Recommendations, as well as monitoring the Initiative outcomes:
 - a. Take immediate steps to hire a Director for the Initiative who will provide leadership for, and manage the staff and resources of, the Initiative; and
 - b. Report-back during the Final Changes Budget with recommendations for a staffing and funding plan to establish an initial complement of staff and

resources for the Initiative, including resources for implementing the racial equity framework developed through the ATI process, promoting strong community engagement, and supporting a broad and inclusive stakeholder process.

3. Instruct the CEO, in consultation with County Counsel as needed, to report back to the Board of Supervisors within 90 days with a preliminary written analysis of the fiscal, legal, and operational components of each of the twenty-six foundational ATI recommendations, with a final written analysis on these foundational recommendations to be submitted to the Board within 180 days;
4. Instruct the Director to report back as soon as is practical, but no later than 180 days from their hiring start date, with a proposed implementation plan and timeline for the Board's consideration for each of the twenty-six foundational ATI recommendations:
 - a. The proposed plan should be informed by a number of sources including the implementation plans proposed by the ATI Work Group, additional information acquired or uncovered through the CEO's fiscal and legal and operational analyses, and input from Departments and other entities who may perform the services or provide the resources called for in the ATI recommendations;
 - b. The proposed implementation plan should identify: the steps necessary to implement the recommendations; the size and scale of existing programs or service delivery efforts underway which may address the analyzed recommendations; legal, regulatory, budgetary, or operational barriers to implementation; potential funding or funding sources needed to

implement the recommendations (including the possible creation of a public/private partnership to support the Initiative's efforts to eliminate racial disparities and support community engagement); and any legislative, regulatory, and/or local policy and practice changes necessary to remove barriers to implementation; and

- c. Additionally, the Director shall collaborate with stakeholder networks to share and receive feedback on the proposed implementation plan including, but not limited to, the ATI Work Group, County Commissions and advisory bodies, faith-based institutions, system-impacted populations, and service providers as appropriate.
5. Instruct the Director to engage racial equity experts experienced in using data driven methods to analyze those large, urbanized, service-delivery systems that are the focus of the ATI recommendations, to collaborate with the Initiative and ATI stakeholders to develop tools, policies, practices (including the collection, analysis, and reporting of all ATI-relevant data by race), and metrics for evaluation designed to ensure the elimination of racial disparities in the both the implementation of the twenty-six foundational recommendations as well as in the criminal justice system, and to provide the Board with an evaluation of outcomes on an annual basis;
 6. Instruct the Director to provide written reports to the Board every four months which will include status updates, timelines, and next steps; and
 7. Instruct the Director to report back in writing within one year with an analysis of the remaining 88 recommendations included in the ATI report.