

**MOTION BY SUPERVISORS MARK RIDLEY-THOMAS
AND SHEILA KUEHL**

August 4, 2020

Strengthening COVID-19 Protections in Los Angeles County’s Justice System

The State of California has the authority to charge people with crimes and to incarcerate them, both post-conviction and pretrial. Inherent in that authority is a legal and moral responsibility to due process of law. The County of Los Angeles (County) has an obligation to ensure that the procedures through which due process is afforded provide for the physical safety and human rights of all involved in the criminal justice system, which is founded on the premise that all are presumed innocent until proven guilty. Affording due process should not unnecessarily expose individuals attending mandatory court procedures to serious health risks – especially where those risks can be avoided or mitigated. In the case of courthouses in the County, risks can potentially be mitigated in three areas: courthouse entry and safety management; lock-up safety; and testing and transportation of individuals to court.

The Presiding Judge of the Superior Court of California, County of Los Angeles (Court) has implemented several of the recommendations for reopening provided in the Public Defender’s (PD) June 1, 2020 letter, which was endorsed by the Board of Supervisors (Board). While implementation of these recommendations created a safer environment to begin reopening the Court, some recommendations have not yet been implemented, but would provide an added level of protection to all whom must be present

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in Court. With the increase of positive COVID-19 cases since the reopening of the Courts, additional recommendations may be necessary to further help reduce the spread of the virus.

Since the adult court reopened on July 6, 2020, the Los Angeles County Sheriff's Department (LASD) notified the PD of multiple cases of potential exposure to its attorneys by clients who tested positive for COVID-19 through the County's Correctional Health Services. In addition, many in-custody clients come to Court without being tested beforehand. On June 26, 2020, the Department of Public Health (DPH) recommended to LASD that it cease transporting those with pending test results. However, given recent changes around testing, opportunities to identify positive asymptomatic in-custody clients prior to transportation to Court has declined. In addition, despite the Presiding Judge's July 6, 2020 order requiring the wearing of masks in the courthouses, compliance with this order and recommendations for social distancing remains inconsistent.

The safety and protection of those present in the County's courthouses is critical not just as part of the County's efforts to slow the spread of COVID-19, but to protect the constitutional and human rights of all those entering a courthouse, including jurors, counsel, and criminal defendants. The reports of County workers, defendants, jurors and others present in the courthouses being exposed to individuals who are asymptomatic or tested positive for COVID-19 are concerning, and the current safety and health measures in some areas of Court proceedings need to be strengthened. Stronger health and safety measures can help ensure the protection of those visiting and working in the County's courthouses.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

Instruct the Chief Executive Officer (CEO) in collaboration with the Directors of the Department of Public Health (DPH), the Correctional Health Services (CHS) within the Department of Health Services (DHS), the Internal Services Department (ISD), the Alternate Public Defender (APD), the Public Defender (PD) and the Sheriff, to report back to the Board of Supervisors (Board) in writing in 14 days with the following:

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1. Recommendations on the creation and implementation of a pre-screening process for symptoms of illness before any member of the public may enter Los Angeles County (County) courthouses, including, but not limited to, temperature checks and symptom and exposure questions;
2. Recommendations on how hourly patrols throughout the courthouses can better ensure compliance with the Presiding Judge's order to wear masks and comply with social distancing protocols;
3. The inspection of lockup space in every courthouse, where feasible, by DPH inspectors and proposed recommendations to the Board and the Presiding Judge regarding safety based on COVID-19 risks, including consultation with ISD staff regarding ventilation and sanitation;
4. A recommendation on whether and when incarcerated individuals should be tested for COVID-19 before a court appearance;
5. The feasibility of rapid testing for incarcerated individuals;
6. The feasibility of testing jurors prior to the start of their service on a jury, as well as any recommendations for further strengthening social distancing and face-covering practices among jurors;
7. Options to expand video conferencing technology to allow incarcerated individuals access to attorneys, clinicians, and the courts; and
8. Recommendations on procedures for responding when there is a known positive COVID-19 test from any individual who has been in a Los Angeles County (County) courthouse (including members of the public, staff, jurors, attorneys, or clients). Such recommendations should include procedures for notifying all who may have been exposed to the virus and for imposing quarantines within County courthouses, if necessary.

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(CG/MN/CAS)