AGN. NO.

MOTION BY SUPERVISOR HOLLY J. MITCHELL **May 4, 2021**

Empowering Indigent Defense Services in the County of Los Angeles

On January 5, 2021, the Los Angeles County (County) Board of Supervisors (Board) unanimously approved the motion by Supervisors Mitchell and Kuehl, which directed the Public Defender Office (PD) to report back to the Board to provide a data-driven assessment of the current workload/caseload pertaining to indigent defense services provided to County residents. The PD was also directed to report on the impact of recent challenges imposed by the COVID-19 pandemic as well as the recent changes in the County's justice system, including the proposed reforms brought forth by the newly-elected District Attorney.

On September 4, 2018, the Board appointed a new Public Defender who was instructed to modernize the PD's operations and incorporate a digital and data-driven approach to provide visibility for one of the most important services that the County provides to our vulnerable youth and adult communities. On October 29, 2020, the Public Defender was successful in rolling out the PD's first consolidated Client Case Management System (CCMS). CCMS modernized and centralized over 160 million adult client case records which span over 30 years to provide its deputy public defenders and the Board with a longitudinal view of justice-involved County residents. This data will be continuously used to measure operational challenges, legislative and reform impacts, and reveal opportunities to improve alternatives-to-incarceration

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MOTION

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outcomes in our justice system, especially in the areas of diversion and reentry for our juvenile and adult residents.

In the 60- and 90-day written reports provided by the PD in response to the Board-approved motion, the PD surveyed 10 years of adult client data using its newly released CCMS. The data substantiated the magnitude and the importance of indigent representation for our County residents. It illustrated that the PD represented 1,207,943 adult residents who were accused with felony and misdemeanor charges—an equivalent to 12% of the total County population. 79% of those indigent residents are Latinx and African Americans. Of this total number of clients, 20% are women— the majority of whom are Latina and African American women.

The past decade's data also revealed that while the PD represented residents charged with a staggering 2,463,348 felony and misdemeanor charges, only less than 8,000, or 0.3% of those charges were disposed of with a pre-plea diversion outcome, compared to almost 1,000,000 convictions. This further demonstrates the imperative for action to empower indigent defense to advocate for alternatives-to-incarceration outcomes.

A pretrial diversion of charges is a person's best chance of avoiding the cascading generational stigma of justice involvement. No less than twelve statutory opportunities exist for true diversion, which results in a dismissal of charges rather than a conviction and later potential for expungement, yet data shows that the criminal legal system has rarely availed itself of these options over the past decade. A properly resourced PD, working in collaboration with the service providers, is the way to successfully implement the Board's vision of *Care First, Jails Last*. The PD must work with health agencies and community-based programs to identify proper treatment and then advocate to the prosecutors and the courts on each County resident's case, to show that diversion is consistent with not only the person's needs, but also with public safety.

Similar to other County departments, the PD was significantly impacted by the recent budget curtailments due to COVID-19's impact on the County's revenue leading to downsizing the PD workforce by 84 positions, 53 of which were felony and

misdemeanor attorney positions. Although 10-year data shows impressive accomplishments by the PD in dismissing more than half of the charges from criminal filings, it is critical to ensure that its capacity is always sufficient to provide the best legal representation services to County residents. Jury trials have been postponed due to the COVID-19 pandemic, creating a large case backlog (approximately 90% of trials were postponed without resolution). This backlog will have a long-lasting impact and requires immediate attention as the Superior Courts resume its business as usual.

Ensuring the protection of constitutionally guaranteed due process rights of the accused, as well as the advancement of the Board's rehabilitative vision of criminal justice, requires a commitment to providing the PD with the necessary resources to ensure quality representation. A multi-year plan for right-sizing the PD's staffing levels will provide a roadmap for the County to thoughtfully allocate resources to meet critical needs.

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

1) Instruct the Chief Executive Officer, in collaboration with the Public Defender (PD) and the Director of Personnel, to report back in writing during Supplemental Budget for Fiscal Year (FY) 2021-22 with an assessment of the PD's FY 2021-22 budget request and a plan for meeting the identified critical needs, including the constitutional obligation to provide indigent defendants with quality legal representation in criminal cases. The report should include:
   a. An analysis of the feasibility of funding the requested attorney and support staff positions in the PD's FY 2021-22 budget request;
   b. A rapid recruitment plan, developed in alignment with the County's Anti-Racism and Diversity and Inclusion (ARDI) initiative, to fill currently vacant positions and newly allocated positions within one year from budgetary approval;
   c. A data-driven, three-year budget roadmap for right-sizing the PD's staffing that addresses, among other things, the immediate and long-term impacts of the case backlog caused by COVID-19 and new and emergent justice reform initiatives, policies and programs.

2) Instruct the PD to report to the Board of Supervisors in writing on a semi-annual basis by providing client data and outcomes to show the impact of staffing allocation and to continue to utilize data to assess the need for scaling resources to address critical services, including increasing efforts to divert indigent clients to appropriate mental health and alternative to incarceration programs.

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(JM/CG)