

MOTION BY SUPERVISORS HILDA L. SOLIS

July 25, 2023

AND LINDSEY P. HORVATH

**Humane and Compassionate Treatment of and Advocacy for the Incarcerated**

**People with Serious Medical Needs**

In Los Angeles County (County), the jails are becoming de facto mental health facilities and medical hospitals for people with serious mental health needs and medical conditions. The Los Angeles County Board of Supervisors (Board) have taken actionable next steps to address those with various acuity levels of mental health needs, such as the expansion of additional open, residential beds and creating 500 secure, sub-acute and acute beds in the community. The Board is also actively pushing towards reaching full compliance with the Department of Justice consent decree on mental health conditions in the County jails. Care first also needs to extend to those individuals who have medical vulnerabilities as people do not get well from mental health and medical issues by sitting in a jail cell.

Governor Gavin Newsom and the State have already taken measures to improve the compassionate release process by signing Assembly Bill (AB) 960. This expands

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the eligibility criteria and strives to streamline the approval process, including by automatically providing legal counsel. AB 960 requires the California Department of Corrections and Rehabilitation (CDCR) to refer a case to the courts no more than 45 days after the physician begins the process and provides a substantive standard for the courts to apply in favor of release, with the only exception being if the patient is deemed a public safety risk. The County should look to adopt some of these principles and apply them to the jail system to treat its aging, ill, and medically vulnerable population with a more efficient, humane, and compassionate process.

According to the Custody Division Population Quarterly Report for January to March 2023, there is an average of 523 incarcerated individuals who are suffering from debilitating and life-altering medical problems within the County jails such that they are in Medical Outpatient/Specialty Housing (MOSH). This means that over 500 incarcerated individuals require medical treatment beyond that of stabilized medication distribution. The MOSH area in Men's Central Jail (MCJ) houses the most of this population, with a quarterly average of 390 individuals, and specifically houses people who are incarcerated with mobility issues. This can be heavily implied that there are individuals who are incarcerated in the medical wards of the County jails, unable to walk, feed themselves, be self-sufficient and are completely reliant and dependent on the medical providers in the jails.

This population, just like those with severe mental health needs, require an intense amount of staff time, effort, and resources. According to the First Quarterly Report of this year, there are 2,728 incarcerated people who are 45 years and older. This makes up 19% of the population and is consistently the second largest population

we have in our system. As age increases, recidivism rates decrease, and cost of health services increases. However, just like the County jails are not the ideal setting for people with mental health needs, the same can be said for those with serious medical conditions. Plainly, jails are unsuitable settings to provide treatment and care for anyone with serious medical needs, that is a subset of this population.

The County's Correctional Health Services (CHS) have made multiple attempts to apply for compassionate release for some of our incarcerated individuals, however, the criteria are unnecessarily inflexible, such as the use of a third-party physician to make the appeal on behalf of the patient. The process appears to be convoluted, complex, and lengthy, which could result in terminally ill patients dying in jail while awaiting a decision. Between January 2015 and April 2021, statewide, 304 people were referred for compassionate release, of which 290 were eligible, yet 91 people died before the process could be completed and only 53 people were successfully released.

Many of these individuals do not pose a danger to society due to their incapacitation and it is inhumane for them to serve their time or wait pre-trial in jail. Aside from the humanistic argument for re-assessing the criteria for compassionate release, there are possible fiscal savings in that the burden of care is no longer the responsibility of the jails. Additionally, given the workforce shortage of mental health and medical providers, and with this population requiring an intense number of staff and resources, this will allow the limited number of providers to tend to other incarcerated individuals.

The only way to advocate for the necessary changes to support this medically vulnerable population is through legislative changes that would amend the appropriate

Government Code and other relevant statutes that would provide the Sheriff and DHS' Correctional Health Services (CHS) greater ability to implement medical releases from custody (Gov. Code, §26605.5) and compassionate releases from custody (Gov. Code, §26605.6) to further the Care First agenda.

**WE, THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS** direct the CEO-Legislative Affairs and Intergovernmental Relations (CEO-LAIR) to advocate and support legislation, including those that are similar to AB 960, and would amend the appropriate Government Code and other relevant statutes that would provide the Sheriff and DHS' Correctional Health Services (CHS) greater ability to implement medical releases from custody (Gov. Code, §26605.5) and compassionate releases from custody (Gov. Code, §26605.6).

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