

Creation of a Jails Special Counsel Unit to Provide the County of Los Angeles with Legal Experts on the Constitutional Delivery of Mental Health Services and Suicide Prevention in its Jails

The County of Los Angeles (County) does not have subject matter legal experts on the integrated problem of the delivery of mental health services and suicide prevention in its jails. As a result, the County is disadvantaged in coordinating efforts among the Department of Mental Health (DMH), Sheriff’s Department, County Counsel and Chief Executive Office to address the legal challenges that first arose in 1996 regarding the United States Department of Justice (DOJ) findings of alleged constitutional deficiencies with regard to mental health care and suicide prevention in its jails.

The DOJ began its investigation in 1996 and by 1997, concluded that mental health care in the County’s jails violated the constitutional rights of the inmates. In 2002, the County entered into a Memorandum of Agreement (MOA) with the DOJ to resolve all remaining issues relating to mental health services in its jails. As a condition of the MOA, County Counsel, DMH and the Sheriff’s Department regularly met with the DOJ and its monitors, as well as received and responded to DOJ reports regarding the deficiencies. Quite alarmingly, however, the Board of Supervisors (Board) was never updated by the County departments. Thus, despite an issue so serious, the Board remained in the dark regarding the County’s efforts to comply with the MOA. It was only after the September 5, 2013 DOJ letter to the Chief Executive Officer and Sheriff advising that it planned to seek additional remedies to address ongoing patterns and practices of constitutional violations covered by the MOA, did the Board become fully aware of

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what had transpired over this 12 year period.

From 2002 until the present, the County has had at least six County Counsels, four appointed and two acting. Within the Office of County Counsel, one legal unit represents the Sheriff's Department and another unit represents health services, which includes responsibilities for concerns involving public health, health services, and mental health issues.

The problem facing the County about the constitutionality of mental health services and suicide prevention in its jails is serious, integrated, lengthy and complex, and the stakes are high. Special Counsel to the Board through the creation of a Jails Special Counsel (JSC) unit would provide dedicated attorney-client representation to the Board as it improves the County's delivery of mental health services and negotiates with the DOJ. JSC's creation would allow the Board to have subject matter legal experts who would be the persons most knowledgeable to advise it on all aspects of the legal issues, challenges and solutions arising from mental health services in the jails. The creation of this unit would also allow for the County to have consistent representation in a manner that will be more cost effective than outsourcing such expertise development to outside counsel.

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

- 1) Approve the creation of a Jails Special Counsel unit as special counsel to the Board of Supervisors within the Executive Office of the Board of Supervisors to provide legal representation on the delivery of mental health services and suicide prevention in the jails. The organizational reporting relationship to the Board of Supervisors should mirror that of the Children's Special Investigation Unit.
- 2) Direct County Counsel to draft an ordinance amending Title 2 and Title 6 to create and define the position of the Jails Special Counsel unit in the County Code that includes one lead attorney, one attorney, one paralegal, one support staff and one analyst by October 22, 2014.
- 3) Direct County Counsel to draft a Memorandum of Understanding between the Jails Special Counsel unit and the Departments of Mental Health, County Counsel, Coroner, Health Services, Probation, Public Social Services and Public Health, where necessary by October 22, 2014.

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- 4) Direct the Chief Executive Officer to identify funding for the Jails Special Counsel unit.
- 5) Direct the Executive Officer of the Board of Supervisors to identify and secure office space.
- 6) Direct the Executive Officer, in conjunction with County Counsel, to report back to the Board of Supervisors at its meeting of October 14, 2014 as a Set Item, with a status report, to include an assessment of filling these positions from existing County employees, or by conducting an external recruitment.

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