July 23, 2020

Ms. Sachi A. Hamai
Chief Executive Officer
County of Los Angeles
500 West Temple Street, Room 713
Los Angeles, California 90012

Dear Ms. Hamai:

 RAND REPORT RESPONSE

The Los Angeles County Sheriff’s Department (Department) supports the diversion of justice involved individuals who are in custody for low level offenses and have serious mental illness. An example of such individuals would be the Misdemeanor Incompetent to Stand Trial population, who are in the Department’s custody solely because the State of California and Los Angeles County (County) do not have the appropriate community mental health treatment facilities to serve them outside of a custodial environment.

I am optimistic that with the appropriate level of commitment from the County, the Office of Diversion and Reentry (ODR), and the ongoing collaboration with the County’s justice partners, individuals who are brought into custody and meet the criteria can be quickly diverted into community based mental health treatment beds. This diversion of justice involved individuals could have the potential for true impact on the size of the mental health population within the jail system. However, the findings in the Rand Corporation report, “Estimating the Size of the Los Angeles County Jail Mental Health Population Appropriate for Release into Community Services” (Report) were as stated in the report itself, skewed toward the highest possible diversion rate and cannot reliably be used when making decisions related to the appropriate size of the jail system. The Report details several limitations which make its projections inflated and improbable.
In addition to the grandiose assumptions made in the Report, it must be reiterated that each inmate diverted does not equate to an unneeded jail bed. Once beds are vacated through diversion they must be put back into service for those inmates sentenced to serve jail time due to their criminal behavior. The County has traditionally underfunded the Department and has failed to construct facilities to appropriately house its jail population. This has resulted in overcrowded jail conditions and necessitated the early release of individuals ordered to serve county jail sentences. This historic failure should not be used as a justification by the Los Angeles County Board of Supervisors (BOS) to continue to ignore the lawful sentencing decisions made by trial court judges and expanded, to lessen criminal sentences according to their own political ideals.

The Report was written to include the number of inmates who “could be diverted assuming that there were no limits on the types of programs or number of treatment slots available in the community.” The Report does not differentiate how many of those deemed “appropriate for diversion” would, based upon their clinical diagnosis, require housing in a secure inpatient mental health facility. Currently, no long term secure inpatient facilities exist within the County. A decade’s long effort to site such a facility in the County has been unsuccessful thus far and even if funded today, is likely years away from coming to fruition. Removing the inmates needing this high level of care would most certainly result in a significant reduction in the number of individuals deemed “appropriate for diversion.”

The Rand researchers admittedly worked closely with the ODR to develop their study methodology, obtain study data, and interpret their results. Given that ODR anticipates a $30,000,000 expansion, should parts of the jail system be defunded, this Report was hardly an independent study. The Report admits the authors’ “understanding of the legal factors that shape diversion come from our discussion with ODR and its experience.” The Report further states, “Legal stakeholders in other courts may have differing views regarding the factors that shape legal suitability and clinical eligibility….our estimates should be considered as an upper bound of the population that would ultimately be diverted even if treatment resources were available without limitation.”

As stated previously, the Department fully supports ODR’s efforts to divert persons suffering from serious mental illness into community-based treatment programs. However, the removal of these inmates from the jail system does
not mean jail cells previously occupied by diverted inmates are no longer needed.

Since the early 1980's, the Sheriff has had to make unpalatable release decisions to comply with the court ruling Dennis Rutherford vs. Sherman Block, United States District Court Case No. CV 75-4111 DDP. To prevent overcrowding within the jail system, the Sheriff currently releases inmates sentenced to county jail time after they have completed a mere ten percent of their sentence. This equates to an inmate currently spending an average of nine days in jail on a one year jail sentence. By defunding the jail system, the BOS could once again artificially exacerbate conditions of overcrowding, leading to an increase in unsupervised early releases.

As pointed out in the Report, diversion programs are voluntary. It is logical to assume fewer individuals will choose to voluntarily participate in mental health treatment programs, when their alternative is just a few days in custody. Volunteering for longer term treatment programs will become less and less attractive as the ability to use jail time as a negative consequence for unlawful behavior is eliminated. This is a phenomena which was observed with the decline in drug court participation following the passage of Proposition 47.

It is the Department’s goal, and should be the goal of the entire County government to increase public safety for all residents and visitors to the County. This does not happen by simply downsizing the jail system, but by right sizing it to ensure those who can be safely diverted are, and to ensure those who cannot or choose not to participate in diversion, serve the sentences they are required to by law.

Should you have any questions, please contact Chief Kelly M. Porowski, Custody Services Division, Specialized Programs, [redacted].

Sincerely,

[Signature]

ALEX VILLANUEVA
SHERIFF