

PROPOSED ORDINANCE OF MEASURE R

Section I: TITLE

This measure may be known and referred to as the “Los Angeles County Sheriff Civilian Oversight Commission Ordinance.”

Section II: FINDINGS AND PURPOSE

The People of the County of Los Angeles find as follows:

Los Angeles County (the “County”) is home to one of the largest jail systems in the world.

Most people in Los Angeles County jails are awaiting trial or were sentenced for nonviolent offenses (about 63 percent of the incarcerated population). These offenses are often a result of efforts to survive without resources, a home, or community support services.

Drug addiction and mental health issues, especially when combined with chronic homelessness, drive many crime incidents, especially nonviolent crime incidents. These issues often get worse with jail time, not better. Many people in Los Angeles County jails have unaddressed mental health or substance abuse issues, and many are homeless upon release.

Los Angeles County has the largest population of people in jail with mental illness of any jail system in the country.

In the City of Los Angeles (the largest city in the County), arrests of homeless people have increased at a faster rate than the growth of the Los Angeles homeless population (21 percent versus 37 percent from 2011 to 2016). Today, one in every three homeless people have been arrested — 17 times higher than the arrest rate among the total city population.

Estimates show that up to 10 percent of the 8,000 to 10,000 people released from County jails each month end up homeless and living on the streets. Similarly, those with mental health issues and drug dependency who are processed through the County jail system are also likely to find themselves re-arrested and re-incarcerated.

Studies have shown that youth violence prevention, mental health treatment, and housing programs that address chronic homelessness work better than incarceration to prevent crime and to reduce wasteful spending in the justice system. Yet Los Angeles County spends far less on vital prevention programs than it does on incarceration — programs that can more effectively stop the cycle of crime and save county resources.

A recent study led by a professor at California State University, Los Angeles, found that more than a third of the youth in County lockups were rearrested for new crimes and violations within

a year of their release, and a growing body of research indicates that someone who is incarcerated as a juvenile is at greater risk for future criminal justice involvement than someone who is convicted of similar crimes but not locked up. One study found that those incarcerated were 13 percent less likely to finish high school and 22 percent more likely to end up in prison as adults.

A 2016 Los Angeles County audit found that the average cost of incarcerating a single youth has soared to \$233,600 a year, significantly higher than other comparable jurisdictions.

In enacting Assembly Bill No. 109 (2011-12) (“AB 109”) Realignment — the Governor’s initiative to address prison overcrowding by keeping people convicted of “non-serious, non-sexual and non-violent” offenses under county care or custody — the California State Legislature declared a new focus on rehabilitating rather than just punishing those convicted only of non-serious, non-violent offenses. Formal legislative findings and declarations accompanying the enactment of the AB 109 Realignment legislation state that, “[c]riminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety.” The AB 109 Realignment legislation urges counties to “manage and allocate criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable,” and encourages counties to use “evidence-based strategies” that are demonstrated to reduce recidivism rates, often dramatically, and “community-based punishment” to reduce crime. The AB 109 Realignment legislation provides counties an opportunity to address an over-reliance on incarceration to respond to public health issues.

Proposition 47 was passed by California voters in 2014 to reduce simple drug possession and certain property crimes from felonies to misdemeanors, and it redirected over \$100 million in savings to education, treatment, and victim services, and at least \$40 million was allocated to Los Angeles County for community-based re-entry support.

An Office of Re-entry and Diversion has been created in the County, as well as a workgroup that recently released a bold, new vision for youth diversion from arrest.

There is a growing movement in the County and throughout the state for bail reform. In November 2016, County voters approved Proposition HHH, an initiative that raised the parcel tax to provide \$1.2 billion in bonds for the construction of 10,000 units of housing. In March 2017, County voters passed Measure H, a historic quarter-cent sales tax to fight homelessness by providing critical wrap-around social services. These propositions demonstrate the strong public support for these reforms, and are important initial steps that could benefit from expansion using other expenditures now used on incarceration and targeted for new jails.

The Affordable Housing Program; the Homeless and Housing Program; and the Department of Workforce Development, Aging and Community Services each receive a fraction in funding of the combined Sheriff’s and Probation Department budgets.

The County is now preparing to spend \$3.5 billion on a jail expansion plan. Jails cannot effectively address underlying issues such as mental health issues, drug dependency, or chronic homelessness. Los Angeles County urgently needs a more effective strategy to stop the cycle of crime and save County resources. This cycle is costly and ineffective.

These revisions to the Los Angeles Code of Ordinances require the existing Los Angeles County Sheriff Civilian Oversight Commission (the “Commission”) to research and draft a Comprehensive Public Safety Reinvestment Plan (the “Plan”) and Feasibility Study to reduce Los Angeles County’s jail population and to use existing resources from Propositions 47 and HHH and the savings resulting from further reducing the jail population for prevention and mental health treatment, including a timeline for resourcing and implementing strategies to meet this goal.

These revisions also empower the Commission to effectively investigate these and other issues by allowing them to conduct their own investigations with existing staff and by granting the Commission the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and oversight, and to administer oaths.

To achieve these purposes, this measure shall be interpreted in a manner that applies the Commission’s new duties and powers broadly, not restrictively.

Section III: AMENDMENT OF COUNTY CODE, TITLE 3, CHAPTER 3.79

Section 3.79.210 of Chapter 3.79 of the County Code is added to read (new text is shown by underlining):

3.79.210 – Comprehensive Public Safety Reinvestment Plan.

The Commission shall research and draft a Comprehensive Public Safety Reinvestment Plan (the “Plan”) for the Board of Supervisors to be released to the public within seven months of the adoption of this amendment to the Los Angeles County Code, including a Feasibility Study for its implementation, to reduce Los Angeles County’s jail population and to reinvest jail system costs into prevention and mental health treatment, including a timeline for resourcing and implementing strategies to meet this goal.

- A. The Plan and Feasibility study shall identify existing, proposed and other potential community-based, owned and operated alternatives to arrest, court, detention and incarceration for people facing nonviolent criminal convictions who have underlying issues such as mental health or drug dependency issues or chronic homelessness.
- B. The Plan and Feasibility Study shall examine the feasibility of investing the resulting savings from jail population reductions, including examining redirecting funds from the \$3.5 billion budgeted for a jail expansion plan, to:
 1. Reduce the population of people in jail experiencing mental health drug dependency or chronic homelessness issues to save county jail system costs;

2. Develop a holistic community mental health infrastructure to prevent crime;
 3. Create mental health alternative custody programs administered through the County Department of Public Health that reduce recidivism of people with mental health issues and criminal convictions;
 4. Expand youth centers and programs to prevent youth involvement in crime; and
 5. Increase funding of the existing Office of Re-entry and Diversion, which implements criminal justice diversion for those with mental health or substance abuse issues and provides re-entry support.
- C. The Plan and Feasibility Study shall calculate projected reductions in future jail populations based on current policy and on the Plan's proposed reforms, and the associated financial savings from proposed population reductions.
- D. The Plan and Feasibility Study shall assess the jail population impact of bail reform, including pre-arraignment and pre-trial release.
- E. The Plan and Feasibility Study shall compare the costs and effectiveness of current mental health treatment inside county jails as compared to the costs and effectiveness of non-custodial, community-based drug treatment.
- F. The Plan and Feasibility Study shall investigate the impact that jail incarceration has upon incarcerated individuals' (1) abilities to address addiction; (2) educational, employment and other opportunities; and (3) family's and community's economic, physical and emotional health; as compared with the costs and effectiveness of non-custodial, community-based drug treatment.
- G. The Plan and Feasibility Study shall identify the following:
1. The necessary infrastructure, including but not limited to agency homes, funding, training and technical assistance, to implement a comprehensive prevention, harm reduction, youth and community development strategy;
 2. Successful programs and services or models to stop the cycle of crime that exist in Los Angeles County and Southern California, or elsewhere in the state, nation or world;
 3. Systemic, structural and organizational barriers, including bias or discrimination, to implementing the Plan and recommendations concerning how to address and surmount such barriers;

4. Ways to integrate the current structure and scope of work of affected County departments, including the departments of Health Services, Mental Health, Public Health, Senior and Community Services, Sheriff, the District Attorney, and multiple commissions; and
5. Specific recommendations to the Board of Supervisors concerning direction to be given to the Chief Administrative Officer, Executive Officer of the Board, and County Counsel to supplement staffing and funding for the Commission to accomplish its purposes.

Section 3.79.030 of Chapter 3.79 of the County Code is amended to read (new text is shown by underlining and deleted text is shown by ~~strikeout~~):

3.79.030 – Duties.

The Commission shall, on its own or at the request of the Board of Supervisors or the Sheriff, without interfering with the Sheriff's investigative function:

- A. **Make Recommendations.** Review, analyze, and where appropriate solicit input, and make recommendations to the Board of Supervisors and the Sheriff on the Sheriff's Department's operational policies and procedures that affect the community or make recommendations to create additional operational policies and procedures affecting the community and request a response from the Sheriff.
- B. **Investigate.** Investigate through the Office of Inspector General (OIG), or through its own staff, analyze, solicit input and make recommendations to the Board of Supervisors and the Sheriff on systemic Sheriff-related issues or complaints affecting the community.
- C. **Review.** Review policy recommendations made by outside entities at the request of the Board of Supervisors or the Sheriff or recommendations made in other reports that in the judgment of the Commission merit its analysis, and report to the Board of Supervisors or the Sheriff whether or not the recommendation(s) should be implemented by the Board of Supervisors or the Sheriff or, if the recommendation(s) is being implemented, the status of implementation. The Commission's reports shall contain an analysis supporting its recommendations and shall seek the input of the Sheriff before implementing or publishing its reports.
- D. **Monitor Settlement.** Only at the request of the Board of Supervisors and/or the Sheriff, serve, either collectively or through one or more of its members, as the monitor of the implementation of settlement provisions in litigated matters.
- E. **Serve as Liaison and Mediator.** Function as a liaison, or at the request of the Board of Supervisors, the Sheriff, and/or community groups or organizations involved, serve as a mediator to help resolve ongoing disputes between the Sheriff's Department and members of the community, or organizations within the County of Los Angeles.
- F. **Obtain Community Input.** Obtain community input and feedback on specific incidents involving the use of force, detention conditions, or other civil rights concerns regarding the Sheriff's Department, convey to the Board of Supervisors and the Sheriff community complaints, concerns or positive feedback received by the Commission, and where appropriate, make recommendations.

- G. Work with the Office of Inspector General. Work with and assist the Office of Inspector General in soliciting community input and feedback on issues being investigated by the Inspector General, and supervise and evaluate all work performed by the Inspector General that is done at the request of the Commission.
- H. Function as a Bridge. Function as a bridge between the Sheriff's Department and the community by providing the community an additional means of giving input to the Sheriff, obtaining answers from the Sheriff to community concerns about the Sheriff's Department's operations, practices and activities, bringing an additional perspective to the Sheriff's Department's decision-making to ensure an ongoing balance between the sometimes competing factors of ensuring public safety and constitutional, civil and human rights, and communicating community concerns to the Sheriff that otherwise might not be as clear or might go unnoticed.
- I. Seek Sheriff's Input. Seek the input of the Sheriff prior to completing any of its recommendations made pursuant to the duties defined in this section.
- J. Advise. Serve only in an advisory capacity to the Board of Supervisors and the Sheriff, and without the authority to manage or operate the Sheriff's Department or direct the activities of Sheriff's Department employees, including imposition of discipline.

Section 3.79.130 of Chapter 3.79 of the County Code is amended to read (new text is shown by underlining and deleted text is shown by ~~strikeout~~):

3.79.130 - Use of the Office of Inspector General Staff for Investigative Purposes.

The Commission ~~shall~~ may utilize the staff of the Office of Inspector General to undertake investigations, inquiries, audits and monitoring. Alternatively, the Commission may use its own members or staff to undertake investigations, inquiries, audits and monitoring. The Commission shall direct, supervise and evaluate all work performed by the Inspector General that is done at the request of the Commission. Additionally, the Commission may review and evaluate the Office of Inspector General's handling and resolution of any or all citizen's or inmate's complaints.

Section 3.79.190 of Chapter 3.79 of the County Code is amended to read (new text is shown by underlining and deleted text is shown by ~~strikeout~~):

3.79.190 - Obtaining Documents and Information.

~~The Commission shall be bound by the memorandum of agreement between the Office of Inspector General and the Sheriff's Department relating to access to Sheriff's Department documents. The memorandum of agreement will govern which documents the Commission may access as well as how the Commission will obtain documents and information from the Sheriff's Department.~~

Consistent with state law, including, but not limited to the Peace Officer's Bill of Rights, the Commission has the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and oversight, and to administer oaths.

Section IV: CONFLICTING PROPOSITIONS

If any other proposition, appearing on the same ballot as this proposition, addresses the subject matter in a way that conflicts with the treatment of the subject matter in this proposition, and if each proposition is approved by a majority vote of those voting on each proposition, then as to the conflicting subject matter the proposition with the highest affirmative vote shall prevail, and the proposition with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.

Section V: SEVERABILITY

If any provision of this measure or its application to any person, property, or circumstances is found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this measure or the application of those provisions to other persons, property or circumstances, which can be implemented without the invalid provisions and to this end, the provisions of this measure are declared to be severable.