



# A BLUEPRINT FOR CRIMINAL JUSTICE POLICY SOLUTIONS IN HARRIS COUNTY





## ACKNOWLEDGEMENTS

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## INTRODUCTION: A SNAPSHOT OF HARRIS COUNTY'S CRIMINAL JUSTICE SYSTEM, PAST, PRESENT, AND FUTURE

### Harris County Operates a Massive Jail and Justice System

On any given day, Texas county jails house approximately 65,000 people.<sup>1</sup> More than half of these individuals are typically awaiting trial, not yet having been convicted.<sup>2</sup> Many others are misdemeanants or serving terms for nonviolent offenses. And sadly, some individuals have repeatedly returned to jail, trapped in a continuous cycle of recidivism, unprepared for a life outside of the criminal justice system without access to post-release treatment and programming.

As more and more individuals are incarcerated or otherwise involved in the criminal justice system, the fiscal and human costs increase: Individuals with criminal records have difficulty finding stable employment and housing, leading to re-offending; the expenses associated with managing bloated jail populations can be extensive; and public safety and health are likewise compromised when crowded jails fail to meet the needs of incoming and exiting individuals.

Despite being home to the largest jail in Texas (and third largest in the United States), Harris County has nonetheless struggled with jail overcrowding for the past four decades. In 1974, a group of inmates filed a lawsuit against the Sheriff and County Commissioners that challenged the conditions of their confinement; it culminated in a federal court order condemning the overcrowded conditions in the Harris County jail, and it provided jurisdiction to the federal court to ensure steps were taken to bring the conditions of the jail within constitutionally protected standards.<sup>3</sup> For nearly two decades, that court wielded its oversight power heavily, frequently intervening to prevent conditions at the Harris County jail from deteriorating further. And yet, following the termination of the court's oversight in the mid-1990's, the Harris County jail population once again swelled.



*Crowded holding Cell  
at Harris County  
Sheriff's Office Inmate  
Processing Division*

Johnny Hanson/©Houston Chronicle. Used with permission.

By the late 2000's, Harris County's jail population was exceeding the design capacity of the jail facilities by almost 2,000 inmates and exceeding the target figure for safe operation of the jail by more than 2,400 inmates.<sup>4</sup> The large number of inmates forced the County to outsource approximately 1,000 inmates each month to jail facilities in Louisiana; additionally, the County housed approximately 2,100 inmates in jail facilities in other Texas counties.<sup>5</sup> Unsafe and unsanitary crowding conditions prompted new federal oversight in the form of a 2008 investigation by the United States Department of Justice (DOJ).

### Corrective Steps & Ongoing Need for Improvement

Facing a county budget burdened by the fiscal costs associated with such a large number of jail inmates, the Harris County Commissioners Court contracted with the Justice Management Institute (JMI) to conduct a study on improving the County's criminal justice system and addressing the County's jail crowding problem.<sup>6</sup> The release of the JMI report in 2009 and the ongoing DOJ investigation inspired the formation of the Harris County Criminal Justice Coordinating Council (HCCJCC), a panel of county officials and stakeholders, as the first step in a concerted effort to solve the County's jail population issues.

Since then, various strategies have been implemented to address specialized populations, including those with substance abuse and mental health problems who too frequently end up behind bars. The County has implemented emergency response teams that provide assistance to those in mental health crisis, and District Attorney Devon Anderson has implemented a policy in regard to nonviolent individuals charged with a low-level drug offense who have a history of drug or alcohol dependency; rather than sentencing the person under 12.44(a),<sup>7</sup> the defendant is offered intensive rehabilitation with community supervision to address the addiction issue. Additionally, in October 2014, District Attorney Anderson's office initiated the First Chance Intervention Program, a pilot diversion program offered to first-time offenders who would otherwise be charged with Class B possession of marijuana (2 ounces or less).<sup>8</sup> Harris County Probation Director Teresa May has worked ardently with judges to drastically reduce technical violations among those being supervised, and Harris County Sheriff Adrian Garcia has expanded the use of legally permitted "good time" credit for eligible jail inmates who exhibit positive behavior.

We are now seeing a reduction in Harris County's jail population, which has been below its operating capacity since October 2011.<sup>9</sup> Sustaining that initial success would prove difficult, however, and an influx of inmates in the fall of 2013 nearly drove the jail population over its operating capacity.<sup>10</sup> Similar influxes have, at times, necessitated Harris County to make requests to the Texas Commission on Jail Standards for additional jail beds through temporary variances (*See Appendix 1*).<sup>11</sup>

Absent further jail population reduction strategies, more variances may become necessary in the future, and further county resources may be expended on confinement. Those costs are not insubstantial. In fiscal year 2013, following a rise in the County's jail population, taxpayers spent nearly a half-million dollars per day operating the jail.<sup>12</sup>

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Harris County stakeholders – including law enforcement, judges, prosecutors, jailers, County Commissioners, county budget staff, and treatment providers – must collaborate to deliver cost-savings to county taxpayers through jail population management strategies and through a more public health response to drug use and mental illness. Ultimately, where possible, low-risk, nonviolent individuals should be diverted and handled outside of already overburdened court and jail systems, rather than forcing taxpayers to foot the bill for their pretrial detention and later confinement; meanwhile, those who are exiting jail should have access to post-release assistance to stay on the right path. Smart-on-crime strategies can ensure that funds needed for social services and programs are not unnecessarily diverted to criminal justice oversight.

### What’s Next for Harris County?

What follows are a series of analyses meant to reflect on Harris County’s successes and failures since the release of the JMI report in 2009. They are intended to guide the County as it shapes criminal justice policies going forward.

To prepare these analyses, the authors had discussions with county officials and stakeholders throughout 2014 that ultimately produced a litany of policies, both successful and unsuccessful, that those with a vested interest in Harris County’s criminal justice system thought were relevant to the advancement of the County’s larger goal of jail population reduction. After an extensive review of the issues surrounding these policies, the authors also produced specific recommendations for Harris County to follow in order to continue shrinking its jail population. The relevant discussions and recommendations for Harris County are presented in four distinct sections:

#### **1. The Harris County Criminal Justice Coordinating Council (HCCJCC): Challenges to Sustainable Evidence-Based Criminal Justice Policy**

Identifying and remedying deficiencies in the Harris County criminal justice system would not be possible without the efforts of HCCJCC. Now over five years old, HCCJCC continues to be the driving force behind collaborative solutions for managing Harris County’s jail population. Reflecting on HCCJCC’s performance is a necessary step if Harris County wishes to sustain any of the gains it has made over the past five years. Thanks to the work of HCCJCC, information on the County’s jail population is easily accessible, better enabling the identification of policies and practices that may lead to increased jail populations.

#### **2. Removing Impediments to Harris County Defendants’ Constitutionally Protected Right to Bail**

The pretrial detainee population at the Harris County jail is massive. The most recent jail population reports show that **70% of those incarcerated in Harris County Jail have not yet been convicted of a crime and are simply awaiting trial.**<sup>13</sup> Fueling the influx of these pretrial detainees into the Harris County jail is the consistent compromise of a defendant’s constitutionally protected right to secure bail. Remarkably, the number of pretrial detainees has gone down by *only 15 inmates* since August 2009, despite the fact that the County’s jail population has fallen by 2,500 inmates over that time.<sup>14</sup> Taking steps to ensure that each defendant’s right to bail is adequately protected will allow the County to avoid costly litigation while safely reducing the population that represents the County’s most significant opportunity for quantifiable progress.

#### **3. Cost-Effective Solutions for Improved Public Safety Outcomes: Safe Alternatives to Incarceration; Rehabilitation; and Other Strategies**

Adding to Harris County’s jail population pressures is the over-criminalization of minor drug offenses and mental illness, which has created an untenable, revolving door into and out of jail. Until recently,

Harris County's efforts at reforming drug policy, diversion programs, and mental health treatment were severely lacking. Fortunately, major stakeholders and criminal justice leaders have begun to respond to these pressures with innovative solutions that emphasize rehabilitation and alternatives to incarceration. District Attorney Devon Anderson, along with Sheriff Adrian Garcia and others, spurred the creation of a new diversion program for first-time offenders arrested for the possession of marijuana, while continuing to "emphasize rehabilitation for people who are non-violent."<sup>15</sup> Similarly, Sheriff Garcia has supported strategies to reduce the jail population, including expansion of "good time" credit for eligible jail inmates, and a diversion program for the mentally ill. Regarding the latter, the Sheriff said, "There are folks in our community who are not bad people – they're just sick. Instead of consuming important patrol resources, we have developed this program with Judge [Ed] Emmett and other members of commissioner's court" to provide serious crisis intervention.<sup>16</sup> Continuing to develop new policies regarding the mentally ill and individuals with low-level offenses is another important step for Harris County to make in sustaining manageable jail population levels.

#### 4. Discovering Methods for Influencing Positive Outcomes for Prisoners and Probationers Alike

With a population of over 8,000 inmates, a comprehensive outlay of resources is needed to keep the Harris County Jail functioning on a basic level. After covering the basic costs associated with confinement, finding the resources for other programs – such as those that prepare inmates for a successful reentry to the community – becomes nearly impossible. But absent adequate reentry programming, exiting inmates are much more likely to recidivate and return to jail (draining county resources all the while). Probationers, too, can face challenging hurdles to remaining law-abiding. And in fact, prior to the arrival of Director Dr. Teresa May in 2013, individuals supervised by the probation department (formally known as Harris County Criminal Supervision and Corrections Department) struggled with burdensome probation conditions that caused frequent technical violations. Under Dr. May's leadership, however, the Department's focus on evidence-based practices has ensured that resources are being appropriately allocated, enhancing probationer outcomes and public safety. Managing inmate and probationer outcomes will continue to be a crucial aspect of Harris County's jail reduction efforts going forward.





## **THE HARRIS COUNTY CRIMINAL JUSTICE COORDINATING COUNCIL (HCCJCC): CHALLENGES TO SUSTAINABLE EVIDENCE-BASED CRIMINAL JUSTICE POLICY**

### Introduction

In 2008, the Harris County Commissioners Court contracted with the Justice Management Institute (JMI) to conduct a study to determine how to improve the County’s criminal justice system.<sup>17</sup> At the time, the number of inmates incarcerated in the county jail exceeded the physical capacity of the jail complex by more than 2,000 inmates.

During its research, JMI found that Harris County lacked the capacity to analyze its operations and performance, critical for justice system planning and decision-making on use of resources. Moreover, JMI found a continuing need for county coordination among interrelated agencies involved in and impacted by criminal justice processes.<sup>18</sup> The release of JMI’s report in June 2009 became the impetus for the Commissioners Court to establish the Harris County Criminal Justice Coordinating Council (hereinafter referred to as “HCCJCC” or “the Council”).<sup>19</sup>

The HCCJCC is an interagency collaborative entity that includes the leaders of agencies involved in or affected by the County’s criminal justice operations.<sup>20</sup> According to its establishing order, HCCJCC is charged with developing policies and overseeing initiatives that improve the County’s criminal justice system and reduce the jail population to a level consistent with state standards for safe jail operations.

### Problem Statement

The HCCJCC faces various challenges to fulfilling its mission, including the need for ongoing strategic planning efforts,<sup>21</sup> the use of outdated technology to track inmates across its member agencies, and a membership that is not adequately inclusive. This impedes HCCJCC’s ability to make collaborative policy decisions and prevents it from becoming a stronger influence as the County’s criminal justice policy-making institution.

### Establishment of HCCJCC

Prior to the establishment of the HCCJCC, Harris County’s criminal justice system stakeholders largely operated in isolation. This silo approach prevented the County from developing the capacity to analyze criminal justice system-related operations and performance. Any reform efforts undertaken by justice system stakeholders led to conflicting or competing policies and practices across Harris County’s justice system.<sup>22</sup> JMI found these conflicting and competing policies and practices to be the primary factor contributing to the County’s large jail population, rising justice system costs, and continued high rates of recidivism among inmates, as well as a lack of public trust and confidence in the justice system.

The JMI report identified a significant, continuing need for county coordination among interrelated agencies involved in and affected by criminal justice processes.<sup>23</sup> It recommended that the County Commissioners Court establish the HCCJCC and charge it with policy development and oversight of improvement initiatives for the criminal justice system. JMI also recommended that the court appoint a Criminal Justice Coordinator and establish a staff unit in support of the Council for policy development, research, and analysis of information for planning, budgeting, and resource allocation.<sup>24</sup>

These recommendations became the impetus for the Commissioners Court to establish the Council in July 2009, and in the HCCJCC's establishing order, the Court charged the Council with improving the criminal justice system and seeking reductions in the jail population.<sup>25</sup> The establishing order also included the following:

1. It appointed 11 elected officials as members of the Council.
2. It directed the Council to use a committee structure to conduct its collaborative justice planning.
3. It required the Council to include non-voting persons with knowledge and expertise in specific subject matters in the Council's committees.<sup>26</sup>

Despite this, the Commissioners Court directed the Council to make its own decisions about its organization, officers, priorities, and committees.<sup>27</sup> In other words, as a result of the limited directive included in its establishing order, the Council was tasked with two seemingly conflicting responsibilities: developing its own management and administrative structure to support long-term collaborative justice planning, and simultaneously using collaborative planning to develop an immediate plan for rapidly reducing the jail population.

### Early Achievements

Despite its limited directive, the Council achieved early success when it oversaw a rapid reduction in the jail population, one of JMI's primary recommendations. In September 2009, two months after the establishment of HCCJCC, the Harris County Jail reached its peak population level of 11,295 inmates.<sup>28</sup> At the time, the Commissioners Court had paid for almost 2,000 inmates to be housed in jails located in other jurisdictions within Texas and in Epps, Louisiana. This practice of "outsourcing" inmates to other jurisdictions was costly to county taxpayers and put an additional stress on family members who could not maintain regular contact with loved ones. To address the high costs associated with such a large jail population, JMI recommended as a top priority that the Council initiate a multi-faceted Jail Population Reduction Program involving key justice system and central county government leaders, with top-quality staff support.<sup>29</sup>

While it left the responsibility of setting population targets to the HCCJCC, JMI recommended what it called a "basic" target for jail population reduction: full compliance with safety standards promulgated by the Texas Commission on Jail Standards (TCJS) – *without* the exception to the standards that allows for temporarily increasing bed capacity of existing facilities – within two years.<sup>30</sup> (This "temporary exception" allows the Sheriff to request "variance beds" from TCJS in order to address a rise in jail population that is expected to be "temporary."<sup>31</sup>) At its population peak, the Harris County jail had a large number of variance beds that accumulated over multiple years, increasing the jail's capacity by almost 2,000 inmates (*See Appendix 1*). The excessive use of these "temporary" beds created unsafe and unsanitary crowding conditions, as cited by the Department of Justice during its 2008 investigations.<sup>32</sup>

To respond to JMI's recommendation, the HCCJCC immediately created a Jail Population Reduction Committee, which still exists today. **Between September 2009 and December 2012, the inmate population dropped 24%, and, by the end of 2012, the jail housed only 8,581 inmates – almost 300 inmates below the state standard for safe jail operation.**<sup>33</sup> The sharp decline in the population was the result of multiple factors, including an increased "good time" rate for eligible jail inmates who exhibit positive behavior, pretrial detainee analysis, increased use of electronic monitoring for individuals with low-level offenses, a change in drug "trace case" policy (which reduced felonious charges for trace amounts of drugs), and additional attention paid to the population of inmates with mental health needs.<sup>34</sup> The coordination and analysis of these factors, in large part, is attributable to the Jail Population Reduction Committee of the HCCJCC.

**However, after achieving a reduction in the jail population level by December 2012, the population increased again, peaking above design capacity during September 2013.** While the population has since decreased, it

continues to fluctuate and has not stabilized at the safe level recommended by the JMI. **These changes indicate that the HCCJCC must develop sustainable policies to enable the County to implement the full breadth of JMI’s recommendations for maintaining a safe jail population level over the long term.**

### Challenges for HCCJCC

Harris County must address the three primary administrative challenges facing the HCCJCC to ensure JMI’s recommendations can be implemented and to institutionalize the HCCJCC as the County’s premiere criminal justice policy-making institution: (1) The HCCJCC must finalize elements of its strategic plan (already underway); (2) HCCJCC membership must include all relevant justice system agencies and the other relevant social system agencies that impact the jail population; and (3) The various justice system agencies that comprise the HCCJCC must use the same technology for collecting data on jail inmates, which will enable effective data collection and analysis and allow HCCJCC’s membership to make evidence-based policy changes to the County’s justice system.

- ***Strategic Planning***

Prior to the strategic planning sessions that occurred in late 2014, HCCJCC was lacking a mission statement, vision statement and strategic goals, all of which impeded the ability of Council members – agencies whose missions differ and often oppose one another – to work together toward a common goal.<sup>35</sup> According to the Council’s establishing order, it was created as the focal point for efforts to improve the criminal justice system and to seek reductions in the jail population.<sup>36</sup> Its ultimate purpose is to collaboratively develop policies and oversee initiatives that can enable the County Commissioners (the governing body of Harris County) to move forward on the recommendations delineated by JMI in its 2009 report.

But again, HCCJCC’s establishing order is loosely defined and lacks a directive to guide the Council. For example, it does not define subjective terms such as what the Court meant by “improve the criminal justice system.” Without a clearly defined establishing purpose, HCCJCC membership were given the difficult task of developing its own mission statement and strategic goals. Ultimately, HCCJCC developed its own “Procedural Guidelines,” which were approved and adopted by the Commissioners Court, and HCCJCC used the JMI report to prioritize its tasks.<sup>37</sup> The sections of the Procedural Guidelines include: name; authority and purpose (strictly the language of the establishing order); a list of the Council’s members; officers of the Council; procedures for scheduling meetings and setting the agenda; a list of standing committees and their jurisdictions; a description of the Office of Criminal Justice Coordination; the support staff of the Council; and guidelines for modifying the “Procedural Guidelines.”

HCCJCC’S recent adoption of a mission statement, vision statement, and strategic goals represents a significant step in HCCJCC’s evolution as a functioning body. According to the National Institute of Corrections, collaborative bodies responsible for improving a large criminal justice system, like Harris County’s justice system, whose members have competing interests, need these defining elements so members can represent the mission of their individual agency but also work toward a common goal.<sup>38</sup>

- ***Incomplete Membership***

The current membership of the HCCJCC does not include all justice system agencies or the other social service systems that influence the number of people entering and exiting the Harris County Jail. Without these agencies represented, the Council cannot ensure it considers all factors impacted by a proposed policy change, thus impeding its ability to sustain a jail population level consistent with state standards.

When the HCCJCC was established in 2009, the Commissioners Court Order, as well as the Council's Procedural Guidelines, required the Council's membership to include the following 11 elected officials:

- District Attorney
- District Clerk
- Sheriff
- County Attorney
- Administrative Judge of the District Courts
- Administrative Judge of the Criminal Trial Division of the District Courts
- Presiding Judge of the County Criminal Courts
- Presiding Judge of the 16 Justice of the Peace Courts
- Constable to represent the 8 Constables
- Two (2) members of the Commissioners Court

The officials elected to these positions were established as voting members of the HCCJCC. HCCJCC's procedural guidelines dictate that if any of its voting members cannot attend a Council meeting, they may send a representative from their agency, but that the representative would not have voting power at the meeting.

After operating for almost five years, the Council members identified gaps in the HCCJCC's membership. In an amendment recommended by the voting members on February 11, 2014, the Commissioners Court expanded the HCCJCC's voting membership to 13 members, adding the following two elected officials:

- Judge of the Juvenile Division of the District Courts
- Mayor of the City of Houston

The Council also identified justice system agencies missing from its membership, but whose agency leaders were not elected officials. It was important to the Council's members that only elected officials occupy voting member seats on the Council, so the HCCJCC recommended the addition of the missing agencies as *ex officio*, non-voting members. The Commissioners Court order approved the Council's recommendation in February 2014 and added the following four officials as non-voting members:

- Chief Public Defender of the Harris County Public Defender's Office
- Director of the Community Supervision & Corrections Department
- Executive Director of the Juvenile Probation Department
- Director of Pretrial Services

These justice system agencies represent a population of people entering or exiting the jail and, therefore, can offer critical information about factors impacting the jail population.

However, HCCJCC's membership continues to remain incomplete. According to the JMI report, stakeholders whose knowledge about aspects of the jail population problem and views about possible approaches to reducing the jail population include the HCCJCC's current members, as well as the following:

- Houston Police Department (HPD)
- Harris County Criminal Defense Bar
- Mental Health/Mental Retardation Authority (MHMRA)
- Business Community
- The Public



The absence of these five sectors impedes the ability of the HCCJCC to develop sustainable criminal justice policies for maintaining a jail population level that adheres to state standards. The HPD is responsible for 41% of inmates brought to the jail upon arrest, so its perspective on arrest policies would be an important addition to the Council.<sup>39</sup> The criminal defense bar represents criminal defense attorneys not included in the Public Defender’s Office; like the Chief Public Defender’s inclusion as a member, their perspective would be an important addition and could offer an additional balance to the District Attorney. Approximately 25% of inmates at the Harris County Jail are prescribed some form of psychotropic medication, so a representative from MHMRA could help the Council identify strategies for better addressing those with mental health needs;<sup>40</sup> currently, a representative from MHMRA attends Council meetings but its formalized presence among the membership would ensure the inclusion of MHMRA’s perspective in every policy decision, not only the policy issues that pique their interest. Finally, the business community and the public represent the Harris County taxpayers – the funding base for jail operations – and the voters who elect officials based on their ability to ensure public safety.

■ **Integration of Data from Disparate Information Systems**

When the Commissioners Court established the Council, it also established the County’s Office of Criminal Justice Coordination (CJC Office), charging it with the responsibility of supporting the work of the Council, including policy development, research, and analysis of information for planning, budgeting, and resource allocation.<sup>41</sup> For the first two years of its existence, HCCJCC support staff in the CJC Office expended significant resources scrubbing jail population data.<sup>42</sup> With approximately 120,000 bookings per year, averaging 330 bookings per day, across the County’s 110 arresting agencies,<sup>43</sup> the sheer size of Harris County’s justice system agencies makes data governance a challenging responsibility.

The use of disparate technology systems across the various HCCJCC member agencies impedes the Council’s ability to convert the agencies’ data into useful information. Collecting, translating, and analyzing data from disparate technology systems requires the CJC Office to spend even more of its already limited resources on data governance, which slows the Council’s policy development process.

There are two factors contributing to disparate technology systems across justice system agencies:

1. The information technology (IT) departments of the various justice system agencies modernized at different rates. For example, the Harris County Courts’ data warehouse is a highly advanced system, but the Harris County Sheriff’s Office has largely relied on a paper-based records system for tracking inmates.<sup>44</sup>
2. Justice system agencies track people who are involved in the criminal justice system differently, according to the mission of their agency. For example, the County’s court systems track “cases” whereas the Harris County Sheriff’s Office tracks data on the people that it manages at the jail.<sup>45</sup> A case that is tracked by the courts may not be tracked as a person at the jail because that person’s case may not have resulted in the person serving a jail sentence.

**This lack of a cohesive, county-wide data system is inefficient and impedes timely, well-informed decision-making.**



*Harris County Criminal Justice Center*

## Recommendations

To help ameliorate the three challenges outlined above, the County Commissioners and HCCJCC membership should consider the following recommendations, which will improve the collaborative policy-making process in order to maintain a safe jail population level that adheres to state standards.

1. ***Continue the Strategic Planning Process:*** *The HCCJCC should continue the strategic planning process begun in 2014 to further define standing committees, jurisdictional boundaries, and a regularly scheduled evaluation process.*

During the summer of 2014, the Harris County Commissioners Court approved the second phase of JMI's 2009 study of the County's criminal justice system. In the fall of 2014, HCCJCC adopted a mission statement for the HCCJCC, a vision statement for the HCCJCC and the County's criminal justice system, and strategic goals for the HCCJCC to achieve its vision, and it has continued to refine its strategic plan going forward into 2015.

Other elements the HCCJCC should consider reassessing during its strategic planning process include the following:

- The continued use of standing committees and workgroups to achieve its strategic goals
- The mission, vision, and primary responsibilities of standing committees
- The jurisdictional boundaries that define the responsibilities of the HCCJCC and its support staff in the Office of Criminal Justice Coordination
- Developing a regularly scheduled evaluation process for the HCCJCC

According to the National Institute of Corrections, the majority of Criminal Justice Coordinating Councils begin in response to a singular problem, like jail crowding.<sup>46</sup> In fact, many leaders of such Councils in other jurisdictions suggest that Councils may benefit from working to solve a singular problem: when the group works together to solve that problem, members feel a greater sense of belonging, which can lead to addressing more intractable obstacles.<sup>47</sup>

As identified in an earlier section of this chapter, the HCCJCC achieved the rapid jail population reduction recommended by JMI and, according to its members, this achievement helped the County's justice system agencies understand the importance of the Council and of collaborative, evidence-based policy development.<sup>48</sup> By continuing to build on the HCCJCC's strategic planning initiatives begun in 2014, the Council can continue to evolve into the County's primary criminal justice institution.

2. ***Expand HCCJCC's Member Agencies:*** *The HCCJCC should propose to the Commissioners Court another expansion of the Council's voting and non-voting membership to include all justice system agencies and other social support systems that impact the County's jail population.*

According to the National Institute of Corrections, justice system planning is enhanced when it encompasses as complete a "system" of justice as possible.<sup>49</sup> Broad representation among policy-making bodies helps provide the system-wide perspective necessary for comprehensiveness, and policy direction by local government and justice officials ensures greater responsiveness to local needs.<sup>50</sup>



Harris County Commissioners Court

At minimum, the HCCJCC should add the following five agencies or representatives to its membership:

- Houston Police Department (HPD)<sup>51</sup>
- Harris County Criminal Defense Bar
- Mental Health/Mental Retardation Authority
- Business Community
- The Public

Prior to its membership expansion in February 2014, the HCCJCC’s membership strictly represented county-level officials. The expansion incorporated a city-level position, through the addition of the City of Houston Mayor, but the Council should consider expanding the jurisdictional representation of its membership. For example, the Los Angeles Countywide Criminal Justice Coordination Committee has 59 members, including city, county, state, and federal level government officials.<sup>52</sup> The County of Los Angeles is similar in size and geographical complexity as Harris County. While we are not suggesting that the HCCJCC expand its membership so broadly, it could use the Los Angeles Criminal Justice Coordinating Council as an example if considering an expansion of its membership.

The National Institute of Corrections also recommends that Council membership should include four categories of members: justice officials, officials of general government, officials of related non-justice agencies, and statesmen.<sup>53</sup> The Council has focused its membership on the agencies that represent the first two categories. It should continue its efforts to include the other agencies within these first two categories that are still not represented in its membership; it should also seek to include agencies and officials from the last two categories – related non-justice agencies and statesmen. The Council can continue using its preferred method of distinguishing elected officials as voting members and non-elected officials as *ex officio* members as it expands its membership.

HCCJCC’s membership goal should focus on broad representation, as it helps ensure that every agency affected by criminal justice- or jail-related changes has the opportunity to offer valuable insights regarding

the plan for achieving stated goals. More importantly, broad representation helps prevent agencies that are not included in the planning process or that do not agree with the mission, goals, or strategy from scuttling a program or delaying its implementation.<sup>54</sup>

- 3. *Develop a Data Warehouse for Justice System Agencies:*** *To improve the data analysis process for the HCCJCC and its Office of Criminal Justice Coordination support staff, the Council's members should support the implementation of a new modern data warehouse that integrates selected data from the local and state criminal justice system agencies they represent, allowing for uniform data tracking from arrest through release from community supervision.*

The use of a singular Management Information System (MIS) for integrating data across criminal justice stakeholder agencies will help the Council access the data it needs for justice system planning and evidence-based policy development. According to the former Executive Director of the Louisville-Jefferson County (Kentucky) Crime Commission, "Development of effective criminal justice policy is rooted in the ability of a jurisdiction to obtain data on how its system operates and the ability to analyze that data and present that data in a meaningful manner."<sup>55</sup>

Recently, the Harris County Commissioners Court took the initial step of approving \$30 million over six years for implementing a web-based information system that will allow the County's justice system agencies to phase out their use of the antiquated Justice Information Management System technology. The Commissioners Court will need to secure resources for continued adjustments and improvements of this new technology system to ensure efficient data analysis across disparate justice agencies. For example, when the HCCJCC conducts a crime analysis, it will need detailed information describing criminal events, offenders, and victims, which could come from the Sheriff's Office, the arresting municipality's police department, the Crime Victims Unit, and potentially other agencies and departments. Each agency will require nuanced capabilities from the new system, and they should be encouraged to continue its use (despite any troubleshooting problems that will inevitably arise from a newly integrated technology system) to further the County's goal to reduce costly jail crowding.

An integrated information system could create other attendant benefits, including: improving information sharing among non-justice system agencies whose clientele often overlap with people who make contact with the criminal justice system; and enabling the publication of data reports on a website for public information sharing and dissemination.



## REMOVING IMPEDIMENTS TO HARRIS COUNTY DEFENDANTS’ CONSTITUTIONALLY PROTECTED RIGHT TO BAIL

### Problem Statement

Approximately 70% of inmates held in the Harris County Jail are pretrial detainees,<sup>56</sup> many of whom are unable (for a potential multitude of reasons) to secure bail while awaiting trial. The proportion of pretrial detainees as a percentage of the overall population is a result of the severe impediments that Harris County places on defendants’ legal right to secure bail. The county’s bail schedule and bond setting procedures make no attempt to identify low-risk defendants who lack the financial means to post bond for pretrial release, resulting in diminished returns on taxpayer dollars that fund the county’s criminal justice system. Furthermore, Harris County bail practices put the County at an increased risk of costly litigation to resolve the issue.

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In August 2009, the jail housed 6,151 pretrial detainees, which represented 54% of the 11,295 individuals in jail. In October 2014, the number of pretrial detainees was 6,136 – a reduction of only 15 inmates – and they accounted for 70% of the total population of 8,414 inmates.

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### The Fiscal and Human Impact of High Pretrial Populations

Since reaching its apex in August 2009, the Harris County jail population has fallen nearly 25%.<sup>57</sup> Despite the reduction, much of the progress made in reducing the overall jail population has been negated by a failure to reduce the pretrial population in any significant manner. More specifically, in August 2009, the jail housed 6,151 pretrial detainees, which represented 54% of the 11,295 individuals in jail.<sup>58</sup> In October 2014, the number of pretrial detainees was 6,136 – a reduction of only 15 inmates – and they accounted for 70% of the total population of 8,414 inmates.<sup>59</sup>

When defendants are not released on bond and are forced to sit in county jail until their cases are resolved, Harris County taxpayers pay for their costly incarceration at the average price of \$75 per person per day.<sup>60</sup> According to recent data, **Harris County taxpayers can spend nearly \$500,000 in one day on individuals awaiting trial in county jails.**<sup>61</sup> (See Table 1 below for more information.) Not only does it pose substantial costs to incarcerate defendants who may pose no safety threat or flight risk, but it also has the potential to threaten defendants’ stable employment and housing, and hurt their ability to care for their families. Moreover, defendants who are not released pre-trial are more likely to be incarcerated following a conviction, and they generally receive longer sentences upon conviction,<sup>62</sup> at even greater taxpayer expense.

**Table 1. Harris County Pretrial Populations**

Total Pretrial Population of Harris County Jail by Offense, As of October 2014 <sup>63</sup>		
Type of Offense	Population	Cost of Confinement (at \$75/day)
Misdemeanor	464	\$34,800
State Jail Felony	1,059	\$79,425
Felony	4,549	\$341,175
Probation-Related	354	\$26,550
Other	64	\$4,800
<b>TOTAL</b>	<b>6,310</b>	<b>\$486,750</b>

## Contributors to Harris County's Flawed Bail System

### ■ *Harris County's Bail Policies Contradict Texas Law*

The roots of the Harris County Jail's massive pretrial detainee population are traceable to the County's policies regarding a defendant's right to secure bail. Before discussing Harris County's specific bail policies, it is important to note their relation (or lack thereof) to the laws regarding bail proscribed by Texas law.

The Texas Constitution enumerates a right to bail in all non-capital cases,<sup>64</sup> while Article 17.15 of the Texas Code of Criminal Procedure allows for flexibility in the determination of bail, and also instructs the Courts to specifically consider the defendant's ability to make bail in its calculation:

The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense and the community shall be considered.<sup>65</sup>

Harris County Criminal Court Rule 9 governs determination of bail in Harris County, and outlines the exclusive means of determining bail in Harris County as follows: *"...the initial bail amount shall be determined by either presenting relevant information in the possession of the district attorney to a county criminal court at law judge, or Harris County Hearing Officer, or by applying the initial bail schedule."*<sup>66</sup>

**Rather than calculating bail on a case-by-case basis as proscribed by Texas law, the Harris County bail schedules are based solely on seriousness of the charge and the prior record of the defendant.**<sup>67</sup> Harris County rules allow for prosecutors to present "relevant information"; however, prosecutors have no obligation or incentive to do so – especially given research showing that "defendants detained in jail while awaiting trial plead guilty more often, are convicted more often, are sentenced to prison more often, and receive harsher prison sentences than those who are released during the pretrial period."<sup>68</sup> Simply put, the higher the bail amount, the more likely the prosecution will succeed.

### ■ *Harris County's Bail Policies Disproportionately Depend on Financial Bonds*

Strict adherence to the bail schedule makes the primary means of securing release in Harris County financial, with the defendant having the option to post cash for bail or, if unable to afford the bail him or herself, to obtain a surety bond. To obtain a surety bond, the defendant pays a fee to a surety company (a commercial bond company) for the bond to be posted.<sup>69</sup> The aforementioned negative impacts of pretrial detention serve to increase the incentive for a defendant to make bail, giving the commercial bond companies extraordinary control over who is released pending trial and who stays in jail. Of the 41,705 defendants who were able to post bond in 2013, 84.5% of them posted a surety bond.<sup>70</sup>

Harris County’s heavy reliance on financial conditions of release disproportionately impacts the poor. According to the Harris County Bail Schedule, bail for a first-time defendant accused of a Class B misdemeanor is \$500. Using the standard market rate of 10%, a surety bond for these defendants would cost only \$50 – yet, according to the 2013 data, 3,120 misdemeanants with a \$500 bail amount filing were not able to post bond, despite the low cost.<sup>71</sup> At an average cost of \$75 per night, **it would only take a short stay of four nights each for the costs associated with housing these low-level offenders to exceed \$900,000.**

The other option for pretrial release is a personal bond, which is non-financial in nature and requires only the defendant’s signature as a promise to appear. In contrast to surety bonds, personal bonds are very infrequently utilized in Harris County. In 2009, Harris County released only 5,272 defendants on personal bond, amounting to 5% of those arrested (and only 1% of felony arrests).<sup>72</sup> The same year, 34.5% of all defendants were released on surety bond.<sup>73</sup> Four years later, the number of defendants released on personal bond in Harris County decreased to 3,911, amounting to 4.4% of all defendants (and only 0.7% of felony arrestees).<sup>74</sup> In the same time period, the percentage of defendants released on surety bond rose to 40%.<sup>75</sup>



While Harris County’s reliance on surety bonds has grown, other large counties in Texas continue to issue personal bonds at a much higher rate. Travis County issued a personal bond for 18,813 of the 40,144 defendants interviewed in 2012, a rate of approximately 47% of all defendants.<sup>76</sup> The contrast is even starker when comparing personal bonds issued for felony bookings. Bexar County issued a personal bond for 2,385 out of 23,389 felony bookings in 2010, a rate of 10.2%.<sup>77</sup> The unique nature of the Harris County criminal justice system notwithstanding, there is no reason that Travis County should issue personal bonds at a rate 10 times that of Harris County, and there is no excuse for Harris County being 15 times less likely to give a felony defendant a personal bond than Bexar County.

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**The unique nature of the Harris County criminal justice system notwithstanding, there is no reason that Travis County should issue personal bonds at a rate 10 times that of Harris County, and there is no excuse for Harris County being 15 times less likely to give a felony defendant a personal bond than Bexar County.**

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This is all the more important to consider given that personal bonds improve individuals’ chances to continue their lives in the community, maintaining employment and supporting their families, prior to their trial. According to a policy brief from the Texas Fair Defense Project and a study conducted by the Public Policy Research Institute, increasing access to personal bonds can reduce the demand for indigent defense services.<sup>78</sup> The policy brief notes that such defendants “have a greater ability to keep and find work, which increases the likelihood that they will be able to hire a defense attorney, as well pay any court costs and fees assessed in the event of conviction.”<sup>79</sup> Increasing the number of personal bonds is a simple, common sense solution that could immediately and drastically reduce the number of pretrial detainees held in Harris County jail.

## Recommendations

1. **Implement the Bail-Related Measures Recommended by JMI in 2009:** *Utilize effective, tailored bond and supervision approaches that save taxpayer dollars and safely address high pretrial populations.*

Though Harris County has had tremendous success implementing many of the recommendations of the JMI report, there remains shockingly little progress on the issue of pretrial detention. The simplest solution, therefore, is for Harris County to return to the 2009 report and implement JMI's recommendations on the subject.

The JMI report highlighted the discordance between Harris County's bail practices and Texas law, stating "the Texas Constitution and Article 17 of the Texas Code of Criminal Procedure establish the scheme for bail," and emphasizing, "The determinations of whether to grant bail, the type of bail granted, and in what amount is essentially a matter of judicial discretion that **must be operated under Article 17.15 and take into account individual circumstances of a case**" [emphasis added].<sup>80</sup>

The JMI report also recommends that Harris County consider **lowering the presumptive bond amounts** applicable to individuals charged with misdemeanors and low-level felonies and **make increased use of personal bonds**, with conditions of supervision that are appropriate to the nature and level of risk posed by the person's release.<sup>81</sup> Additionally, the report recommends establishing a **range of bail amounts** for the various levels of offenses and urging judicial officers to **consider the Pretrial Services risk assessment results and input from the defense attorney** in setting bail and conditions of release in individual cases.

The JMI report also recommends developing and using a **broader range of supervised release options** for defendants released on personal bond.<sup>82</sup> These include using electronic reporting and notification systems that are centered in kiosks throughout the County, day reporting centers for moderate risk defendants, and use of electronic home confinement with GPS monitoring.<sup>83</sup>

2. **Cultivate a Pilot Program Providing Representation for Defendants at Article 17.15 (Bail) Hearings:** *Providing attorneys to defendants at their initial appearance before a magistrate will result in long-term cost savings for Harris County.*

In Harris County, defendants are brought before a magistrate, either in person or via video, within 24 hours of their arrest.<sup>84</sup> The magistrate advises defendants of their rights (including their right to counsel), determines whether probable cause for the charges exists, and sets bond.<sup>85</sup> Even though an experienced prosecutor is present at these bail hearings, defendants rarely consult with an attorney before they are brought before a magistrate.<sup>86</sup> Attorneys are not appointed for indigent defendants until their first appearance in the court of record,<sup>87</sup> which occurs later.

The Harris County Commissioner's Court approved the formation of a Public Defender's Office in 2009, which began receiving indigent defense assignments in early 2011.<sup>88</sup> Although the Public Defender's Office provides better defense outcomes than assigned counsel,<sup>89</sup> Harris County has not taken any action to improve defendants' access to counsel at magistration.

Alex Bunin, Chief Public Defender in Harris County, and Andrea Marsh, then-Executive Director of the Texas Fair Defense Project, presented their "[Proposal for Counsel at TEX. CODE CRIM. PRO. ART. 15.17 Proceedings](#)" in the Texas Criminal Defense Lawyer's Association's monthly publication, *Voice of the Defense*.<sup>90</sup> The proposal outlines justifications for providing counsel at initial bail hearings, the implementation of which could be a pilot program later funded by the County.<sup>91</sup> These justifications include:



- **Benefit to the court:** Defense lawyers present at magistration can provide information to the magistrate relevant to issues of probable cause and bond, reducing the need for subsequent review.<sup>92</sup>
- **Legal justification:** The U.S. Supreme Court held in *Rothgery v. Gillespie County* that a defendant's Sixth Amendment right to counsel attaches at an Article 15.17 hearing.<sup>93</sup>
- **Long-term benefit to defendants:** Defendants' access to counsel at magistration may help them obtain release from custody, giving them a better chance to avoid a final conviction or receive a shorter sentence.<sup>94</sup>
- **Protection against self-incrimination:** Defendants commonly choose to speak on their own behalf when they appear before a magistrate and in the presence of a prosecutor, even if they do not have an attorney. On many occasions, defendants' statements are used against them in the prosecution of their cases.<sup>95</sup>

**The County should fund the pilot program recommended by the Harris County Public Defender's Office and the Texas Fair Defense Project so that counsel is provided to criminal defendants at their initial appearance before a magistrate in Harris County.** This would safely increase the use of personal bonds and low bail amounts, resulting in long-term cost savings for the County.

According to Alex Bunin, attorney's fees for staffing such a program would amount to approximately \$365,000 annually.<sup>96</sup> With the Public Defender's Office providing training and oversight, the only additional costs would be administrative and could bring the total costs to around \$419,000 annually.<sup>97</sup> The cost savings associated with such a program are speculative but can be estimated based on the State of Maryland, which was recently ordered by its Supreme Court to provide counsel at proceedings virtually identical to those at issue in Harris County.<sup>98</sup> In the short time since the program's implementation in Maryland, the issuance of personal bonds has increased by 8%.<sup>99</sup> Assuming an identical increase in the issuance of personal bonds occurs in Harris County, providing representation at Article 17.15 hearings would mean an additional 2,023 personal bonds issued annually.<sup>100</sup> If the increase in the issuance of personal bonds had even a minimal impact and reduced the jail's pretrial population by 300 individuals (which is less than 5% of the pretrial population), Harris County would save \$22,500 per day or \$8.2 million per year.

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## **COST-EFFECTIVE SOLUTIONS FOR IMPROVED PUBLIC SAFETY OUTCOMES: SAFE ALTERNATIVES TO INCARCERATION; REHABILITATION; AND OTHER STRATEGIES**

### Problem Statement

Harris County continues to incarcerate individuals with low-level nonviolent offenses – including those in need of treatment for mental illness or substance abuse – who would be better served outside the criminal justice system. Such diversion is most effective prior to charges being filed against these individuals, because it saves costs associated with needless pretrial detention and the collateral consequences of a criminal record.

### Drug and Mental Health Offenses in Harris County, and Associated Expenses

Many incarcerated individuals, both those awaiting trial and those already sentenced, are struggling with substance abuse and/or mental illness. Sadly, Harris County’s primary mechanism for addressing these issues is incarceration. In fact, approximately a quarter of inmates in Harris County Jail are taking some kind of medication for mental illness.<sup>101</sup>

Relative to substance abuse, the tables below offer more insight. In 2013, 9,555 cases were filed in Harris County for drug possession (excepting marijuana), with 6,799 of them (or 71%) for possession of less than a gram (*See Table 2*). Separately, over 10,200 cases were filed for Class B Misdemeanor possession of marijuana in 2013, which represents 2 ounces or less (*See Table 3*). If convicted of a Class B Misdemeanor, the individual faces further confinement in the county jail not to exceed 180 days.<sup>102</sup>

**Table 2. Drug Possession Cases Filed (Not Including Marijuana)**

Drug Possession Categories	Filing Year				Total Number Of Cases
	2010	2011	2012	2013	
All Drug Possession ( <i>Except Marijuana</i> )	9,367	8,767	8,532	9,555	50,640
Possession of Less Than a Gram	6,248	6,007	5,658	6,799	35,735

Source: Harris County Sheriff's Office

**Table 3. Marijuana Possession Cases Filed**

Marijuana Possession Categories	Filing Year				Total Number Of Cases
	2010	2011	2012	2013	
Misdemeanor A	525	583	573	448	2,691
Misdemeanor B	10,337	10,199	10,529	10,271	51,017
<b>Total Cases</b>	<b>10,862</b>	<b>10,782</b>	<b>11,102</b>	<b>10,719</b>	<b>53,708</b>

Source: Harris County Sheriff's Office

When looking at those whose primary charge was felony drug possession, excluding any individual with a prior conviction in Harris County for any crimes listed in the Tex. Code of Crim. Proc. 42.12(3)(g),<sup>103</sup> the number of charges still remains high at 7,466 in 2013, with 71% of charges for less than a gram of a controlled substance (See Table 4). Table 5 shows that 4,327 (of 7,466) felony drug possession charges resulted in convictions, with 77% of convictions for less than a gram.

**Table 4. Charges Filed for a Felony Drug Possession Offense**

Drug Possession Categories	Filing Year				Total Number Of District Defendants
	2010	2011	2012	2013	
All Drug Possession	7,510	7,066	6,798	7,466	35,975
Possession of Less Than a Gram of a Controlled Substance	4,558	4,629	4,375	5,305	24,453
Possession of Marijuana	713	643	607	522	3,074
Possession of Marijuana Less Than 4 Ounces	4	2	2	0	12

Source: Harris County District Courts; data excludes any individual with a prior conviction in Harris County for any crimes listed in the Texas Code of Criminal Procedure 42.12(3)(g).

**Table 5. Convictions for a Felony Drug Possession Offense**

Drug Possession Categories	Filing Year				Total Number Of District Defendants
	2010	2011	2012	2013	
All Drug Possession	4,503	4,170	3,721	4,327	21,923
Possession of Less Than a Gram of Controlled Substance	3,073	3,012	2,690	3,331	16,505
Possession of Marijuana	204	208	181	158	963
All Drug Possession –	4	2	2	0	12
Sentenced to 12.44(a)104	2,730	2,107	1,470	2,068	13,417

Source: Harris County District Courts; data excludes any individual with a prior conviction in Harris County for any crimes listed in the Texas Code of Criminal Procedure 42.12(3)(g).

It is critical that Harris County leadership reexamine its overreliance on incarceration to address substance abuse and, even, minor drug use. This is especially the case given that Harris County taxpayers pay an average price of \$75 per person per day to house an individual in jail.<sup>105</sup>

Likewise, the County must identify alternatives to incarceration for individuals with mental health issues, many of whom self-medicate and consequently have addiction problems. Table 6 shows the significant costs associated with providing the services necessary to treat their medical or mental health conditions.

**Table 6. Estimated Jail Bed Detention Costs**

Housing Costs Without One-Time and Overhead Costs	Approximate Daily Cost Per Inmate*
General Population (GP) with No Health Issues	\$40-\$45
<i>GP Receiving Medical Drugs</i>	\$45-\$50
GP with Psychotropic Drugs	\$55-\$60
GP with Medical and Psychotropic Drugs	\$60-\$65
Infirmary	\$200-\$220
Mental Health Housing	\$285-\$305
Overall Average	\$75-\$80

\*Source: Harris County Office of Criminal Justice Coordination Presentation 9/12/2012; in addition to daily costs, there is an additional one-time cost that includes booking/releasing, records, transportation, offsite medical, courts, building and maintenance, utilities, and allocated county overhead.

Facilities other than jails are better suited to meet the needs of individuals with drug- or mental health-related convictions, and their use would result in a significant decrease in the Harris County Jail population, along with a decrease in associated expenses. Notably, a reduction in jail population will not result in a 1:1 reduction in costs; rather, **a cost reduction would result from the magnitude of the population reduction and the characteristics of the population reduced.**

### Existing Efforts to Address Specialized Populations

Harris County has taken steps to meet the needs of specialized populations who often become entangled in the justice system. However, it should make all efforts to strengthen its treatment infrastructure and increase the availability of treatment facilities and professionals. Stakeholders must collaborate to support clearly defined and evidence-based rehabilitation and diversion strategies that encourage personal responsibility and accountability.

#### ■ **Mental Health-Related Diversions and Programming**

##### ● Crisis Intervention Response Team

Since April 2014, the Houston Police Department has maintained the largest Crisis Intervention Team (CIT) in the nation, with over 2,310 officers having received 40 hours of Crisis Intervention Training to prepare them to effectively and safely interact with the mentally ill.<sup>106</sup>

In 2008, the Houston Police Department piloted a Crisis Intervention Response Team (CIRT), which pairs a CIT officer with a licensed mental health clinician from the Mental Health/Mental Retardation Authority (MHMRA) of Harris County.<sup>107</sup> As of December 2012, the Houston Police Department has employed 10 full-time CIRT officers.<sup>108</sup>

The CIRT responds to situations involving those suspected of having a mental illness. Its objectives are as follows:

1. Assist officers with CIT-related calls
2. Conduct proactive and follow-up CIT investigations
3. Respond to all SWAT calls as a resource
4. Handle the most serious CIT calls<sup>109</sup>



While in the field, a law enforcement officer who comes into contact with a mentally ill person will assess the situation and may, but is not required to, bring the person to the Neuropsychiatric Center (NPC, *discussed below*) for psychiatric intervention.<sup>110</sup> According to the University of Texas’s Harris County Psychiatric Center, “If the law enforcement officer elects to transport the person to NPC, the officer will file a request for an Emergency Detention Order so the person may be kept involuntarily in the hospital for a psychiatric evaluation.”<sup>111</sup>

On average, the Houston Police Department annually receives approximately 25,500 phone calls related to individuals in mental health crisis, and that number has been rising. Since 2008, its CIRT units have responded to over 28,500 CIT calls and processed over 9,800 individuals in crisis under an Emergency Detention Order. The average time spent on a CIT call for service in 2013 was 64 minutes, which includes both the general population patrol and the CIRT units. **Since the implementation of CIRTs, arrests among the mentally ill have fallen (averaging 65 annually for the CIRT program), while safe jail diversions have totaled in the hundreds.**<sup>112</sup>

In October 2011, the Houston Police Department collaborated with the Harris County Sheriff’s Office to initiate a CIRT program there.<sup>113</sup> The Sheriff’s Office currently has six full-time CIRT units and plans to expand the program to 9.<sup>114</sup> Since its inception, Harris County CIRT units have responded to 4,458 phone calls, executed 1,542 Emergency Detention Orders, and diverted an additional 518 individuals from jail.<sup>115</sup> Harris County Sheriff Adrian Garcia has expressed deep support for these programs, noting “Helping Harris County residents with acute mental illness to heal would be reason enough to operate this pioneering program. But CIRT also makes our community safer and saves taxpayers money by stopping the revolving door” of “jail without long-term treatment.”<sup>116</sup>

- [Chronic Consumer Stabilization Initiative](#)

In 2009, the Houston Police Department established the Chronic Consumer Stabilization Initiative, which “takes a community policing, pro-active, collaborative approach” to identifying individuals in a mental health crisis prior to police intervention.<sup>117</sup> Logistically:

The City of Houston Health Department provided initial funding to the Mental Health Mental Retardation Authority (MHMRA) of Harris County. With this funding, MHMRA hired two mental health case managers. The Houston Police Department’s Mental Health Unit identified the 30 mental health consumers that the department responds to most frequently. Each clinician worked with 15 of these consumers with the goal of using all available resources to reduce subsequent crisis/calls-for-service.

These case managers access outpatient mental health treatment, housing, primary health care, substance abuse treatment, and social security benefits for the consumers assigned to them. The case managers work closely with the NeuroPsychiatric Center (NPC), Mobile Crisis Outreach Team, Crisis Stabilization Unit, Crisis Residential Unit, MHMRA Helpline, and the Houston Police Department.<sup>118</sup>

The program was piloted for six months in 2009. For the six months prior to the pilot, the 30 individuals identified by the MHU for placement in the program accounted for 396 police calls-for-service, 183 emergency detention orders, and 213 offense reports. During the pilot, these same individuals accounted for 122 calls-for-service (69% change), 39 emergency detention orders (78% change), and 83 offense reports (61% change).<sup>119</sup>

In addition to saving law enforcement 768 manpower hours and reducing related operational costs,<sup>120</sup> the pilot also minimized strain on hospitals.<sup>121</sup> Given these results, the program was adopted permanently.<sup>122</sup>

In 2012, the Houston City Council increased funding to support an additional two case managers (raising the total to four), and added a psychiatric technician,<sup>123</sup> based on findings showing that if the pilot were expanded to reach 60 individuals under the supervision of four caseworkers with the assistance one dedicated law enforcement officer, it would save the city \$867,793 the first year, excluding jail cost savings, while costing only \$282,364 to implement.<sup>124</sup> Lieutenant Mike Lee, who previously ran the MHU, stated in regards to the pilot program, “Even with the success we’ve seen, we all know that it has much more potential. Just with our little experiment, we know we can make a difference in keeping people out of jail. And ultimately keeping someone from getting killed.”<sup>125</sup>

- [Mental Health/Mental Retardation Authority of Harris County \(MHMRA\)](#)

MHMRA provides mental health services for adults and children residing in Harris County. MHMRA services are available for individuals who meet certain diagnostic criteria.<sup>126</sup>

*Note:* According to one MHMRA report, “Of the 256 people [4.3%] who were enrolled in MHMRA and who were served by the CIRT program from 10/1/13 to 4/1/14 (many of the CIRT patients are not MHMRA patients) only 11 had a record of legal involvement after receiving CIRT services.”<sup>127</sup>

- [NeuroPsychiatric Center \(NPC\)](#)

Since 1999, law enforcement officers in Harris County have been able to take individuals suspected of having a mental health issue directly to the NPC, a 24-hour, seven-days-a-week, 365-days-a-year operation. It is staffed with psychiatrists, nurses, social workers, and psychiatric technicians. It has capacity for approximately 60 individuals in serious mental health crisis. Officers complete a one-page form indicating the need to confine the individual, and return to duty. The officer no longer has to wait for the form to be faxed to a judge, signed, and returned. The average time an officer spends at the NPC is 15 minutes.<sup>128</sup>

Table 7 indicates the number of patients seen by the NPC in the last three years, as well as the percentage of these patients that were referred by law enforcement:<sup>129</sup>

**Table 7. NPC Patients and Referrals**

	2011	2012	2013
NPC services provided	15,558	14,666	14,285
Patients brought to NPC by law enforcement	5,508	5,718	6,343
Percentage of people brought to NPC by law enforcement	35.4%	39%	44.4% <sup>130</sup>

- [Ben Taub General Hospital Emergency Center](#)

If a detained person has a medical complication, law enforcement can take him or her to the Ben Taub General Hospital Emergency Center in the Texas Medical Center. Emergency room physicians will treat medical injuries resulting from a suicide attempt or trauma, and acute medical conditions resulting from a drug and/or alcohol overdose or other co-occurring medical illnesses. For treatment of psychiatric problems, a social worker will make referrals to a mental health facility. Treatment is also available at the emergency center of any hospital that has a psychiatric unit.<sup>131</sup>

- [Mental Health Pilot Program, Pursuant to Senate Bill 1185](#)

Harris County is in the beginning stages of implementing a mental health program aimed at reducing the number and the cost of treating individuals who repeatedly cycle through the jail. The four-year pilot program, established by SB 1185 in the 2013 Texas Legislative Session, is intended to substantially reduce recidivism by incorporating a comprehensive array of clinical and social support services – including access to mental health care, chemical dependency services, rehabilitation, and residential housing opportunities.

A major benefit of the program is that it can take advantage of Harris County best practices and piggyback onto existing resources, such as the above-mentioned CIRTs, along with jail-based mental health services.<sup>132</sup>

Once established, the program should serve 500-600 individuals at any given time, and their condition will be tracked for at least five years after release. Presently, Harris County has deployed social workers within the jail to begin to identify individuals who qualify as the program’s target population. *Note: Both the short- and long-term efficacy of this program have yet to be determined.*

- [Harris County Felony Mental Health Court](#)

Originally funded by a grant from the U.S. Department of Justice Bureau of Justice Assistance, the Harris County Felony Mental Health Court (FMHC) began screening defendants for court admission in March 2012.<sup>133</sup> The FMHC is designed for defendants charged with a felony offense and diagnosed with a serious and persistent mental illness, and it is overseen by four felony judges who volunteer their time to provide intervention and treatment alternatives for mentally ill offenders.<sup>134</sup> The FMHC includes the judges staffed to lead the courts, a licensed clinical team leader, a licensed Court Clinician, a licensed Case Manager, two Assistant District Attorneys, two Defense Attorneys from the Public Defender’s Office, and two Community Supervision Officers.

The FMHC program is “recovery-based and designed to accommodate a full range of identified needs while providing structure and guidelines to help participants reach their goals.”<sup>135</sup> Each participant remains in the FMHC program for at least 18 months, during which they receive a comprehensive evaluation, treatment by mental health professionals, substance abuse treatment, and assistance in developing an individualized Wellness Action Plan, which will help each participant maintain stability upon their completion.<sup>136</sup>

- [Dual Diagnosis Residential Program](#)

Re-opened in March 2014 by Harris County Probation Director Dr. Teresa May, the Dual Diagnosis Residential Program provides 70 beds for medium- to high-risk probation clients presenting with one of the “big three” psychological diagnoses (Major Depression, Bipolar Disorder, or Schizophrenia) and a co-occurring substance abuse disorder.<sup>137</sup> Once a person is enrolled, the Dual Diagnosis Program operates a 120-day Integrated Treatment Model, with full wrap-around services at discharge.

- [The Harris County Probation Department’s Mental Health Services](#)

Harris County’s Probation Department maintains 13 mental health initiative caseloads for mentally ill probation clients. The caseloads are supervised by specially trained officers who coordinate with an MHMRA case manager. Each officer maintains a low caseload, allowing for individualized treatment and supervision designed to give each probationer successful treatment.

- *Substance Abuse-Related Diversions and Programming*

- *Sobering Center*

In May 2013, the Houston Recovery Center, aka Sobering Center, opened to provide safe, short-term treatment and management of individuals under the influence of alcohol and drugs, in lieu of incarcerating them. The Center was initially made available to the Houston Police Department; as of June 1, 2014, all officers within the Houston metroplex can use its services.<sup>138</sup> The Center also houses the Houston Police Department's Mental Health Unit, which is located on the second floor of the Sobering Center.<sup>139</sup>

When a law enforcement officer arrests someone for public intoxication, the officer brings the individual to the Sobering Center. After a trained professional conducts a basic health screening of the person, he or she is allowed to rest until sober.<sup>140</sup>

Before leaving, each individual is provided the opportunity to meet with a Recovery Support Specialist who assesses the person's issues, identifies needed resources, and provides referrals and connections to those resources. Those in need also have the option of meeting with a Licensed Chemical Dependency Counselor who can provide counseling, assessments, and referrals to treatment.<sup>141</sup> By addressing the root problem(s) underlying an arrest and providing clients with tools to set achievable goals, the Center's specialists can help them improve their overall quality of life, thus reducing their likelihood of recidivism.<sup>142</sup>

As of October 10, 2013, the Center has a physical capacity for 68 men and 16 women, for a total of 84 individuals. **Since opening in April 2013, the Center has diverted 5,659 individuals from costly incarceration.**<sup>143</sup> These numbers are especially impressive given that the Center began with a "slow-start" in the first two months.

Phase One of the Center has addressed providing a safe place to sober up. The Center is now interested in moving into Phase Two to address those with substance abuse issues and co-occurring mental health disorders, expanding the services it has been providing on an ad hoc basis. (In fact, the Center has already served over 200 people on an ad hoc basis, connecting them to treatment and case management.<sup>144</sup>) Ultimately, the Center intends to match clients with long-term treatment and case management.

*Note:* While some of the Center's clients may be experiencing a one-time event, many suffer from life altering issues such as substance abuse, homelessness, domestic violence, or mental health or medical problems. Thirty-four percent of its clients are homeless (1,927 individuals).<sup>145</sup> According to the Recovery Center's website, "While a person must be checked in to the sobering center by [a member of law enforcement,] all services thereafter are strictly voluntary. Those who choose to leave are not detained. Upon release, individuals have the option of calling a cab, a friend or family member, or asking for a referral. Only those who are willing to accept assistance in transferring to a recovery facility will be provided with the transportation to do so."<sup>146</sup>



■ ***Diversions for Nonviolent Individuals Charged With Marijuana Possession Offenses***

● *First Chance Intervention Program*

The First Chance Intervention Program is a pilot program offered through the Harris County District Attorney's Office to first-time offenders who would otherwise be charged with a Class B possession of marijuana offense (2 ounces or less). It is a voluntary program that gives the individual a one-time opportunity to avoid the filing of a criminal charge and keep his or her record clean.<sup>147</sup>

This program has a positive impact on resources related to law enforcement, jail, prosecution, and courts. It also recognizes the principle that individuals with first-time, low-level, nonviolent offenses are often self-correcting without the need for more formalized and costly criminal justice intervention.

■ ***Diversions for the Homeless***

● *Homeless Outreach Team*

In January 2011, the Houston Police Department started the Homeless Outreach Team as a pilot program, which pairs Houston Police patrol officers with MHMRA professionals to provide them with links to various social services and housing opportunities.<sup>148</sup> It was made a permanent program after a very successful six-month pilot.

● *Boarding Homes Enforcement Detail*

The Houston Police Department in November 2013 initiated a new program aimed at evaluating the housing options of the mentally ill. The Boarding Homes Enforcement Detail works with several city and county agencies to help regulate these facilities to provide humane conditions for those living in them.<sup>149</sup>

■ ***Other Services to Meet Specialized Needs***

● *Houston Veterans Affairs (VA) Medical Center*

If law enforcement officers come into contact with a veteran who is eligible for VA healthcare benefits, they can help the veteran access treatment at the Houston Veterans Affairs Medical Center.<sup>150</sup>

## Recommendations

1. ***Adopt Policies that Address Individuals with Low-Level Offenses Who, Due to the Nonviolent Nature of Their Crime, Could Be Safely Diverted from the Criminal Justice System Without Reducing Public Safety: Implement more cost-effective and rehabilitative approaches to address low-level drug possession, minor property offenses, and trespassing.***

Law enforcement and prosecutors should establish policies directed at the smart utilization of limited resources that target violent crime offenses over nonviolent ones.

- ***Remove Individuals Charged with Low-Level, Nonviolent Offenses from the System Through Non-Arrest and Non-Prosecution***

Harris County has previously implemented critical strategies to reduce over-incarceration, including a “trace amounts” policy that limits felony drug possession offenses to those with at least one-hundredth of a gram of a controlled substance; this policy diverted 6,000 individuals with felony offenses in 2011.

Harris County District Attorney Devon Anderson should reintroduce the trace amounts policy previously adopted by former District Attorney Pat Lykos in 2010; the drop in charges for possession of less than a gram of a controlled substance was drastic, from 10,674 charges in 2009 to 5,942 charges in 2010.<sup>151</sup> At the time of its implementation, law enforcement officials insisted that abandoning trace prosecutions would mean a dramatic increase in crime, as low-level drug offenders would remain on the street, committing property crimes and burglaries to support their drug habits.<sup>152</sup>

After two years of implementation of the trace policy, however, the numbers showed otherwise, with a *decrease* in property crimes occurring. According to FBI Uniform Crime Reporting data, the number of property crimes committed in the City of Houston dropped from 120,933 to 108,336, a fall of over 10%.<sup>153</sup> Similarly, burglaries dropped 6% from 2009 to 2011, from 29,274 to 27,459.<sup>154</sup>

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**Following implementation of a “trace amounts” drug policy in Harris County, local police were freed from time spent arresting, processing, and jailing the thousands of nonviolent, petty drug users. Clearance rates for violent crimes increase across the board, with significant jumps in the clearance of murders, rapes, and aggravated assaults from 2009 to 2010.**

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Furthermore, freed from time spent arresting, processing, and jailing the thousands of nonviolent, petty drug users, the Houston Police Department saw clearance rates for violent crimes increase across the board, with significant jumps in the clearance of murders, rapes, and aggravated assaults from 2009 to 2010.<sup>155</sup>

**Other jurisdictions in Texas utilize prosecutorial discretion and do not prosecute trace amounts of drugs.** In Tarrant County, cases with .02 grams or less are not pursued; these cases are presented to the grand jury as a “no bill,” meaning the evidence found was insufficient to indict or that these cases can simply be dismissed by the court.<sup>156</sup> In Travis County, most trace cases are filed as a fine-only Class C misdemeanor for possession of drug paraphernalia; Travis County may proceed with a trace case only in instances where they feel that the individual in question represents an articulable threat to the safety of the community.<sup>157</sup> In El Paso, if only a small amount of residue and no other evidence is found, charges will be filed for possession of drug paraphernalia.<sup>158</sup> In Collin

County, the District Attorney’s office handles trace cases on a case-by-case basis, waiting to make a decision until laboratory results from the investigation are returned; consequently, most cases cannot be filed as a state jail felony, but rather are referred to the city in which the incident occurred for collection of a fine for a Class C misdemeanor charge of possession of drug paraphernalia.<sup>159</sup>

**Given these precedents, Harris County can and should implement a policy of prosecutorial discretion for the smallest possession cases.** This will reduce costly incarceration for minor offenses while ensuring that higher-level offenses represent amounts of controlled substances that are testable in a crime lab. Throughout Texas, these labs are so backlogged that, by the time results are returned, many people have served weeks or months (if not years) before it is determined that they were not in possession of a controlled substance.<sup>160</sup>

■ ***Increase Reliance on Cite & Summons***

Texas’ 2007 Legislature approved an alternative to the typical arrest, booking, and initial appearance mechanism for initiating a case against a person charged with certain nonviolent offenses. As per HB 2391, a law enforcement officer can issue county residents a ticket and ask them to return to court at a later date rather than immediately arrest and book them into jail (Art. 14.06, Code of Criminal Procedure).

The following violations fall under the purview of the law:

- Driving With an Invalid License
- Marijuana possession up to 4 ounces
- Graffiti with less than \$500 damage
- Criminal mischief with less than \$500 damage
- Theft by check with less than \$500 value
- Theft of service with less than \$500 value
- Contraband in a corrections facility (Class B misdemeanor only)

Once the person appears before the magistrate, the process proceeds as it normally would have.

The cite-and-summons bill was meant to eliminate pre-initial appearance jail time for individuals with low-level offenses, thus saving the state the costs of this period of incarceration. Furthermore, it was intended to enhance law enforcement’s ability to fight crime: Understaffed departments could use Art. 14.06 to concentrate their resources and personnel in a more efficient and effective way; instead of spending hours arresting, transporting, and booking individuals for the above minor offenses, officers would be able to focus their energy on investigating and preventing serious crimes in the field, which increases public safety and lessens the likelihood of creating victims.<sup>161</sup>

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**It has been estimated that adoption of cite-and-summons procedures in Harris County would result in 22% of misdemeanor defendants being diverted from jail.**

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Given the bill’s benefits to law enforcement, it was widely supported by a number of sheriff’s departments, the Sheriffs’ Association of Texas, the Combined Law Enforcement Associations of Texas, and the Texas State Lodge & Fraternal Order of Police. However, “as a matter of local practice, Harris County police agencies still book into the local jail all individuals charged with crimes that carry potential jail time.”<sup>162</sup> It has been estimated that adoption of cite-and-summons procedures in Harris County would result in 22% of misdemeanor defendants being diverted from jail.<sup>163</sup>

- ***Expand the First Chance Intervention Program Model to Other Low-Level, Nonviolent Offenses***

Beyond utilizing cite-and-summons policies to address the above-listed offenses, Harris County should consider expanding its existing First Chance Intervention Program – currently for first-time marijuana possession – to offenses punishable by cite-and-summons policies under Art. 14.06, Code of Criminal Procedure.

In its implementation of the First Chance Intervention Program, the Harris County District Attorney's Office has recognized the principle that "first offenders on low level, non-violent offenses are often self-correcting without the need for more formalized and costly criminal justice intervention."<sup>164</sup> Aside from having a positive impact on law enforcement, jail, prosecution, and court resources, the program gives first-time offenders an opportunity to reform without saddling them with a permanent criminal record.

Expanding the First Chance Intervention Program to offenses that can currently be handled by cite-and-summons policies is the next logical step. In addition to saving valuable County resources, expansion of the program would give more individuals a better opportunity to succeed outside the criminal justice system – ensuring that their access to housing, employment, and education is not limited by a criminal record.

- ***Modify the Enforcement of Trespass Affidavits in Harris County***

The enforcement of trespass affidavits throughout Harris County can be a drain on law enforcement resources. The standard trespass affidavit is a document that is signed by a property owner granting the Harris County Sheriff's Office the authority to enter the property and enforce the criminal trespass laws (Texas Penal Code Section 30.05) on behalf of and in absence of the owner.

The affidavit language reads as follows:

"I hereby request and authorize the Harris County Sheriff's Office to enforce all applicable trespass laws on my behalf and in my absence, in regard to the above property/business. I further request on my behalf, the Harris County Sheriff's Office request all persons, who are not lawfully on the property, or patrons of the business establishment to immediately leave the property or be arrested pursuant to penal code section 30.05..."

The Harris County trespass affidavit program began as a creature of convenience, a partnership between local businesses and the Sheriff's Office, and developed in response to an increased number of trespassers and loiterers at businesses throughout Harris County. Prior to the program, business owners were required to notify the police of trespassers each time; the Sheriff's Office was unable to enforce trespass laws if the trespass occurred after hours and the business owner was not present at the time. Rather than require businesses to keep a 24-hour watch on their businesses and notify the Sheriff at each instance of trespass, the affidavit program was developed to allow the Sheriff's Office to enforce the laws on behalf of property owners without said inconveniences.

Presently, the trespass affidavit program works as such: a property owner signs the trespass affidavit and places it on file with the Harris County Sheriff's Office. The property owner then places a notification somewhere visible on the property showing that a trespass affidavit has been signed and will be enforced. Once the affidavit is on file, if either the Sheriff's Office or the property owner identify any individuals as trespassers, the Sheriff's Office has the authority to enter the property and make an arrest.

Arrests pursuant to trespass affidavits are particularly relevant as the Harris County Sheriff's Office continues to enhance its efforts to identify the mentally ill and ensure their access to necessary medical

care and treatment outside of the Harris County jail (and, ideally, outside the criminal justice system altogether). According to a Department of Justice study, approximately 25% of mentally ill inmates housed in local jails across the country were charged with a public-order offense, such as criminal trespass or disorderly conduct.<sup>165</sup> Given that this population experiences a high rate of recidivism,<sup>166</sup> criminal trespass arrests can turn into a major drain on local resources.

Pursuant to the language of the trespass affidavit, the property owner is proactively requesting that the Harris County Sheriff enforce all applicable trespass laws, rather than merely authorizing them (in their discretion) to do so. Eliminating this “request” language would allow for much more discretion by the officer on the premises, providing the opportunity for a warning or diversion into treatment.

Additionally, the language stating that individuals who are not lawfully on the premises leave the property or be arrested reads as if the responding officer is required to arrest such individuals, when, again, they should be afforded the discretion to remove any individuals from the premises without necessarily arresting them. Tweaking the language so that such individuals “be subject to arrest” rather than “be arrested” would provide officers with wiggle room should they deem that an arrest is unnecessary to resolve the situation.

Amended affidavit language should read as follows:

“I hereby authorize the Harris County Sheriff’s Office to enforce all applicable trespass laws on my behalf and in my absence, in regard to the above property/business. I further request on my behalf, the Harris County Sheriff’s Office request all persons, who are not lawfully on the property, or patrons of the business establishment to immediately leave the property or be subject to arrest pursuant to penal code section 30.05...”

Making the recommended changes will allow the Sheriff’s Office to divert its resources from the arrest and prosecution of individuals that both the Sheriff’s Office and the business community agree need not be subject to these penalties; it will also maintain the spirit of the affidavits, namely protecting the personal safety and property value of business owners and the individuals on their premises.

2. ***Adopt Policies to Divert Those with Mental Illness, Substance Abuse, or Other Chronic Criminogenic Factors Out of the Criminal Justice System and Into Programs that have Proven to Reduce Recidivism Rates for this Population Group: Implement policies and practices to meet the needs of specialized populations, including by increasing in-patient and outpatient capacity, expanding housing options, improving collaboration and coordination, and expanding pre-booking diversion opportunities to further reduce justice system involvement.***

- ***Increase the Capacity for Outpatient and Long-Term In-Patient Mental Health Services, Both Pre- and Post-Adjudication***

Especially as they pertain to mentally ill individuals entangled in the criminal justice system, treatment programs are exponentially better equipped than jails to stabilize individuals, make effective medical recommendations, supervise medication regimens, and recommend appropriate behavioral programming to address long-term needs.

Harris County’s Mental Health/Mental Retardation Authority (MHMRA) has estimated that if it was to “successfully engage all individuals leaving Harris County Jail who are eligible for our services, [our] entire service capacity would be absorbed, leaving no room for individuals voluntarily seeking service or those discharged from hospitals and emergency departments.”<sup>167</sup> Its outpatient service capacity is insufficient when compared to the needs of the community and must be expanded.



Harris County should also expand the availability of single-room occupancy housing in a structured living environment so that individuals with limited cognitive capacity or cognitive impairment could reside in an environment suited to their specific needs. This type of program could provide cognitive, vocational, social, and psychiatric interventions and make long-term care for impaired individuals possible. MHMRA believes that this “sort of long-term care program could prevent recidivism in this forensic population, especially among nonviolent offenders.”<sup>168</sup>

■ ***Improve Collaboration and Coordination to Provide More Comprehensive Care to the Mentally Ill***

Collectively, policy-makers and practitioners must strive to implement strategies that will halt the recycling of mentally individuals in and out of the Harris County jail at the alarming rates and costs we are currently seeing.

Specifically, Harris County should take the following steps to reduce the burden imposed by chronic mental health consumers:

- Encourage local behavioral health authorities to prioritize those who are involved in the criminal justice system.
  - Encourage local behavioral health authorities to coordinate their information and operations with criminal justice system practitioners, including the Harris County Jails, as well as the probation department and parole agencies that serve and supervise clients that suffer from mental health and substance abuse problems. It is important to integrate a continuum of care by providing mental health services, substance abuse treatment, and other medical services in the same setting through co-location of services and through the appropriate and protected sharing of medical information amongst these providers.
  - Encourage local behavioral health authorities to take into consideration the knowledge and expertise of criminal justice practitioners when making decisions pertaining to those who suffer from mental health problems and who have been involved in the criminal justice system.
  - Advocate for the Legislature to increase and support the workforce that serves individuals with co-occurring disorders by adding psychiatric residency positions, funding loan forgiveness programs for behavioral health professionals, and promoting behavioral health fields from adolescence through university.
  - Offer contracts at competitive rates with local mental health services providers by appropriating adequate funds to keep up with the cost of providing mental health services.
- ***Expand Pre-Booking Diversion Programs***
- ***Encourage the Expansion of Existing Diversion Programs***

The existing mental health diversion efforts in Harris County being implemented by both the Houston Police Department and the Harris County Sheriff's Office have resulted in numerous positive results, including increased jail diversion efforts, increased safety for both officers and the mentally ill, improved willingness of families to call law enforcement about someone suffering from mental illness, improved confidence of officers to respond to such calls, and reduced liability/litigation through fewer injuries and shootings.<sup>169</sup>

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The cost savings created by Crisis Intervention Response Teams (CIRTs) can be significant. The Harris County Sheriff’s Office’s CIRT has diverted 518 individuals from jail; given average jail bed costs for inmates with medical or mental health issues ringing in at up to \$80 per day, that represents a one-day savings of over \$40,000.

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Community partners also benefit from investments in specially trained officers. For instance, according to the Public Policy Research Institute, “many of the problems faced by emergency rooms could be improved if skilled law enforcement officers were more aware of protocols to divert cases to other locations for a mental health screening.”<sup>170</sup>

Additionally, the cost savings created by Crisis Intervention Response Teams (CIRTs) can be significant. The Harris County Sheriff’s Office’s CIRT has diverted 518 individuals from jail,<sup>171</sup> given average jail bed costs for inmates with medical or mental health issues ringing in at up to \$80 per day, that represents a one-day savings of over \$40,000.

Similarly, Houston’s Sobering Center has diverted 5,659 individuals from incarceration. Even at lower bed costs of \$40 per day, that represents a collective one-day savings of more than \$225,000.

These programs should be expanded to handle greater capacity and full wrap-around services. Furthermore, law enforcement officers should receive additional training to identify and respond to the needs of veterans. Specialized training can help officers identify those with mental illness and/or co-occurring disorders so that they may be diverted by police before formal charges are brought and instead admitted to a Department of Veterans Affairs hospital or placed in other appropriate care.

- *Initiate Cost-Effective Diversion Programs for Other Individuals with Low-Level Offenses, Especially Youth and Young Adults*

Diversion programs in Harris County cost significantly less than incarceration. Again (as per Table 6), an inmate in the general population with no health issues costs Harris County approximately \$40-45 per day, plus the initial \$800 booking fee. Diversion costs, however, are significantly lower. For instance, as demonstrated in Table 8, diversion into a community supervision model costs as little as \$2.99 per client per day, with the state bearing less than half of that expense. Moreover, if the diversion is accomplished prior to booking, the jail saves the additional \$800 one-time booking fee.

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Table 8. Estimated Community Justice Assistance Diversion Costs: 2012

Program	State Cost	Local Cost (Participant Fee)	Total Daily Cost Per Client
Community Supervision	\$1.38	\$1.61	\$2.99
Substance Abuse Outpatient Treatment	\$5.30	\$0.23	\$5.53
Treatment Alternatives to Incarceration Program	\$6.54	\$0.14	\$6.65

Source: Legislative Budget Board; Texas Department of Criminal Justice

This cost differential is substantial – and even with increased costs associated with diversion models that include wrap-around services, Harris County will save substantially on an increased use of diversion.

- **Implement a Pre-Booking Diversion Docket to Address “Frequent Flyers”**

Harris County operates a unique “direct file” system, in which defendants are brought before a magistrate, either in person or via video, within 24 hours of their arrest. They are first processed through “Receiving” and evaluated by Pretrial Services.

**To safely reduce the number of individuals who have charges filed against them, the County should create a diversion docket by which individuals who have been evaluated to be “frequent flyers” in the system are diverted into a program that connects them with resources to address their criminogenic needs, without receiving a criminal conviction upon successfully completing all program requirements.**

Pretrial Services staff should be trained to identify, through a series of questions, individuals in need of wrap-around services who are eligible for diversion. (In planning stages, care should be taken to establish eligibility and exclusion criteria for participants based upon empirical evidence indicating which types of individuals can be treated safely and effectively through diversion.) Candidates should be evaluated using evidence-based assessment tools and procedures. In addition, those who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status should receive the same opportunities as other citizens to participate and succeed in the diversion program.

Pretrial Services staff should recommend that this subset of identified individuals be diverted from the probable cause hearing (earlier referred to as an Art. 17.15 bail hearing) into the diversion docket. This docket should be held immediately after the person is assessed by Pretrial Services, in lieu of the probable cause hearing, within the Harris County Jail; and it should involve both a prosecutor and a defense attorney. Based on the results of the assessment conducted by Pretrial Services, the prosecutor should offer specific terms that would allow the individual to avoid the filing of charges if he or she successfully completes a diversion program. Prosecutors already have inherent powers to make such offers prior to charges being filed. In *Tope v. State*, the Texas Court of Appeals determined that Texas Government Code § 76.011—authorizing pretrial diversion programs—“flows from long-established principles of prosecutorial discretion in determining which cases to prosecute and what charges, if any, to file.”<sup>172</sup> Accordingly, prosecutor’s offices are free to establish guidelines for determining who is eligible to participate in these diversion programs as an exercise of prosecutorial discretion.<sup>173</sup>

Prior to agreeing to participate in a protracted diversion program, participants should be informed of their right to counsel and given an opportunity to consult with defense counsel about the terms of the diversion program.<sup>174</sup> This could be accomplished by including the Harris County Public Defender’s Office in any Memorandum of Understanding, in which the Public Defender’s Office agrees to provide training to the local bar and to oversee a program providing legal advice on the terms of any Diversion Agreements entered into between individuals and the prosecution. These Diversion Agreements should, for the most part, include simply the requirement to report to the appropriate case manager within a pre-designated time. The most effective agreements will not require anything beyond this initial meeting with a case manager, who will then create a tailored plan for recovery with the participant. *Note:* This model follows along the lines of Houston’s Sobering Center.

In the event that the Diversion Agreement does require some additional components to comprehensively meet the participant’s needs, the Texas Government Code authorizes a “district attorney, criminal district attorney, or county attorney [to] collect a fee in an amount not to exceed \$500 to be used to reimburse a county for expenses . . . related to a defendant’s participation in a pretrial intervention program offered in that county.”<sup>175</sup> These fees could be utilized to allow Pretrial Services to supervise any conditions of the Diversion Agreement.

In 2009, the Texas Legislature amended Article 55.01, Code of Criminal Procedure, “to expressly permit a person to obtain an expunction where the trial court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011 of the Texas Government Code. 2 Acts 2000. In 2011, the Legislature made this change in law retroactive.”<sup>176</sup>

Ideally, program participants would have the opportunity to work with the Public Defender’s Office to seek an expunction following the completion of their pretrial program. But also, the initial arrest should be discouraged from ever being placed into any public records system in such a way as could be made public. While a significant advantage of a pre-booking diversion program is that it incentivizes participation in programming proven to reduce costly recidivism, it can also free up participants from a conviction on their record that creates long-term collateral consequences.<sup>177</sup>



## DISCOVERING METHODS FOR INFLUENCING POSITIVE OUTCOMES FOR PRISONERS AND PROBATIONERS ALIKE

### Problem Statement

Many individuals leaving incarceration in Harris County lack access to the resources and tools that will enable their successful transition to the community. Similarly, probationers can face hurdles to living self-sufficient, law-abiding lives. This means more money spent on law enforcement, prosecution, and, potentially, incarceration among these populations, on the taxpayer dime.

### The Fiscal Impact of Recidivism

A high percentage of Harris County Jail inmates re-offend and return to jail, with approximately 81% of inmates having been in the jail system previously.<sup>178</sup> According to a County analysis, 920 inmates cycled through the system five or more times over a recent 2-year span, 63% of which were homeless, and 60% of which were identified as having a diagnosable mental illness.<sup>179</sup>

The fiscal impact of recidivism manifests itself in various ways. The first is that recidivism drives up jail populations, and so reducing recidivism rates would similarly reduce the overhead costs of running a jail. It would also minimize the law enforcement resources and prosecution expenses necessary to address this population.

A less intuitive impact of recidivism involves the delivery of social services. As detailed above, many of the populations at highest risk for recidivism are those most in need of social services, including housing services, mental health and substance abuse treatment, and educational programming. To provide the most successful assistance, these social services require community partnerships and cross-agency coordination, which must continually expand – in both size and cost – as more individuals repeatedly cycle through the system. In other words, recidivism poses growing costs to society as we attempt to provide access to resources that help to create productive members of the community.

Finally, any calculation of the costs of recidivism must include the money that would be saved from the direct costs (employment wage loss, health care, pain and suffering) of recidivism crimes on Texans, as well as the physical and emotional costs to the victims of these repeat offenders.<sup>180</sup>

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### Reentry-Related Programs Offered in Harris County

Many formerly incarcerated individuals in Harris County leave the jail unprepared for life after release, increasing their likelihood of recidivism. This is all the more problematic for individuals with substance abuse or mental health problems, limited education, or lack of a home to return to. Generally, various contributors impact the ability of jails to offer assistance: “Overcrowding, limited program resources, rapid population turnover (four out of five jail inmates are held less than a month) and the diversity of the jail population (70 percent of jail



inmates are not convicted and are awaiting trial or sentencing) make it difficult for jail to effectively prepare individuals for successful reintegration into the community after release.”<sup>181</sup>

With increasing awareness about the effects of reentry on public safety and community wellbeing, many of the field’s leading practitioners have begun to consider jail reentry programs and strategies as essential to the mission of jails.<sup>182</sup> Successful programs generally involve collaboration across disciplines and jurisdictional boundaries through creative and productive partnerships between jails and law enforcement, probation, faith-based organizations, mental health clinics, victim advocate groups, the business community, and a variety of other social service and community providers.<sup>183</sup>

The Harris County Sheriff’s Office has implemented various reentry-related programs and services aimed at individuals pre- and post-release from jail. Their overall mission is “to connect, collaborate and build a continuum with strong community partners; transitioning people back into their communities better than they were before they were incarcerated.”<sup>184</sup> They are designed to engage individuals in programs and treatment services during their incarceration, to ultimately enable successful reentry to society and reduce the recidivism rate, thus lowering jail operation costs and providing a safer community.<sup>185</sup> *Note:* All programs are either provided through volunteer services or funded through commissary fees alone.<sup>186</sup>

**While these programs are a strong step in the right direction, more must be done to assist those who repeatedly cycle through the system and drain county resources.**

- ***Vocational Training and Academic Programs***

Studies on the effect of incarceration show that it is incarceration, above and beyond arrest and conviction, that accounts for the most significant negative economic impact.<sup>187</sup> Meaningful reentry services for individuals leaving confinement can greatly reduce that economic impact.



Mayra Beltran/©Houston Chronicle. Used with permission.

***The Harris County Sheriff’s Office, in collaboration with the Houston Community College System, provides vocational training and academic programs for inmates in the Harris County Jail.***

It is especially important to help people overcome employment and housing hurdles, which, if not overcome, drastically increase an individual's likelihood of re-offending upon release.<sup>188</sup> Employment is associated with lower rates of reoffending, and higher wages are associated with lower rates of criminal activity.<sup>189</sup> Not surprisingly, education is associated with greater employment opportunities and higher wages,<sup>190</sup> which, in turn, enables more stable housing.

The Harris County Sheriff's Office, in collaboration with the Houston Community College System, provides vocational training and academic programs for inmates in the Harris County Jail. Approximately 30 full-time classes and 12 part-time classes offer opportunities to about 620 inmates per month.

The offerings include:

- **5 Life Skills Classes:** Anger Management; Behavior Modification; Communication Skills; "How to Build Healthy Relationships"; Financial Classes
- **5 Academic Classes:** Adult Basic Education/General Education Development; English as a Second Language; Business Communications; Business Technology; Workplace Literacy
- **12 Vocational Classes:** Print Shop; Drafting; Tailoring/Sewing; Graphic Arts; Culinary Arts; Upholstery; Leather Craft; Computer Basics; Construction/Building; Welding; Paint & Body; Heating & Air Conditioning; Auto Mechanic Classes.<sup>191</sup>

The Harris County Sheriff's Office takes care to ensure that inmates are given Inmate Education Orientation material prior to receiving their housing assignment. Some educational programs and voluntary work programs may qualify an inmate for additional good time credit.<sup>192</sup>

#### ■ **Transition-Related Programs**

The Harris County Sheriff's Office reentry programs are primarily funded through commissary funds and are staffed by only 4 Sheriff's Office staff members: a program director, a deputy director, and two case managers.<sup>193</sup> As such, they are heavily dependent upon their various community partners and volunteers.

This limited staff is expected to provide oversight of the following transition-related programs:

- *"We've Been There Done That"*

This program is designed to help both males and females avoid returning to homelessness and prostitution after they have served their jail sentences. Approximately 50 inmates take part in the program at any given time. One Sheriff's Office case manager is assigned to this program, who meets with each individual in the program on a weekly basis.

The jail tank housing this population holds 50 inmates and there is generally a waiting list for entry into the program.<sup>194</sup> Many of the participating inmates have a history of having been sexually abused; some are victims of domestic human trafficking, sold as children by their parents. A *Texas Tribune* report on the program stated, "in February [2013], three Harris County judges began sentencing women on prostitution charges to the program. Since then, dozens of women have completed it. Participants must serve a minimum of 90 days in the program, time that counts toward their sentence."<sup>195</sup> Participants also have the opportunity to work with their recovery coach for up to 5 years after release.<sup>196</sup>

- [Mentoring Moms](#)

This program, launched in 2013 by Harris County Sheriff Adrian Garcia, extends services beyond basic medical care for pregnant inmates. Mentoring Moms is an innovative program calling on social workers, caregivers, educators, and case managers to provide a full suite of services to expecting mothers. Thirty women are chosen for the program; it is a 60- to 90-day course for those who are either pregnant or who have young children (up to the age of three). Through partnerships with 30 nonprofit groups and businesses, the program teaches participants about the help available outside of jail that will keep them from returning.<sup>197</sup>

The Harris County Sheriff’s Office estimates that it houses 100 pregnant inmates on any given day, but most of those are not in jail long enough to enroll in the program,<sup>198</sup> and limited program resources also hamper its impact. Since August 2013, the program has worked with 102 clients using 1 case manager; of the total clients, only 28 received assessments, 3 received individual service plans, and 4 received discharge plans. Six of the participants successfully completed the program, receiving a 90-day certificate, while two returned to jail.

- [Stars and Stripes](#)

This 60- to 90-day program is aimed at helping Harris County Jail inmates who self-identify as veterans (regardless of discharge status). The criteria for this program include the inmate being: a veteran, a nonviolent offender with no aggravated or child sexual abuse charges, incarcerated in Harris County Jail for at least 60-90 days, and willing to commit to the process of the program.

Stars and Stripes provides individuals with a case manager after they have been screened and assessed, who will help prepare them for reentry; the program gives participants the opportunity to access various resources, including crisis intervention, support groups, job skills/training, and more. The jail tank housing this population holds 28 inmates, and there is currently no waiting list for admittance into the program.<sup>199</sup>

- [Referral Services](#)

This Harris County Sheriff’s Office service began in 2013 and, with the assistance of community partners, provides inmates with a comprehensive “Reentry Resource Guide” that contains information to help inmates access community-based services after leaving confinement. Informational areas include housing assistance, substance abuse and mental health treatment, spiritual support, job training, family unification, and education.

- [Jail Chaplaincy and Reentry Services](#)

This faith-based program sees more than 150 inmates per week and helps them prepare for their release by offering community referrals and helping them obtain basic necessities like ID cards, medical appointments, family reunification planning, substance abuse treatment placement, and supportive housing.<sup>200</sup>

This program claims a reduction in recidivism rates from 80% to 12% for participating inmates.<sup>201</sup> This program is primarily staffed by volunteers.

- [Jail Inreach](#)

This program was created in 2007 to help those members of the jail population who are homeless and have mental health issues. This model program partners with Healthcare for the Homeless-Houston (HHH) and serves anywhere between 3 and 35 people per month.

The Jail Inreach program is intended to reduce the likelihood that inmates who are homeless and who suffer from mental illness will return to the streets without proper access to health care and other resources. The program utilizes two full-time case managers and one part-time case manager that provide pre-release jail services, post-release care coordination, and intensive case management.

A case manager helps each participant create a “post-release plan,” using a patient-centered approach, before the individual is actually released from jail. That case manager meets the participant at the jail at the time of discharge and immediately walks him or her to the Cathedral Clinic. All health services, including primary care, intensive medical case management, individual counseling, psychiatry, and substance abuse counseling are initially provided by HHH. Case managers coordinate the activation of social services and health benefits, facilitate the transfer of medical records between the Harris County Jail and the public health care system, and help to obtain identification, job training, housing, transportation, and life skills counseling. This program costs the Harris County Sheriff’s Office only \$12,500 per month.<sup>202</sup>

Over half of the individuals that have been referred to the program have been successfully linked to services after their release. This program has been recognized by the U.S. Interagency Council on Homelessness as a model program<sup>203</sup> and, in 2012, it was selected by Mental Health America of Greater Houston as one of 12 recipients of the Mental Health Makes a Difference Award.<sup>204</sup>

- [Mental Health Pilot Program, Pursuant to Senate Bill 1185](#)

As discussed in the previous section, Harris County is in the beginning stages of implementing a mental health program aimed at reducing the number and the cost of treating individuals who repeatedly cycle through the jail. The four-year pilot program, established by SB 1185 in the 2013 Texas Legislative Session, is intended to substantially reduce recidivism by incorporating a comprehensive array of clinical and social support services – including access to mental health care, chemical dependency services, rehabilitation, and residential housing opportunities.

A major benefit of the program is that it can take advantage of Harris County best practices and piggyback onto existing resources, such as the above-mentioned CIRTs, along with jail-based mental health services.<sup>205</sup> Once established, the program should serve 500-600 individuals at any given time, and their condition will be tracked for at least five years after release. Presently, Harris County has deployed social workers within the jail to begin to identify individuals who qualify as the program’s target population. *Note: Both the short- and long-term efficacy of this program have yet to be determined.*

## [The Implementation of Smart Probation Strategies in Harris County](#)

Harris County’s probation department, known as the Harris County Community Supervision and Corrections Department (CSCD), is the largest such department in the state of Texas, serving 22 district criminal courts and 15 county criminal courts at law with supervision and services for approximately 38,000 felony and misdemeanor offenders.<sup>206</sup> The Harris County CSCD’s stated vision is “promoting a positive atmosphere and enhancing community safety by providing all Harris County Community Supervision and Corrections Department clients opportunities for change so that they can successfully complete community supervision and become

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Following the appointment of Dr. Theresa May as Probation Director in February 2013, Harris County saw a dramatic reduction in the number of probationers in custody, and, as of October 2014, only 354 probationers were confined in the county jail. This is the lowest since tracking of the category began, and amounts to only 4% of the total inmate population - a 61% drop since August 2009.

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productive, law-abiding citizens.”<sup>207</sup> Because probation violations carry the possible penalty of incarceration, a well-managed probation department is an important tool in minimizing jail populations.

Until recently, effectively managing the probation department proved challenging for Harris County. Prior to meetings of the Harris County Criminal Justice Coordinating Council from August 2009 through August 2012, Harris County CSCD was under the directorship of Director Paul Becker. In August 2012, Director Becker resigned under allegations that the Department had mismanaged drug tests, often resulting in innocent probationers and suspects being sent to jail based on false positive results from those drug tests.<sup>208</sup> Along with the resignation of the Director, the Harris County District Attorney’s Office issued a moratorium on using drug test results from the Department.<sup>209</sup>

In February 2013, Dr. Teresa May was named Director of Harris County CSCD. Dr. May (and Harris County CSCD Assistant Director, Dr. Brian Lovins) took care to emphasize the importance of evidence-based practices, drastically reducing the number of CSCD drug tests and developing an effective risk assessment

tool.<sup>210</sup> Dr. May’s approach, in collaboration with corresponding efforts by local judges, has produced striking results: In August 2009, there were 919 probationers in custody for probation revocations, which amounted to 8% of the total inmate population.<sup>211</sup> Though the overall number of probationers in custody declined to around 700 in the following years, the percentage of the population remained at 8% as late as October 2012.<sup>212</sup> Following the appointment of Dr. May as CSCD Director in February 2013, however, the County saw a dramatic reduction, and, as of October 2014, only 354 probationers were in custody (for both technical and criminal revocations of probation).<sup>213</sup> As it stands, Harris County Jail’s probationer population of 354 inmates in October 2014 is the lowest since tracking of the category began, and amounts to only 4% of the total inmate population – a 61% drop since August 2009.<sup>214</sup>

While the continuing reduction of the number of probationers housed in Harris County Jail serves the purpose of reducing the overall jail population, Harris County CSCD’s increasing efficiency also provides an opportunity for diversion of certain individuals to supervision and away from jail – with significant cost savings. Whereas housing an individual inmate at the Harris County Jail costs approximately \$75 per day, the average cost of supervising a probationer is only \$1.38 per day.<sup>215</sup>

## Recommendations

1. ***Expand and Improve Existing Reentry Programs Offered in Harris County: County leadership must secure additional funds and implement data management systems to support effective reentry efforts that can meet the needs of additional individuals.***

While the Harris County Sheriff’s Office has taken positive steps to establish its jail-based reentry programs, there remains room for improvement and expansion. In fact, a review of its own programs identified many needs, including expanded inmate education, more case workers dedicated to reentry programming, a lack of housing available to inmates upon release, and the lack of access to substance abuse treatment for inmates without insurance and benefits.<sup>216</sup> Meeting these needs will mean securing more funding for reentry programs.



- *Support Sustainability Through Increased Funding and Collaborations*

As previously noted, the Harris County Jail’s reentry programs are primarily funded through commissary funds. **The Sheriff’s Office should be commended for developing its present reentry programs on a shoestring budget, but additional funding sources are imperative for the maintenance, improvement, and expansion of reentry programs.** The Harris County Sheriff’s Office should prioritize resource development for its reentry programs through dedicated staff that can seek additional funding streams.

Federal funding through Second Chance Act grants is the most obvious first step in financing reentry programs. Funding opportunities with local or regional foundations, philanthropic organizations, and civic groups should be targeted as well.<sup>217</sup>

Other strategies include partnering with other agencies on grant applications, considering “cost-sharing” for a staff position, redeployment of under-utilized staff, and partnering with funders and businesses, particularly businesses that engage in employment reentry services.<sup>218</sup>

- *Enhance Information Management to Collect the Necessary Data to Support Program Sustainability*

Access to tangible data showing the efficacy of reentry programs is of vital importance as the Sheriff’s Office begins the task of securing more funding for reentry programs.

Measures should be taken to ensure data tracking, including the following:

- Utilizing case management connectivity via a shared data system for tracking individuals and their involvement across multiple agencies and measuring their outcomes.
- Implementing practices to routinely examine objective, observable information to guide operations, monitor progress, and inform decision-making about changes or improvements that may need to be made; self-evaluations should include assessment of programs for their impact on targeted outcomes (e.g., recidivism, employment, or homelessness), as well as outcomes relating to individual officers, treatment providers, or practitioners.
- Implementing transition planning using validated screening, assessment, and evidence-based programming and interventions during incarceration to facilitate successful transition to the community when the person is released.
- Creating a task force to review model jail reentry programs and make recommendations for improvements at the Harris County Jail; members should include, at a minimum, governmental agencies, faith-based and community organizations, and other nongovernmental entities and individuals.
- Providing regular forums to discuss needs of individuals transitioning from jails to communities.

- ***Create Additional Reentry Programs to Serve More Individuals, and Correspondingly Increase the Number of Dedicated Jail Reentry Staff and Strategic Partnerships***

Upon securing the necessary funds and implementing critical data management systems, the Harris County Sheriff’s Office should initiate new reentry programs aimed at serving a larger portion of the jail population, and focusing specifically on meeting the following goals:

- Initiating the reentry process at arrest and continuing it through community reintegration.
- Having inmates screened upon intake or at classification and referred to jail-based reentry programs and treatments such as GED preparation and testing, job training, life-skills class, mental health treatment, and in-patient substance abuse; make educational offerings a part of the risk assessment process instead of requiring inmate request form procedures.
- Providing intensive case management during incarceration.
- Expanding cooperative efforts with community-based organizations, including in-jail facilitated case management services.
- Developing individualized transition plans to support individuals being released to the community.
- Supporting individuals with culturally competent, gender-specific, and trauma-informed services.
- Providing mandatory discharge services, including: assistance enrolling incarcerated individuals into appropriate health coverage options and/or information provision about health resources, including Affordable Care Act enrollment; and making release more predictable, during reasonable hours of the day and evening for all inmates, and ensuring those who leave jail have medications, appropriate clothing, a way to return home, and a plan to access other needed services.
- Expanding supportive services to sustain recovery efforts, such as supportive housing, education and training, supportive employment, and peer advocacy.
- Providing client-centered service planning and delivery to address the unique needs of the individual.
- Adopting a *Transition from Jail to Community* (TJC) model initiative that entails systems change and the development of collaborative relationships between jail and community partners.

The Community to Transition Unit (CTU) at the Los Angeles County Jail is a model program that Harris County should study the feasibility of implementing. The CTU partners with correctional professionals, medical staff, mental health staff, and numerous community-based, faith-based, and government agencies that receive referrals, and it facilitates placement of participants into services. The dedicated staff at the CTU consists of 35 Sheriff’s Department Custody Assistants who work as case managers<sup>219</sup> and provide direct services to clients in jail.

In addition, newly released individuals can continue to access additional services by calling the Sheriff’s toll free number or going to any Sheriff’s Department facility to get further help and support. In efforts to enhance the continuation of care to released inmates, offender alumni support groups are offered. They provide a variety of services, including family intervention, reunification teams, community and faith-based resources, and job training and placement. The CTU reentry programs are numerous, as are the partners. In the past two years alone, the Sheriff’s Department has collaborated with more than 40 nonprofit community and volunteer entities to provide stability for released inmates.<sup>220</sup>

The Los Angeles County Sheriff's Department also oversees the Community Reentry and Resource Center (CRRC). The CRRC provides onsite services for inmates due for release. All essential social services are housed in one location and include the following:<sup>221</sup>

- The Department of Motor Vehicles, which issues state IDs
- The Department of Public Social Services, which issues emergency food cards, bus tokens, cash vouchers, and other support
- Emergency homeless accommodations through Los Angeles Homeless Services Authority, Los Angeles Men's Place, Los Angeles Family Housing, and other organizations
- HUD, Section 8, and other public and transitional housing options
- The Department of Health, and the Department of Mental Health, which assist with referrals to health care and mental health care in the returning inmate's own community (e.g., medical appointment scheduling, continuing addiction treatment, job placement referrals)
- Referrals to public libraries, local support groups, and other neighborhood resources

Inmates who have served time can walk out of the jail and go straight into this one-stop shop that can help them find a place to live, stay sober, and get a job.<sup>222</sup> The CRRC is staffed by sheriff's deputies, probation officers, social workers, and health professionals.

**2. *Increase Utilization of Harris County's Probation Department as a Tool to Reduce the Jail Population and Ensure Community Safety: Continue to support effective probation efforts to save dollars and strengthen communities.***

Prior to the 2013 arrival of Dr. Teresa May, now Director of the Harris County Community Supervision and Corrections Department (probation department), probationers were struggling to meet their probation conditions and were being revoked in large number. Dr. May and her Assistant Director stressed the importance of evidence-based practices to judges, working with them to drastically reduce the number of improper drug tests and developing an effective risk assessment tool.<sup>223</sup> These measures have significantly reduced the number of probationers who are unsuccessful on probation.

Going forward, Harris County must continue to utilize risk assessments to inform the supervision terms and conditions for individuals on probation. This will provide Harris County a cost-efficient way to ensure its resources are more appropriately allocated.

## APPENDIX 1

### Harris County Variance Totals (August 2006 – October 2014)

Month - Year	Beds Added	Beds Removed	Total # of Variance Beds
Aug-06	600		600
Nov-06	250		850
May-07	214		1064
Aug-07	500		1564
Feb-08	500		2064
Aug-08		224	1840
Aug-09		228	1612
Nov-10		652	960
May-11		240	720
May-12		40	680
* Feb-14			680





## REFERENCES

<sup>1</sup>Texas Commission on Jail Standards – Abbreviated Population Report for 11/1/2014. Retrieved from <http://www.tcjs.state.tx.us/docs/AbbreRptCurrent.pdf>, Dec. 5, 2014.

<sup>2</sup>Id.

<sup>3</sup>See *Alberti v. Sheriff of Harris County, Texas, et al.*, Civ. A. No. 72-H-1094 (1975): “Jail conditions in Harris County, which all concerned concede have long been deplorable and inhumane, have now deteriorated to such a degree that a massive crisis exists...the Harris County Jail and Rehabilitation Center...represented some of the most dire and inhumane conditions in correction facilities across the United States...[t]he above recitation of jail conditions merely highlights and does not exclusively catalog the many and varied conditions at the detention facilities which degrade and dehumanize even those persons who voluntarily tour the facilities briefly...no description of conditions by this Court can adequately describe the unavoidable combined sensations of fear, insecurity and tension that overwhelm an inmate.”

<sup>4</sup>Barry Mahoney & Elaine Nugent-Borakove. “Harris County Criminal Justice System Improvement Project: Phase 1 Report.” The Justice Management Institute (2009): 41, noting that The HCCJCC and the Office of CJC were established on July 14, 2009. According to JMI, as of July 2009, the jail population was over 11,200 inmates, which is 1,800 over the design capacity of the County’s jail facilities (9,434 inmates). Retrieved from: <http://www.jmijustice.org/resources/casflow-management/harris-county-criminal-justice-system-improvement-project-phase-1-report/view>

<sup>5</sup>Id. at 7.

<sup>6</sup>Id., Noting that fiscal costs included the “outsourcing” of inmates: some to a private vendor operating a facility in Louisiana, 940 inmates to three Louisiana jail facilities, and in August 2009, the Commissioners Court approved a plan to send up to 2,100 inmates to jails in four other Texas counties on an interim (six-month) basis to help reduce overcrowding in the Harris County jail facilities.

<sup>7</sup>Penal Code Section 12.44(a) gives a judge the discretion to offer defendants charged with a state jail felony the punishment of a Class A misdemeanor (with a maximum jail time of one year). The individual charged, however, is still convicted of a state jail felony and that penalty continues to remain on their record.

<sup>8</sup>Harris County District Attorney’s Office, First Change Intervention Program, at <http://app.dao.hctx.net/OurOffice/FirstChanceIntervention.aspx>

<sup>9</sup>Harris County Criminal Justice Coordinating Council, “Harris County – Jail Population October 2014 Report,” Nov. 11, 2014. Including inmates at the Inmate Processing Center, Harris County exceeded capacity in September 2013.

<sup>10</sup>Ibid.

<sup>11</sup>For documentation of Harris County’s most recent request for variance beds (from February 2014, since withdrawn), see Texas Commission on Jail Standards -- August 2014 Meeting Minutes, retrieved from <http://www.tcjs.state.tx.us/docs/MeetingMinutesCurrent.pdf>, December 5, 2014.

<sup>12</sup>The budget for jail operations for Harris County was \$178.2 million in FY2013. See Brian Rogers, “Harris County adopts \$1.55 billion annual budget,” Houston Chronicle Feb. 26, 2013, at <http://www.chron.com/news/houston-texas/houston/article/County-adopts-1-55-billion-annual-budget-4310969.php>.

<sup>13</sup>Harris County Criminal Justice Coordinating Council, *Harris County – Jail Population: October 2014 Report*. November 11, 2014.

<sup>14</sup>Id.

<sup>15</sup>Chrystal Simmons, “Harris County officials crack down on crime,” Cypress Creek Mirror, Dec. 29, 2013 available at [http://www.yourhoustonnews.com/cypresscreek/news/harris-county-officials-crack-down-on-crime/article\\_76ebb9c2-7841-52bb-80fb-e2f0f72d76b5.html?mode=story](http://www.yourhoustonnews.com/cypresscreek/news/harris-county-officials-crack-down-on-crime/article_76ebb9c2-7841-52bb-80fb-e2f0f72d76b5.html?mode=story).

<sup>16</sup>Chrystal Simons, “Harris County Sheriff’s Office voices support for mental health bills,” Cypress Creek Mirror, June 4, 2013 available at [http://www.yourhoustonnews.com/cypresscreek/news/harris-county-sheriff-s-office-voices-support-for-mental-health/article\\_001a7332-410d-580e-b564-9b5af625f847.html](http://www.yourhoustonnews.com/cypresscreek/news/harris-county-sheriff-s-office-voices-support-for-mental-health/article_001a7332-410d-580e-b564-9b5af625f847.html).

<sup>17</sup>Barry Mahoney & Elaine Nugent-Borakove. "Harris County Criminal Justice System Improvement Project: Phase 1 Report." The Justice Management Institute (2009): 41, noting that The HCCJCC and the Office of CJC were established on July 14, 2009. According to JMI, as of July 2009, the jail population was over 11,200 inmates, which is 1,800 over the design capacity of the County's jail facilities (9,434 inmates). Retrieved from: <http://www.jmijustice.org/resources/casflow-management/harris-county-criminal-justice-system-improvement-project-phase-1-report/view>; see also p.7 noting that fiscal costs included the "outsourcing" of inmates: some to a private vendor operating a facility in Louisiana, 940 inmates to three Louisiana jail facilities, and in August 2009, the Commissioners Court approved a plan to send up to 2,100 inmates to jails in four other Texas counties on an interim (six-month) basis to help reduce overcrowding in the Harris County jail facilities.

<sup>18</sup>Id.

<sup>19</sup>Judge Cospers interview with Alycia Welch on June 30, 2014; see also "Harris County Criminal Justice Coordinating Council Procedural Guidelines," emailed to author on June 30, 2014.

<sup>20</sup>Mahoney & Nugent-Borakove. note 17, supra, at 7.

<sup>21</sup>During the time in which the author drafted this chapter, JMI facilitated a strategic planning process with the Council to establish a mission and vision statement. At the time in which this report was produced, the final report from this process had not been released to the public.

<sup>22</sup>Borakove, Elaine. "Enhancing Local Criminal Justice Practice with a Criminal Justice Coordinating Council." Justice Management Institute (2014), 2, Judge Cospers emailed to author June 30, 2014.

<sup>23</sup>Ibid, 2; see also Mahoney & Nugent-Borakove. "Harris County Criminal Justice System Improvement Project: Phase 1 Report" JMI (2009), 7.

<sup>24</sup>Mahoney & Nugent-Borakove, note 17, supra, at p.8.

<sup>25</sup>Ibid.

<sup>26</sup>Ibid. at p.1.

<sup>27</sup>Ibid.

<sup>28</sup>Harris County Office of Criminal Justice Coordination "Jail Population Report," August 2013; This number includes pre-trial detainees who, for the purpose of this chapter, will be discussed in conjunction with inmates sentenced to a county jail term as "inmates."

<sup>29</sup>Mahoney & Nugent-Borakove, note 17, supra.

<sup>30</sup>Ibid.

<sup>31</sup>Ibid.

<sup>32</sup>United States Department of Justice. Letter to Harris County Judge Hon. Ed Emmett. 4 Jun. 2009.

<sup>33</sup>Mahoney & Nugent-Borakove, note 17, supra, at p.41.

<sup>34</sup>Interview with Judge Cospers, note 19, supra.

<sup>35</sup>In August 2014, the Council developed mission and vision statements, discussed its goals and objectives and established broad goals for the future work of the Council. Because there was not enough time between the completion of the Council's strategic planning process and the release of this report, the author's analysis on the absence of these organizational elements during the first five years of its establishment remains relevant. JMI will release a final report containing these elements.

<sup>36</sup>Mahoney & Nugent-Borakove, note 17, supra, at p.1.

<sup>37</sup>The HCCJCC later amended these Procedural Guidelines, adding six members to its council. The Commissioners Court adopted the amendments in February 2014. Information provided to author during phone interview with Judge Cospers on June 30, 2014.

<sup>38</sup>U.S. Department of Justice (DOJ) National Institute of Corrections (NIC). "Guidelines for Developing a Criminal Justice Coordinating Committee" (2002); retrieved from: <http://static.nicic.gov/Library/017232.pdf>.

<sup>39</sup>Interview with Judge Cospers, note 19, supra.

<sup>40</sup>Per data provided by the Harris County Sheriff's Office.

<sup>41</sup>HCCJC "Procedural Guidelines," emailed to author on June 30, 2014

<sup>42</sup>Interview with Judge Cospers, note 19, supra.

<sup>43</sup>Harris County, Texas, Justice of the Peace Courts, *JCIS Arresting Agencies Table*, at <http://web.jp.hctx.net/PublicExtracts/GetArrestingAgencies>.

<sup>44</sup>Recently, the Sheriff's Office released a Request for Proposals (RFP) for developing and implementing a Jail Management System to track information about inmates.

<sup>45</sup>Interview with Judge Cospers, note 19, *supra*.

<sup>46</sup>NIC, *Guidelines*, note 38, *supra*.

<sup>47</sup>*Ibid.* at p.24.

<sup>48</sup>Interview with Judge Cospers, note 19, *supra*.

<sup>49</sup>NIC, *Guidelines*, note 38, *supra*, at p.24.

<sup>50</sup>*Ibid.* at p.26.

<sup>51</sup>There are 131 municipal departments that feed the Harris County jail's population. However, the Houston Police Department arrestees make up the largest portion of the Harris County jail population; see: Barry Mahoney & Elaine Nugent-Borakove. "Harris County Criminal Justice System Improvement Project: Phase 1 Report." The Justice Management Institute (2009).

<sup>52</sup>Los Angeles CJCC website: <http://ccjcc.lacounty.gov/Home.aspx>

<sup>53</sup>NIC, *Guidelines*, note 38, *supra*, at p.26.

<sup>54</sup>*Ibid.*

<sup>55</sup>*Ibid.* at p.13; See also: Kathleen Feely, *Collaboration and Leadership in Juvenile Detention Reform*, The Pathways to Juvenile Detention Reform Series (a project of the Annie E. Casey Foundation), 1999, p.12.

<sup>56</sup>Harris County Criminal Justice Coordinating Council, *Harris County – Jail Population: October 2014 Report*. November 11, 2014.

<sup>57</sup>*Id.*

<sup>58</sup>*Id.*

<sup>59</sup>*Id.*

<sup>60</sup>Harris County Office of Criminal Justice Coordination Presentation 9/12/2012. (Overall average detention costs \$75-\$80 per day, including one-time and overhead costs such as booking/releasing, records, transportation, offsite medical, courts, building and maintenance, utilities, and allocated county overhead.); Harris County Office of Criminal Justice Coordination, "Harris County – Jail Population: March 2014 Report," (April 8, 2014): 1.

<sup>61</sup>*Ibid.*

<sup>62</sup>Texas Fair Defense Project, "Depenalizing Poverty: A Proposal for Improving Harris County Bail Policies," 2014, at p. 5.

<sup>63</sup>Harris County Office of Criminal Justice Coordination Presentation 9/12/2012; Harris County Office of Criminal Justice Coordination, "Harris County – Jail Population: October 2014 Report," (November 11, 2014): 1.

<sup>64</sup>Vernon's Ann.Texas Const. Art. 1, § 11.

<sup>65</sup>Vernon's Ann.Texas C.C.P. Art. 17.15.

<sup>66</sup>Rule 9, Harris County Criminal Court Rules.

<sup>67</sup>Mahoney, Barry and Elaine Nugent-Boarakove. *Harris County Criminal Justice System Improvement Project, Phase 1 Report*. The Justice Management Institute. October 2009, pg.16.

<sup>68</sup>Pretrial Justice Institute. Rational and Transparent Bail Decision Making: Moving from Cash-Based to a Risk-Based Process. March 2012, citing Anne Rankin, "The Effects of Pretrial Detention," *New York University Law Review*, 39, (1964); Patricia Wald, "The Right to Bail Revisited: A Decade of Promise Without Fulfillment," in Stuart S. Nagel, ed. *The Rights of the Accused* (Beverly Hills, California, Sage Publications, 1972); William M. Landes, "Legality and Reality: Some Evidence on Criminal Procedure," *Journal of Legal Studies*, 3, (1974); Hans Zeisel, "Bail Revisited," *American Bar Foundation Research Journal*, 1979; John S. Goldkamp, *Two Classes of Accused* (Cambridge, Massachusetts, Ballinger Publishing Company, 1979); Stevens H. Clarke and Susan T. Kurtz, "The importance of Interim Decisions to Felony Trial Court Dispositions," *Journal of Criminal Law and Criminology*, 74, (1983); Michael R. Gottfredson and Don M. Gottfredson, *Decision Making in Criminal Justice: Toward a Rational Exercise of Discretion* (New York, New York: Plenum Press, 1988); Mary T. Phillips, *Bail, Detention, and Non-Felony Case Outcomes*, Research Brief Series No. 14, New York City Criminal Justice Agency, 2007; and Mary T. Phillips, *Pretrial*

Detention and Case Outcomes, Part 2, Felony Cases, Final Report, New York City Criminal Justice Agency, 2008.

<sup>69</sup>Mahoney, Barry and Elaine Nugent-Boarakove. Harris County Criminal Justice System Improvement Project, Phase 1 Report. The Justice Management Institute. October 2009, pg.21.

<sup>70</sup>Harris County Pretrial Services. 2013 Annual Report. pg.8. 18 Aug. 2014. Web. April 2014. <<http://www.harriscountytexas.gov/CmpDocuments/59/Annual%20Reports/2013%20Annual%20Report.pdf>>

<sup>71</sup>Ibid.

<sup>72</sup>Harris County Pretrial Services. 2009 Annual Report. pg.8. 18 Aug. 2014. Web. April 2014. <<http://www.harriscountytexas.gov/CmpDocuments/59/Annual%20Reports/2009%20Annual%20Report-Rev10-2010.pdf>>

<sup>73</sup>Id.

<sup>74</sup>Harris County Pretrial Services. 2013 Annual Report. pg.9. 18 Aug. 2014. Web. April 2014. <<http://www.harriscountytexas.gov/CmpDocuments/59/Annual%20Reports/2013%20Annual%20Report.pdf>>

<sup>75</sup>Id.

<sup>76</sup>Travis County Pretrial Services. Central Booking Unit Statistics FY 2012, 18 Aug. 2014. Web. 13 May 2013. [http://www.co.travis.tx.us/pretrial\\_services/pretrial\\_overview.asp](http://www.co.travis.tx.us/pretrial_services/pretrial_overview.asp).

<sup>77</sup>Data provided by Bill Wiehl, Senior Analyst, Bexar County Judiciary Support Services to the Office of Court Administration. July13, 2011.

<sup>78</sup>Texas Fair Defense Project. *Policy Brief: Options for Reducing County Indigent Defense Expenditures*. pg. 3. See also: Public Policy Research Institute, Study to Assess the Impacts of the Fair Defense Act on Texas Counties. 2005. pg. 21-25.

<sup>79</sup>Texas Fair Defense Project. *Policy Brief: Options for Reducing County Indigent Defense Expenditures*. pg. 3.

<sup>80</sup>Mahoney, pg. 20.

<sup>81</sup>Ibid, pg.63.

<sup>82</sup>Ibid, pg. 48.

<sup>83</sup>Ibid.

<sup>84</sup>Ibid at 18.

<sup>85</sup>Barry Mahoney and Elaine Nugent-Borakove, The Justice Management Institute (JMI), "Harris County Criminal Justice System Improvement Project: Phase 1 Report," (October 2009): 20.

<sup>86</sup>Bunin and Marsh, "Proposal for Counsel at TEX. CODE CRIM. PRO. Art. 17.15 Hearings," *Voice for the Defense Online* (Jan. 2014) at 18-19.

<sup>87</sup>Ibid, 18.

<sup>88</sup>Tony Fabelo, Carl Reynolds, and Jessica Tyler, Council of State Governments Justice Center, "Improving Indigent Defense: Evaluation of the Harris County Public Defender," (September 30, 2013): 14.

<sup>89</sup>Ibid at 40.

<sup>90</sup>Bunin and Marsh, "Proposal for Counsel," at 19-21.

<sup>91</sup>Ibid at 21.

<sup>92</sup>Ibid.

<sup>93</sup>Ibid.

<sup>94</sup>Ibid at 20.

<sup>95</sup>Ibid at 19.

<sup>96</sup>Per estimates of Harris County Chief Public Defender Alex Bunin, this program "assumes one defense lawyer per session, identical to how the District Attorney staffs these hearings. The current court plans generally use an hourly rate of \$50.00. If there are 10 sessions over 25 hours, up to two hours each, attorney fees would be approximately \$365,000 annually. Some administration, training and oversight is necessary. The PDO could provide training and oversight at no added cost. Administration would be extra. An additional administrative assistant with salary and benefits is about \$54,000."

<sup>97</sup>Id.

<sup>98</sup>See Ian Duncan, “First defendants get lawyers at bail hearings in Maryland”, *The Baltimore Sun*, 1 July 2014. Accessed 2 Dec. 2014 at [http://articles.baltimoresun.com/2014-07-01/news/bs-md-bail-lawyers-arrive-20140701\\_1\\_douglas-colbert-court-system-lawyers](http://articles.baltimoresun.com/2014-07-01/news/bs-md-bail-lawyers-arrive-20140701_1_douglas-colbert-court-system-lawyers).

<sup>99</sup>Estimates of Alex Bunin, note 96, *supra*.

<sup>100</sup>*Id.*

<sup>101</sup>Email between Alan Bernstein at the Harris County Sheriff’s Office and Elizabeth Henneke at TCJC (May 28, 2014).

<sup>102</sup>Tx. Pen. Code § 12.22.

<sup>103</sup>Article 42.12(3)(g) of the Texas Code of Criminal Procedure sets forth those offenses for which a judge may not grant community supervision. These include murder, indecency with a child, aggravated kidnapping, sexual assault and other similarly serious offenses.

<sup>104</sup>Penal Code Section 12.44(a) gives a judge the discretion to offer defendants charged with a state jail felony the punishment of a Class A misdemeanor (with a maximum jail time of one year). The individual charged, however, is still convicted of a state jail felony and that penalty continues to remain on their record.

<sup>105</sup>Harris County Office of Criminal Justice Coordination Presentation 9/12/2012. (Overall average detention costs \$75-\$80 per day, including one-time and overhead costs such as booking/releasing, records, transportation, offsite medical, courts, building and maintenance, utilities, and allocated county overhead.); Harris County Office of Criminal Justice Coordination, “Harris County – Jail Population: March 2014 Report,” (April 8, 2014): 1.

<sup>106</sup>“Houston Police Department: Mental Health Division,” Received from Capt. Wendy Baimbridge (June 25, 2014); History of the Mental Health Division, available at <http://www.houstoncit.org/history/>.

<sup>107</sup>*Ibid.*

<sup>108</sup>Phone call between Lt. Patrick Ploude, HPD Mental Health Division, and Elizabeth Henneke at TCJC (May 23, 2014); *see also* History of the Mental Health Division, available at <http://www.houstoncit.org/history/>.

<sup>109</sup>*Ibid.*

<sup>110</sup>UT Harris County Psychiatric Center, Access to Services available at <http://hcpc.uth.tmc.edu/pages/inpatient/inp-admission.htm>.

<sup>111</sup>*Ibid.*

<sup>112</sup>Houston Police Department Mental Health Division, Annual Report 2013, pg. 16, at <http://www.houstoncit.org/wp-content/uploads/2014/06/Annual-Report-2013.pdf>.

<sup>113</sup>History of the Mental Health Division, available at <http://www.houstoncit.org/history/>.

<sup>114</sup>Phone call between Alan Berstein at the Harris County Sheriff’s Office and Elizabeth Henneke at TCJC (May 22, 2014); *see also* Allen Turner, “Sheriff’s crisis team ‘protects both sides of the badge,’” *Houston Chronicle* (Sept. 12, 2012) available at <http://www.chron.com/news/houston-texas/article/Sheriff-s-crisis-intervention-team-protects-both-3900734.php>; *see also* Adrian Garcia, “SHERIFF ADRIAN GARCIA: HCSO expands mental health services” *Cypress Creek Mirror* (Oct. 7, 2013) available at [http://www.yourhoustonnews.com/cypresscreek/blogs/sheriff-adrian-garcia-hcso-expands-mental-health-services/article\\_fa5a4cac-5ca9-5e1f-811b-62255d29f508.html](http://www.yourhoustonnews.com/cypresscreek/blogs/sheriff-adrian-garcia-hcso-expands-mental-health-services/article_fa5a4cac-5ca9-5e1f-811b-62255d29f508.html).

<sup>115</sup>April 21, 2014 CIRT Stats provided by Alan Bertstein at Harris County Sheriff’s Office.

<sup>116</sup>Emily DePrang, “In Harris County, New Efforts to Treat Mental Illness In and Out of Jail,” *Texas Observer*, Sept. 26, 2013 available at <http://www.texasobserver.org/harris-county-new-efforts-treat-mental-illness-jail/>.

<sup>117</sup>History of the Mental Health Division, available at <http://www.houstoncit.org/history/>.

<sup>118</sup>*Ibid.*

<sup>119</sup>*Ibid.*

<sup>120</sup>Houston Police Department, Special Support Services Command-Mental Health Unit, “Chronic Consumer Stabilization Initiative: Pilot Project Final Report,” February 2010, pg. 4.

<sup>121</sup>*Ibid.*, pg. 14.

<sup>122</sup>*Ibid.*

<sup>123</sup>Houston Police Department, Special Support Services Command-Mental Health Unit, “Chronic Consumer Stabilization Initiative: Pilot Project Final Report,” February 2010, pg. 15-18; Phone call between Lt. Patrick Ploude, HPD Mental Health Division, and Elizabeth Henneke at TCJC (May 23, 2014).



- <sup>124</sup>Houston Police Department, Special Support Services Command-Mental Health Unit, "Chronic Consumer Stabilization Initiative: Pilot Project Final Report – Addendum," pg. 3.
- <sup>125</sup>Paul Knight, "Houston's Craziest: In a one-of-a-kind short list, HPD names the 30 most troubled mentally ill in the city," Houston Press, December 31, 2009
- <sup>126</sup>A full list of programs and eligibility criteria can be found at MHMRA's website, <http://www.mhmraharris.org/index.asp>.
- <sup>127</sup>Report received from Barbara Dawson, M.Ed., Deputy Director, Comprehensive Psychiatric Emergency Program Division, MHMRA of Harris County on August 12, 2014.
- <sup>128</sup>History of the Mental Health Division, available at <http://www.houstoncit.org/history/>.
- <sup>129</sup>Report received from Barbara Dawson, M.Ed., Deputy Director, Comprehensive Psychiatric Emergency Program Division, MHMRA of Harris County on August 12, 2014.
- <sup>130</sup>*Ibid.*
- <sup>131</sup>UT Harris County Psychiatric Center, Access to Services available at <http://hcpc.uth.tmc.edu/pages/inpatient/inp-admission.htm>.
- <sup>132</sup>*Huffman Announces Legislation to Create Mental Health Jail Diversion Pilot Program in Harris County*, InstantNewsWestu.com, March 6, 2013; <http://instantnewswestu.com/2013/03/06/41520/>
- <sup>133</sup>Harris County District Courts: Felony Mental Health Court Program Description, at <http://www.justex.net/courts/Drug/MentalHealth/Default.aspx>.
- <sup>134</sup>*Id.*
- <sup>135</sup>*d.*
- <sup>136</sup>*Id.*
- <sup>137</sup>Harris County Dual Diagnosis Residential Program (HC-DDRP) Factsheet.
- <sup>138</sup>Email communication between Ashley Ochoa and Elizabeth Henneke at TCJC (May 23, 2014).
- <sup>139</sup>History of the Mental Health Division, available at <http://www.houstoncit.org/history/>; Phone call between Lt. Patrick Ploude, HPD Mental Health Division, and Elizabeth Henneke at TCJC (May 23, 2014).
- <sup>140</sup>*Ibid.*
- <sup>141</sup>Houston Recovery Center, <http://houstonrecoverycenter.org/about-us/>.
- <sup>142</sup>*Ibid.*
- <sup>143</sup>Houston Recovery Center, Client Log Analysis provided by Ashley Ochoa to Elizabeth Henneke at TCJC dated May 5, 2014.
- <sup>144</sup>Conversation between Leonard Kincaid and Elizabeth Henneke on May 29, 2014.
- <sup>145</sup>Houston Recovery Center, Client Log Analysis provided by Ashley Ochoa to Elizabeth Henneke at TCJC dated May 5, 2014; Phone call between Ashley Ochoa and Elizabeth Henneke at TCJC (May 23, 2014).
- <sup>146</sup>Houston Recovery Center, <http://houstonrecoverycenter.org/about-us/>.
- <sup>147</sup>"First Chance Intervention Program Factsheet," Harris County District Attorney's Office. October 2014.
- <sup>148</sup>Houston Police Department Mental Health Division, Homeless Outreach Team at <http://www.houstoncit.org/test/>.
- <sup>149</sup>Houston Police Department Mental Health Division, Boarding Homes Enforcement Team, at <http://www.houstoncit.org/boarding-homes/>.
- <sup>150</sup>UT Harris County Psychiatric Center, Access to Services available at <http://hcpc.uth.tmc.edu/pages/inpatient/inp-admission.htm>.
- <sup>151</sup>Brian Rogers, "Crack policy puts Harris County DA at odds with police," Dec. 5 2011, *Houston Chronicle*, at <http://www.chron.com/default/article/Crack-policy-puts-Harris-County-DA-at-odds-with-2346724.php#page-2>.
- <sup>152</sup>See e.g. Brian Rogers, "Harris County DA's easing of crack pipe policy stirs storm," Dec. 8 2009, *Houston Chronicle*, at <http://www.chron.com/news/houston-texas/article/Harris-County-DA-s-easing-of-crack-pipe-policy-1613537.php> and William Martin, "The Policy and Politics of Drug Sentencing," May 6 2013, *Texas Monthly*, at <http://www.texasmonthly.com/story/policy-and-politics-drug-sentencing>.

<sup>153</sup>See United States Department of Justice, Federal Bureau of Investigation. (September 2010). Crime in the United States, 2009. Retrieved 12 Dec. 2014 from [https://www2.fbi.gov/ucr/cius2009/data/table\\_06.html](https://www2.fbi.gov/ucr/cius2009/data/table_06.html) and United States Department of Justice, Federal Bureau of Investigation. (September 2012). Crime in the United States, 2011. Retrieved 12 Dec. 2014 from <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-6>.

<sup>154</sup>See *Id.*

<sup>155</sup>Houston Police Department 2010 Annual Report, page 7, at [http://www.houstontx.gov/police/department\\_reports/Annual\\_Report\\_2010.pdf](http://www.houstontx.gov/police/department_reports/Annual_Report_2010.pdf).

<sup>156</sup>Per information provided by Assistant District Attorney, Tarrant County District Attorney's Office, February 2013.

<sup>157</sup>Per information provided by Assistant District Attorney, Travis County District Attorney's Office, February 2013.

<sup>158</sup>Per information provided by Division of Intake, El Paso County District Attorney's Office, February 2013.

<sup>159</sup>Per information provided by Assistant District Attorney, Collin County District Attorney's Office, February 2013.

<sup>160</sup>See Michael Barajas, "Lab Reports Show Hundreds "Convicted in Error" for Drug Offenses," Houston Press Oct. 29, 2014, at [http://blogs.houstonpress.com/news/2014/10/lab\\_reports\\_show\\_hundreds\\_convicted\\_in\\_error\\_for\\_drug\\_offenses.php](http://blogs.houstonpress.com/news/2014/10/lab_reports_show_hundreds_convicted_in_error_for_drug_offenses.php) and "Report: Crime lab delays lead to false drug convictions" Star Telegram, April 20, 2014 available at <http://www.star-telegram.com/2014/04/20/5751844/report-lab-delays-lead-to-false.html#>.

<sup>161</sup>Greg Hamilton, "HB 2391: Background & Procedures," Travis County Sheriff's Office, slides 4, 5, 12.

<sup>162</sup>Ingrid V. Eagly, Criminal Justice for Noncitizens: An Analysis of Variation in Local Enforcement, 88 N.Y.U. L. Rev. 1126, 1174 (2013) (citing Telephone Interview with Judge Robin Brown, Presiding Judge, Harris Cnty. Criminal Court, Hous., Tex. (May 23, 2012)).

<sup>163</sup>*Id.* (citing Marcia Johnson & Lockett Anthony Johnson, Bail: Reforming Policies to Address Overcrowded Jails, the Impact of Race on Detention, and Community Revival in Harris County, Texas, 7 Nw. J. L. & Soc. Pol'y 42, 56 & n.96 (2012) (citing May 2011 statistics retrieved from the Case Master Files of Harris County's Justice Information Management Systems))).

<sup>164</sup>See First Chance Intervention Program Factsheet, *supra*, note 146.

<sup>165</sup>Bureau of Justice Statistics, U.S. Dep't of Justice, Pub. No. N U 174463, Mental Health Treatment of Inmates and Probationers 1,4 (July 1999).

<sup>166</sup>*Id.* at 5.

<sup>167</sup>Report received from Barbara Dawson, M.Ed., Deputy Director, Comprehensive Psychiatric Emergency Program Division, MHMRA of Harris County on August 12, 2014.

<sup>168</sup>*Ibid.*

<sup>169</sup>Houston Police Department, About the CIT Program; <http://www.houstoncit.org/about.html>.

<sup>170</sup>Dottie Carmichael, Ph.D., et al., Evaluation Findings for the Crisis Services Redesign Initiative, pg. 110.

<sup>171</sup>April 21, 2014 CIRT Stats provided by Alan Bertstein at Harris County Sheriff's Office.

<sup>172</sup>*Tope v. State*, No. 01-12-00959-CR, 2014 WL 662373, \*5 (Tex. App. Feb. 20, 2014).

<sup>173</sup>*Ibid*; see also Texas Department of Criminal Justice Community Justice Assistance Division, Texas Progressive Interventions and Sanctions Bench Manual, January 2014, 6–7, available at [http://www.tdcj.state.tx.us/documents/cjad/CJAD\\_Bench\\_Manual.pdf](http://www.tdcj.state.tx.us/documents/cjad/CJAD_Bench_Manual.pdf) (citing *Fisher v. State*, 832 S.W. 2d 641, 643-44 (Tex. App.-Corpus Christi 1992, no pet.) ("Pretrial intervention, also sometimes called pretrial diversion, generally involves a written agreement entered into before trial between the defendant and the prosecutor. If the defendant performs the conditions in the written agreement within a specified period of time, the State agrees to dismiss the case. Both the State and the defendant request that the trial court continue the present trial setting to a certain date in the future to give the defendant time to comply with the agreed conditions. The agreement is then presented to the trial court for its approval. If the trial court does not approve the agreement, the case proceeds to trial as scheduled on the docket. If the trial court approves the agreement, it grants the joint request for continuance and resets the trial to a certain date in the future. On that date, the defendant must appear before the trial court. If the defendant has complied with the conditions of the agreement, the trial court grants the State's motion to dismiss the pending criminal charges. If the defendant has not complied with the conditions of the agreement, the case proceeds to trial as scheduled."); Op.Tex. Att'y Gen. GA-114, 2003).

<sup>174</sup>Under the current Texas pretrial diversion programs, defendants have access to counsel who helps them negotiate the terms and conditions of their inclusion into a diversion program. Article 28.01 §1(1) provides that counsel will be appointed at during the pre-trial hearing during the arraignment of the defendant.

<sup>175</sup>*Ibid*; see also *In McPherson v. State*, the Court of Appeals from Texarcana concluded that “a defendant's ability to pay is not relevant to legislatively mandated court costs, and a trial court may order ‘the defendant to pay or reimburse a community supervision and corrections department for any other expense that is ... incurred as a result of the defendant's participation in the pretrial intervention program.’” No. 06-13-00081-CR, 2013 WL 4624894, \*3 (Tex. App. Aug. 27, 2013) (citing Tex. Code Crim. Proc. Ann. art. 102.012(b)(1) (West Supp.2012).

<sup>176</sup>*In re R.B.*, 361 S.W.3d 184, 187-88 (Tex. App. 2012), review denied (Sept. 21, 2012) (internal citations omitted).

<sup>177</sup>For more information regarding the collateral consequences of convictions, please see the *Collateral Consequences of Criminal Convictions: Law, Policy and Practice* by Margaret Colgate Love, Jenny Roberts, and Cecelia Klingele.

<sup>178</sup>Harris County Sheriff's Office Executive Bureau, Facts About the HCSO. Available at <http://www.harriscountyo.org/documents/PressKits/HCSO%20Fact%20Sheet.pdf>.

<sup>179</sup>See Harris County Sheriff Adrian Garcia, “Houston Helps Harris Put Jail Center on Fast Track,” at <http://www.adriangarcia.com/2013/03/13/houston-helps-harris-put-jail-center-on-fast-track/>.

<sup>180</sup>Marcia Johnson, Katherine Bauer and Elizabeth Tagle, *Proposal to Reduce Recidivism Rates in Texas – 2010 Update*, ECI Interdisciplinary Journal for Legal and Social Policy: Vol. 1: Issue 1, Article 5, page 71. Available at: <http://ecipublications.org/ijlsp/vol1/iss1/5>.

<sup>181</sup>Urban Institute Transition from Jail to Community Initiative; <http://www.urban.org/projects/tjc/background.cfm>

<sup>182</sup>A.L. Solomon, J.W.L. Osborne, S. F. LoBuglio, J. Mellow & D. A. Mukamal, *Life After Lockup: Improving Reentry From Jail To The Community*. Washington, DC: Urban Institute, Justice Policy Center (2008); <https://www.ncjrs.gov/pdffiles1/bja/220095.pdf>.

<sup>183</sup>*Id* at xv.

<sup>184</sup>Memo “re: Reentry Program Analysis” 2/26/14, provided by Jennifer Herring, HCSO Director of Reentry Services, Reentry Services Special Operations & Crime Prevention Bureau during an interview on July 24, 2014

<sup>185</sup>*Id*.

<sup>186</sup>Interview with Jennifer Herring, HCSO Director of Reentry Services, Reentry Services Special Operations & Crime Prevention Bureau, July 24, 2014

<sup>187</sup>Marcia Johnson and Luckett Anthony Johnson, *Bail: Reforming Policies to Address Overcrowded Jails, the Impact of Race on Detention, and Community Revival in Harris County*, Texas, 7 Nw. J. L. & Soc. Pol'y. 42 (2012). <http://scholarlycommons.law.northwestern.edu/njls/vol7/iss1/2>

<sup>188</sup>Ana Yanez-Correa and Molly Totman, “Costly Confinement & Sensible Solutions: Jail Overcrowding in Texas”, Texas Criminal Justice Coalition (2010) at 9; [http://www.pretrial.org/download/research/Costly%20Confinement%20and%20Sensible%20Solutions%20-%20Jail%20Overcrowding%20in%20Texas%20\(TCJC%202010\).pdf](http://www.pretrial.org/download/research/Costly%20Confinement%20and%20Sensible%20Solutions%20-%20Jail%20Overcrowding%20in%20Texas%20(TCJC%202010).pdf)

<sup>189</sup>Christy Visher, Sara Debus & Jennifer Yahner, *Employment after Prison: A Longitudinal Study of Releasees in Three States*, Urban Institute Justice Policy Center, Research Brief, October 2008; [http://www.urban.org/UploadedPDF/411778\\_employment\\_after\\_prison.pdf](http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf)

<sup>190</sup>*Id*.

<sup>191</sup>HCSO Memo, *supra* note 184 at 5. See also, HCSO Website, [http://www.harriscountyo.org/inmate\\_education.aspx](http://www.harriscountyo.org/inmate_education.aspx)

<sup>192</sup>Harris County Sheriff's Office Inmate Handbook, p. 24.

<sup>193</sup>Interview with Jennifer Herring, HCSO Director of Reentry Services, Reentry Services Special Operations & Crime Prevention Bureau, July 24, 2014

<sup>194</sup>*Id*.

<sup>195</sup>Alana Rocha, *Harris County Prostitution Diversion Effort Aids Inmates*, The Texas Tribune, July 29, 2013; <http://www.texastribune.org/2013/07/29/jail-program-offers-rehab-course-prostitutes/>

<sup>196</sup>*Id*.

<sup>197</sup>Alana Rocha, *Pregnant Inmates Find Help to Stay Out of Jail*, The Texas Tribune, February 17, 2014; <http://www.texastribune.org/2014/02/17/pregnant-inmates-find-help-stay-out-jail/>

<sup>198</sup>*Id.*

<sup>199</sup>Interview with Jennifer Herring, *supra* at note 186.

<sup>200</sup>*Id.*

<sup>201</sup>Harris County Sheriff's Office website, *Jail Chaplaincy and Reentry Services*, [http://www.harriscountyso.org/chaplain\\_services.aspx](http://www.harriscountyso.org/chaplain_services.aspx)

<sup>202</sup>HCSO Memo, *supra* note 184 at 10.

<sup>203</sup>United States Interagency Council on Homelessness, *Searching for Solutions: Constructive Alternatives to the Criminalization of Homelessness*, 2012 at 34; [http://usich.gov/resources/uploads/asset\\_library/RPT\\_SoS\\_March2012.pdf](http://usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf)

<sup>204</sup>Mental Health America of Greater Houston at <http://www.mhahouston.org/events/67/>

<sup>205</sup>*Huffman Announces Legislation to Create Mental Health Jail Diversion Pilot Program in Harris County*, InstantNewsWestu.com, March 6, 2013; <http://instantnewswestu.com/2013/03/06/41520/>

<sup>206</sup>"Harris County Community Supervision & Corrections Department" at <http://www.harriscountytexas.gov/cscd/>.

<sup>207</sup>*Id.*

<sup>208</sup>See Brian Rogers, "Harris County's probation director resigns" Houston Chronicle, August 31, 2012, at <http://www.chron.com/news/houston-texas/article/Harris-County-s-probation-director-resigns-3825754.php>

<sup>209</sup>*Id.*

<sup>210</sup>See Emily DePrang, "Harris County Probation Department Tackles Unnecessary Drug-Testing Problem," Texas Observer, January 3, 2014, at <http://www.texasobserver.org/harris-county-probation-department-tackles-unnecessary-drug-testing-problem/>.

<sup>211</sup>Harris County Criminal Justice Coordinating Council, October 2014 Jail Population Report.

<sup>212</sup>*Id.*

<sup>213</sup>*Id.*

<sup>214</sup>*Id.*

<sup>215</sup>Legislative Budget Board, *Criminal Justice Uniform Cost Report Fiscal Years 2010 to 2012*, p. 14.

<sup>216</sup>HCSO Memo, *supra* note 184 at 3-4.

<sup>217</sup>A.L. Solomon, J.W.L. Osborne, S. F. LoBuglio, J. Mellow & D. A. Mukamal, *Life After Lockup: Improving Reentry From Jail To The Community*. Washington, DC: Urban Institute, Justice Policy Center (2008); <https://www.ncjrs.gov/pdffiles1/bja/220095.pdf> <https://www.ncjrs.gov/pdffiles1/bja/220095.pdf>.

<sup>218</sup>National Institute of Correction: Urban Institute, *Transition From Jail to Community, Online Learning Toolkit* at [http://www.urban.org/projects/tjc/toolkit/module9/section4\\_3.html](http://www.urban.org/projects/tjc/toolkit/module9/section4_3.html)

<sup>219</sup>Los Angeles County Sheriff's Department, *Education Based Incarceration: Creating a Life Worth Living*, 2<sup>nd</sup> Edition (2012) at 39; [http://file.lacounty.gov/lasd/cms1\\_145553.pdf](http://file.lacounty.gov/lasd/cms1_145553.pdf).

<sup>220</sup>*Id.* at 39-40.

<sup>221</sup>*Id.* at 40-41.

<sup>222</sup>Christina Villacorte, *After release, L.A. County Jail Inmates Now Have A Place To Go For Help*, Los Angeles Daily News, May 22, 2014.

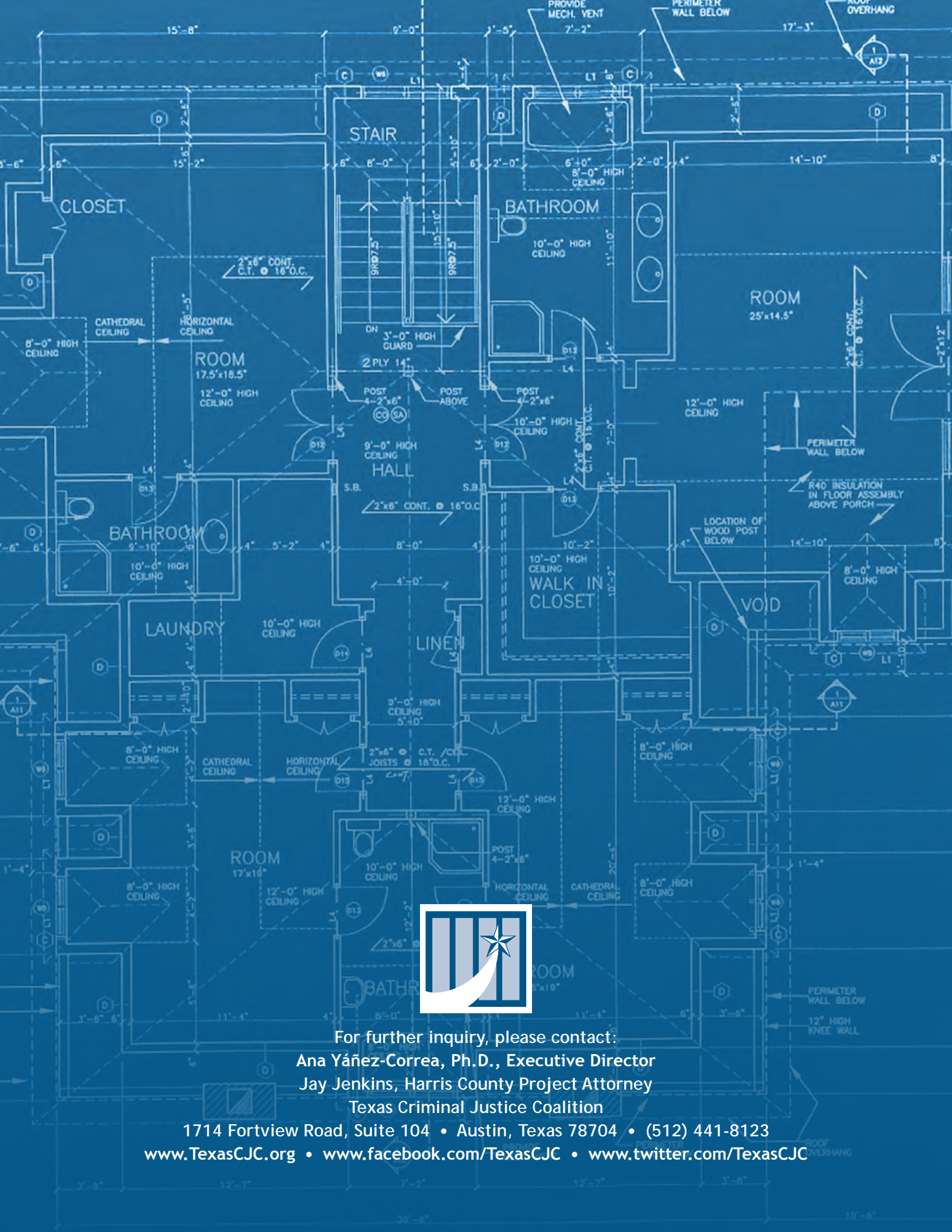
<sup>223</sup>See Emily DePrang, "Harris County Probation Department Tackles Unnecessary Drug-Testing Problem," Texas Observer, January 3, 2014, at <http://www.texasobserver.org/harris-county-probation-department-tackles-unnecessary-drug-testing-problem/>.











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