

HARRIS COUNTY CRIMINAL JUSTICE SYSTEM IMPROVEMENT PROJECT

PHASE 1 REPORT

By Barry Mahoney and Elaine Nugent-Borakove



October 2009

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This report has been prepared pursuant to a contract between Harris County and The Justice Management Institute. Conclusions and opinions expressed in the report are those of the authors and The Justice Management Institute.

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INTRODUCTION AND ACKNOWLEDGEMENTS

This report presents preliminary findings and recommendations from a study of the criminal justice system in Harris County conducted by The Justice Management Institute (JMI). The first phase of the study has three main objectives:

1. Develop baseline information about the current situation and recent trends with respect to criminal justice system operations;
2. Identify system strengths and key issues that warrant further investigation and possible development of alternative processes; and
3. Formulate plans for further research and consideration of alternative processes that can (a) improve justice system operations; and (b) reduce or contain the costs of system operation.

The report reviews the structure and processes for handling felony and misdemeanor cases in Harris County from the time of initial arrest through to resolution of the cases that are filed and, in some instances, through post-conviction proceedings involving motions to revoke probation. From the outset, a primary focus of the project has been on the population of the Harris County Jail, which stood at 11,546 as we began on-site work on the project in February 2009.

The jail population issues have not been the sole focus of the project, however, and this report covers a wide range of areas. Some of these areas are related to the jail population problems, while others are largely independent of those problems but affect the overall fairness and cost-effectiveness of system operations. In preparing the report, we have used a variety of approaches to gather relevant data, including:

- Review of existing documents (including prior studies of aspects of Harris County criminal justice system operations) and management information reports;
- Interviews and focus group meetings with judges, other elected officials, and senior-level staff members in all of the organizational entities that have roles in criminal case processing, as well as officials in the County's Department of Management Services, the County Attorney's office, and the Mental Health and Mental Retardation Authority;
- Observation of jail facilities and court proceedings; and
- Review of national standards and of good or promising criminal case practices followed in other large urban jurisdictions.

In conducting the study and preparing this report, we have had excellent assistance from an excellent group of criminal justice professionals who worked with us on the JMI team responsible for the study: Gary Bowker, Frank Domurad, Teri Martin, Andy Sonner, and Debra Whitcomb. They conducted many of the interviews and provided thoughtful input that helped shape the content of the report and the recommendations. The JMI team has received wonderful cooperation from everyone with whom team members have had contact while working in Harris County during the February – August period. We particularly want to express strong appreciation to the Harris County Director of Management Services, Dr. Dick Raycraft, and to Clarissa Stephens, an Assistant Director in the Office of Budget Management and now (since August 2009) the Deputy Director of the newly created Office of the Criminal Justice Coordinator, for their guidance and support throughout our work on the project. All of the Harris County practitioners with whom we met were helpful and candid, and the report owes a very great deal to their thoughtful comments and observations. A list of all of the persons interviewed is included in an appendix to the report.

No report on a complex criminal justice system such as the one in Harris County can completely capture all of the nuances of system operation or all of the dynamics of the many processes in the county. We believe, however, that this report presents a fair and realistic picture of the system as we observed it during a five-month period earlier this year. In June 2009, JMI submitted a Preliminary Report to Commissioners Court, with the study's principal findings and recommendations. We note that two of the recommendations included in the Preliminary Report have already been acted upon by the Commissioners Court (in creating a new Criminal Justice Coordinating Council and an Office of the Criminal Justice Coordinator) and that Commissioners Court has indicated that it would like to have the new CJCC pursue implementation of other JMI recommendations.

This report updates the Preliminary Report and provides considerably more information and commentary relevant to the recommendations. We hope it will be useful to members of the CJCC and to other Harris County officials as they undertake efforts to improve the County's criminal justice system.

As the authors of the document, we are enormously grateful for the contributions of everyone who has helped with the work of the project and the preparation of this report. Those individuals are, of course, they are in no way responsible for the presentation or interpretation of data in the report or for any errors of commission or omission. Those responsibilities lie with us.

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October 2009

OVERVIEW: MAIN THEMES FROM THE STUDY

From the outset of this project, a primary focus has been on the population of the Harris County jail, which had risen by more than 50 percent—from 7,648 in January 2004 to 11,546 in February 2009—in barely five years as of the time JMI began work on the project. As part of the study, JMI has explored possible ways to reduce the jail population to a level that would bring the jail population to an acceptable level without the need for construction of new jail facilities or for continued “outsourcing” of jail inmates to privately run facilities outside the County, without compromising public safety. The jail population increase has been driven to a significant extent by an upsurge in arrests—especially for possession of trace amounts of illegal drugs—over the past several years. However, there are a multitude of other factors contributing to the rise in jail population. Safely reducing the jail population should be a high priority goal, and the report has a number of recommendations for accomplishing this.

While the jail population is a major concern, there are also a number of other issues that have drawn the attention of the JMI team. Some are related to the jail population problems, but others are largely independent of those problems. The report has recommendations for addressing these issues. Before turning to specific issues and recommendations, however, we think it useful to note three overarching themes that stand out as warranting attention from policymakers. The prevalence of these themes points to a need for shaping a fresh vision for criminal justice in Harris and for making careful investments in new resources:

- ***Too much reliance on jail as the primary (and often sole) resource for handling persons whose law-breaking is basically a result of substance abuse and mental illness.*** There is a strong need to develop facilities and services to address these problems and reduce the recycling of these persons through the criminal justice system.
- ***Too much reliance on costly and inefficient paper-based records and outdated computer systems.*** The County needs to rapidly modernize the information and communications technology infrastructure needed for criminal justice operations. Doing so will greatly reduce duplicative data entry, facilitate timely access to records, enable much more rapid flow of information within and across agencies and institutions, and provide a foundation for analysis of system issues and performance.
- ***Lack of capacity for analysis of system operations and performance.*** At present, there is a “silo” approach to justice system planning and resource utilization, with a primary focus on the budgets and needs of individual institutions and agencies. There is a need for county-level oversight and coordination of the interrelated operations of the courts and agencies involved in and affected by criminal justice processes.

THE CURRENT SITUATION: KEY FACTS AND RELEVANT TRENDS

A. Population Facts and Trends

1. County/Metro Population Trends. The population of Harris County has been increasing steadily over the past two decades, from approximately 2,818,000 in 1990 to an estimated 4,039,000 in 2008—a rise of over 43 percent in that period. Residents with Hispanic/Latino background constitute about 38% of the total population of the County. Blacks make up about 19% of the population and Whites with non-Hispanic backgrounds constitute about 36% of the total.

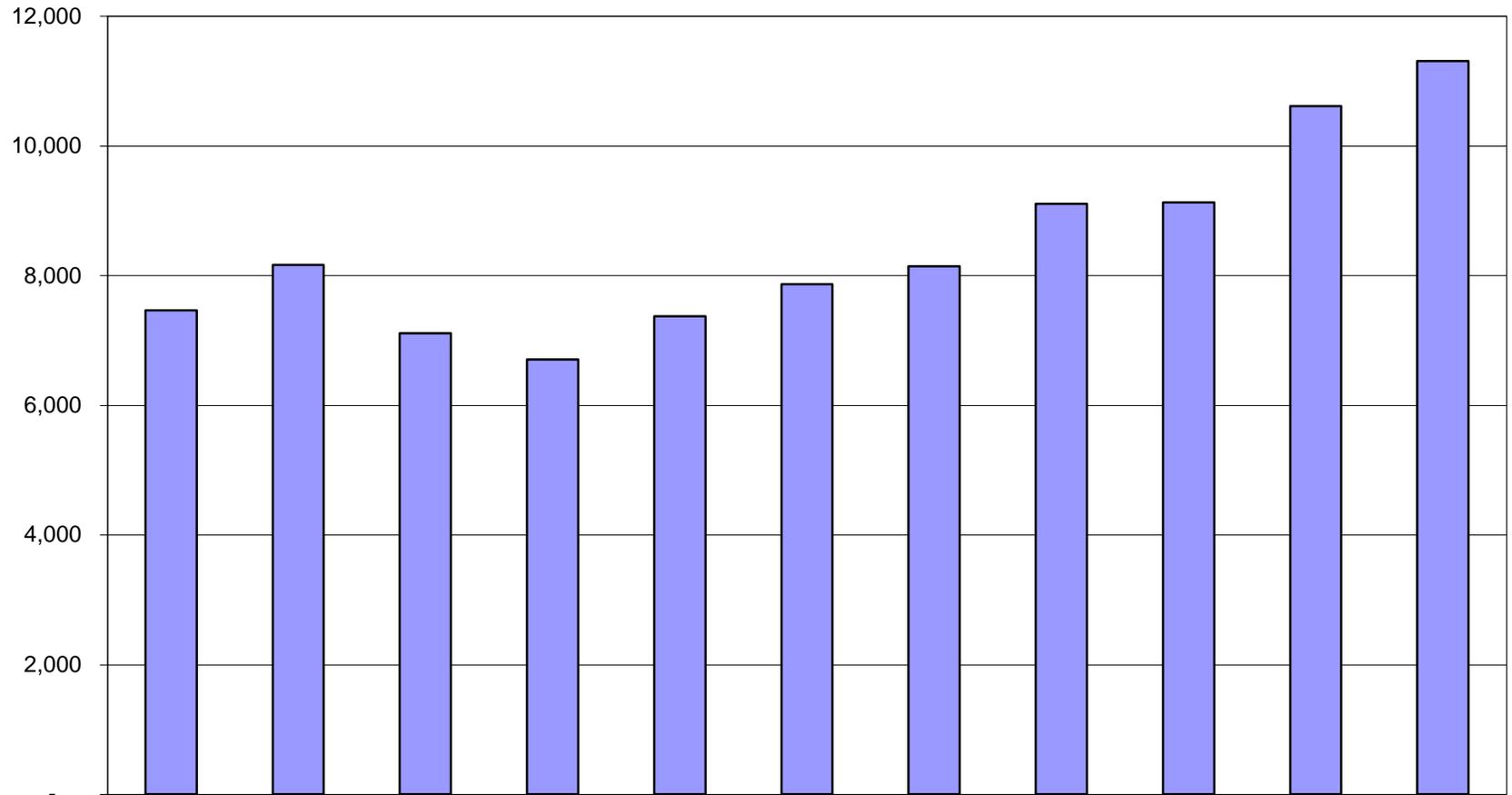
The eight-county Houston metropolitan area, with Harris County at its core, has a total population of 5.5 million, and the surrounding counties have been growing at about the same rate as Harris County. The population growth is expected to continue, with the population of Harris County expected to exceed 5 million by 2020 and to approach or surpass 6 million by 2025. The proportion of the population whose primary language is not English has been rising and is expected to continue to grow at a disproportionately high rate.

For criminal justice system operations, the population growth projections have significant implications. The nature and level of criminal activity may fluctuate but it is likely that the future will see steadily increasing numbers of arrests and case filings. More personnel are likely to be needed in all of the institutions and agencies that are involved in criminal justice, and ability to communicate in languages other than English (and especially to speak Spanish) is likely to become increasingly important.

As population growth continues in the geographically large county (and especially in the unincorporated areas), there are likely to be increasing pressures for some degree of decentralization of some criminal justice services—especially services related to supervision and treatment in pretrial, diversion, or post-conviction status. Issues regarding possible decentralization of some criminal justice functions are ones that should be explored by any group charged with considering future criminal justice system development in the County.

2. Jail Population Trends. The population of the jail has been increasing since 1974 and at a very steep rate over the past four years—far more steeply than the population increase. Thus, while the county’s population increased by 17.2% between April 2000 and July 2008, the jail population has increased by over 30% during the same period by a much greater percentage between 2004 and 2009. Chart 1 (page 5) shows that the jail inmate population trend was fairly stable between 1999 and 2003 (even decreasing slightly in 2001 and 2002), but that there has been a sharp upward climb—an increase of over 50% in total inmate population—from February 2003 to February 2009.

Chart 1. Average Monthly Population of Harris County Jail, Feb 1999 – Feb 2009



	Feb-99	Feb-00	Feb-01	Feb-02	Feb-03	Feb-04	Feb-05	Feb-06	Feb-07	Feb-08	Feb-09
Increase	7,463	8,160	7,105	6,704	7,370	7,862	8,142	9,106	9,129	10,611	11,303

Much of the increase in the overall jail population has been in the population of pretrial felony detainees. From April 2005 to April 2009, the number of jail inmates in pretrial status increased by 52%, from 4,674 to 7,099.¹

B. Trends in Arrests

In all, there are more than 130 police agencies in Harris County, any of which can make an arrest or issue a citation that will initiate a criminal case. The largest, by far, is the Houston Police Department (HPD). HPD is responsible for initiating approximately 60 percent of the misdemeanor and felony cases that involve persons being booked into the Harris County Jail and thereafter entering the court system. In 2008, HPD made approximately 31,000 arrests for felony or misdemeanor offenses—an increase of almost 50 percent over the number of arrests made only three years earlier. The second largest and most active law enforcement agency in the County is the Harris County Sheriff's Office (HCSO), which is responsible for patrolling the large unincorporated areas of the county. In addition, pursuant to contracts with some municipalities, HCSO deputies patrol in some municipalities.

Both HPD and the Sheriff's Office Patrol Command have in recent years placed strong emphasis on repressing drug-related crime, and patrol practices have produced a significant upsurge in arrests for crimes involving possession, delivery, or attempted delivery of controlled substances (i.e., illegal drugs). Because data indicate that persons charged with possession of a controlled substance as a felony comprise a large proportion of the jail population and the caseloads of the District Courts, the JMI team members discussed arrest policies regarding possession of small amounts of illegal drugs with senior-level commanders in the HPD and HCSO. These officials were emphatic in asserting that they felt that aggressive policies regarding drug possession were desired by the community at large and were also effective in deterring other types of criminal behavior.

C. The Harris County Jail

1. Jail facilities currently in use. The Harris County Jail consists principally of four separate jail facilities in downtown Houston, a few blocks from the Criminal Justice Center at 1201 Franklin Street. All are operated by the Harris County Sheriff's Office. The jail facilities are all relatively modern, with none opened earlier than 1991. The combined design or rated capacity of these facilities is 9,434 inmates. The Texas Jail Commission has granted Harris County permission to exceed the design capacity temporarily and install up to 1,612 temporary bunks in existing cell blocks to help accommodate additional inmates. The following chart provides an overview of the facilities and their utilization as of February 1, 2009:

¹ This calculation is based on analysis of a worksheet produced by the Harris County Office of Budget Management showing monthly average jail populations by inmate category, April 2005 – July 2009. The basic data is generated by the Sheriff's Office and the categories are those used by the Sheriff's Department for statistical purposes. The numbers in the text include both inmates categorized in the worksheet as "Pre-Trial Detainees" and those categorized as "Pretrial State Jail Felons."

FACILITY	YEAR OPENED	DESIGN CAPACITY	COUNT ON 02/01/09
JA 07 (711 Jail)	1991	144	81
JA09 (1200 Baker St. Jail)	2002	4,253	4,230
JA04 (1307 Jail)	1998	1,072	843
701 Jail	1991	3,965	4,793
TOTALS		9,434	9,947

In addition to these four facilities, there is an Intake Processing Center (IPC), located at 1201 Commerce Street. The IPC, which is not included in the design capacity figure, can accommodate as many as 400 persons. On February 1, 2009, it held 272 inmates. There are also four small satellite jails (lockups) in outlying areas of the county that are used for temporary holding of newly arrested persons while they await transport to the IPC.

A significant proportion of the inmate population of the Jail has some type of mental illness. It is estimated that at any one time approximately 25 percent of the inmate population is on some type of psychotropic medication. Others are in need of medical attention for a current illness or recent injury. The 1200 Baker Street facility includes a Mental Health Unit (February 1 count: 201 inmates) and a Medical Unit (February 1 count: 164 inmates). The Sheriff's Office also contracts for mental health treatment at the Harris County Psychiatric Center (HCPC) facility (February 1 count: 23)

The facilities in Harris County are not the only ones used to house inmates. Because of the substantial increases in inmate population that have taken place in recent years, some inmates are now "outsourced" to facilities operated by a private vendor in the neighboring state of Louisiana. On February 1, 2009, an additional 940 prisoners were being held in three Louisiana jail facilities. More recently, in August 2009, 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.

2. Jail population issues: a brief history. Jail crowding is not a new problem in Harris County. In 1972, inmates in the then-existing jail facilities (at that time, a central jail in Houston and a separate detention center located in Humble, TX) initiated a lawsuit in federal court against the Harris County Sheriff and the Commissioners Court. The complaint alleged numerous violations of their constitutional rights arising out of the conditions in the jail facilities. The litigation that ensued—known as the *Alberti* case—lasted for over two decades. It led to development of plans for alleviating severe overcrowding, start-up of a system of prompt review of probable cause for detention by a judicial officer, establishment of a pretrial services agency under the supervision of the judges of Harris County, upgrading of conditions in the jail facilities, engagement of a consultant who for over twenty years has regularly been

producing forecasts of future jail populations based on past experience and demographic trends, and construction of newer jails with larger capacities to meet anticipated needs.²

The *Alberti* litigation involved continuous federal court supervision of jail conditions in Harris County, with periodic reports on jail conditions issued by court-appointed monitors, numerous court hearings, and many decisions in the federal district court and the U.S. Court of Appeals for the Fifth Circuit. By the mid-1990s, when the litigation finally ended, the two jail facilities that had been the subject of the original lawsuit had long since been closed, some newer facilities were already open, and others were in the planning stages. Of particular note, four new jail facilities were opened between 1991 and 2002, providing beds for a steadily increasing jail population. However, even with greatly increased jail capacity, the crowding problems have persisted. By early 2007, the design capacity had been exceeded, and since then the population growth has continued.

The County had begun planning for additional jail space needs—and especially needs for a new and necessarily larger Intake Processing Center—even before the 1200 Baker Street Jail opened in 2002. Detailed architectural plans were developed and a bond issue to provide funding for the proposed new facilities was placed on the 2006 ballot. The bond issue was rejected, however, and the design capacity of the existing facilities has remained static at 9,434 inmates since 2002.

The growth in the jail population over the past five years has been striking. From a population of 7,648 in January 2004, it had risen to 11,546 in February 2009, when the JMI team made its first site visit to Harris County on this project. As discussed below, the largest increases have been in the population of pretrial detainees charged with felony offense, including a large number charged with state jail felonies. The population rise has generated considerable public attention and complaints have been made

² The original lawsuit led to a consent decree filed in February 1974 under which the County agreed to bring the then-existing jail facilities and operations into compliance with federal and state standards. Several months later, in response to the plaintiffs' contentions that the County's plans for upgrading the conditions were inadequate, the federal court held an extensive hearing and subsequently issued an opinion finding that conditions in the jail facilities were "inhumane," with over 2,500 inmates confined in facilities designed to hold approximately 1,150 inmates. The decree called for renovation of existing jail facilities, development of a new central jail, improvements in staffing and security at the jail, and establishment of both a pretrial services agency that would have prompt access to newly arrested inmates and a system for prompt judicial review of probable cause for continued detention. See *Alberti v. Sheriff of Harris County*, Civ. A. No. 72-H-1094, U.S. District Court, S.D. Texas (Dec 16, 1975). The federal court retained jurisdiction over the case, and over the next twenty years became involved in a series of reviews of conditions as the jail population repeatedly exceeded the design capacity of the jail facilities even as new facilities were opened. The situation became especially serious during the late 1980s, when the state—which was facing its own problems of limited capacity and federal oversight of the prison system—put in place policies that left many inmates convicted of felony offenses waiting for long periods in the Harris County Jail before being transported to state prison. The history of the litigation is chronicled in several opinions of the United States Court of Appeals for the Fifth Circuit. See especially *In re Clements*, 881 F.2d 145 (5th Cir., 1989); *Alberti v. Sheriff*, 937 F.2d 984 (5th Cir., 1991); *Alberti v. Klevenhagen*, 46 F.3d 1347 (5th Cir., 1995). The consultant who prepares jail population forecasts is Dr. Charles Friel, Professor of Criminal Justice at Sam Houston State University. See, e.g., Charles M. Friel, *Forecast of the Harris County Jail Population, December 2008 to November 2009* (Huntsville, TX; Criminal Justice Center, Sam Houston State University, December 2008).

about conditions in the jail facilities related to the crowded conditions. Other studies are examining the jail conditions, a subject which is beyond the scope of this JMI study.³

3. Composition of the jail population –demographics and legal status. Of the 11,559 inmates in the Harris County Jail facilities on February 1, 2009, 1,471 (12.7%) were female. Most of the inmates—both male and female—are in pretrial detention status. The following chart summarizes the legal status of inmates as of February 4, 2009:

TABLE 1. JAIL POPULATION AS OF FEBRUARY 4, 2009, AS CATEGORIZED BY THE HARRIS COUNTY SHERIFF’S OFFICE⁴

CATEGORY	NUMBER OF INMATES	% OF TOTAL
Pretrial Detainees – Felony 1, 2, 3 Charges Only	4,754	41.4%
Pretrial Detainees– Misd Charges Only	489	4.3%
Pretrial Detainees– Both Felony and Misd	389	3.4%
Pretrial Detainees – State Jail Felony Charge(s)	1,132	9.9%
“Other Pretrial” – [Includes inmates Awaiting Probation Violation Hearing]	867	7.6%
County Prisoners – Serving County Time	1,291	11.2%
County Prisoners – Serving County Fine	15	0.1%
County Prisoners – Serving County Fine/Open Charges	15	0.1%
County Prisoners – Serving County Time/Open Charges	0	0%

³ As of the date of this report, the Civil Rights Division of the U.S. Department of Justice is conducting an investigation of the conditions of confinement in the Harris County Jail facilities. The investigation is being conducted pursuant to the authority of the Justice Department under the federal Civil Rights of Institutionalized Persons Act. It focuses on four main areas: protection of inmates from harm; environmental conditions in the jail facilities; inmate medical care; and inmate mental health care. The Sheriff’s Office, with the assistance of the County Attorney’s Office, is responding to the concerns expressed in a June 2009 letter from the Department of Justice regarding the investigation. In mid-2009, a separate study by a different arm of the U.S. Department of Justice—conducted by a technical resource team assigned by the National Institute of Corrections at the request of Sheriff Adrian Garcia—conducted an assessment of the Harris County Jail system that resulted in glowing praise. While the report included recommendations for “Incremental improvements”, the authors of the report praised many aspects of the jail system’s operation. They concluded that the Harris County Jail System “does an excellent job in performing its mandate to hold inmates in custody pending trial and, if applicable, upon sentencing.” The authors commented that other jail systems “could look to this jail system to provide examples of ‘best practices’ in many areas” and that staff at all levels appeared to be dedicated, knowledgeable, and committed to their profession. See Bill Crout and James Coleman, *Harris County Jail System Assessment* (Report on NIC Technical Assistance Assignment No. 09J1058, conducted June 2009).

⁴ Harris County Jail Population Report 2/4/2009. Source: Harris County Sheriff’s Office.

Class C Misdemeanors – Open Charges	38	0.3%
Felony Conviction – Awaiting Delivery Orders	14	0.1%
Felony Conviction – Awaiting Delivery Order Dates	457	4.0%
Felony Conviction – Awaiting Appeal	32	0.3%
State Jail Felony Conviction – Sentenced to Co Jail Time	1,024	8.9%
State Jail Felony Conviction – Sentenced to State Jail Time	152	1.3%
TDC Parole Violators – White Warrants Only	28	0.2%
TDC Parole Violators – Blue Warrants Only	488	4.3%
Bench Warrant Prisoners	120	1.0%
Fugitives	103	0.9%
Civil District Court Detainees	37	0.3%
Federal Prisoners	20	0.2%
Harris County Boot Camp Program	11	0.1%
TOTAL	11,476	100%

As this table indicates, by far the greatest proportion of inmates consists of defendants awaiting trial or other court proceeding (usually a sentencing proceeding, motion to revoke probation, or motion to adjudicate guilt). Felony pretrial defendants, including defendants charged with state jail felonies (mainly drug possession charges) and awaiting resolution of motions to revoke probation, account for over 60 percent of the inmate population. As attention is given to addressing problems of jail crowding, consideration of ways to deal more effectively with the large number of felony defendants awaiting trial or other resolution of their cases must obviously be a high priority topic.

A significant number of the inmates in the Jail are persons who are unable to obtain any type of release because of “holds”—warrants and detainers—placed on them by law enforcement agencies (generally outside of Harris County) that are independent of (and sometimes in addition to) charges filed by the Harris County District Attorney. Thus, for example, on March 19, 2009, there were 1,405 inmates held on detainers filed by the U.S. Immigrations and Customs Enforcement Service and 1,053 inmates held on parole violation warrants.

4. Length of Stays. One of the primary determinants of jail population is the length of time that inmates remain in custody. Many jail stays are very short, because inmates (especially those arrested for low-level offenses) either bond out quickly or have their cases resolved by a guilty plea or deferred adjudication at the time of first appearance in County Court. Thus, data compiled by the Sheriff’s Office in November 2005 indicated that approximately 21% of all inmates are released within 24 hours after arrival at the Inmate Processing Center. 40% are released within 48 hours and 52% within 72 hours. Those who are not released quickly often remain in jail for lengthy periods.

Table 2 (page 12) shows the number of inmates charged with (or convicted of) various offenses, organized by the number of days that they have been in custody as of January 2, 2009. Not surprisingly, it indicates that those charged with the most serious offenses tend to have the longest jail stays.

The data in Table 2 do not differentiate between defendants by legal status, so it is not possible to ascertain from this table exactly how many of the inmates are in pretrial status, how many are convicted offenders, and how many are in some other status. A total of 8,826 (76.8%) of the inmates are charged with or have been convicted of a felony—a capital felony; a first, second, or third degree felony; or a state jail felony. Of this total number, some are awaiting transport to the Texas Department of Correction, some are serving time for a state jail felony conviction, and some are awaiting a hearing on a motion to revoke probation or on a parole violation warrant. Most, however, are in pretrial status, awaiting resolution of the charges against them. The data indicate that slightly over 38% of all inmates (and 44% of inmates charged with or convicted of a felony) had been in jail for over 90 days as of the date of this “snapshot.”

**TABLE 2. LENGTH OF INMATE STAYS IN THE HARRIS COUNTY JAIL,
BY CHARGE LEVEL⁵**

OFFENSE CATEGORY	0-2 Days	3-30 Days	31-60 Days	61-90 Days	91-120 Days	121-180 Days	181-270 Days	271-365 Days	366-540 Days	541- 730 Days	Over 731 Days	TOTAL
A Misdemeanor	98	358	171	122	109	112	15	3	0	1	1	990
B Misdemeanor	130	347	110	65	17	30	5	0	3	0	0	707
C Misdemeanor	47	61	13	10	2	3	2	0	0	0	0	138
Misd – Unclassified	4	27	12	8	6	3	2	0	0	0	0	62
Capital Felony	2	19	6	5	6	15	25	13	39	18	20	168
Felony – 1st Degree	14	156	148	138	104	205	200	132	155	85	46	1,383
Felony – 2d Degree	45	536	430	354	285	456	378	206	159	72	28	2,949
Felony – 3d Degree	43	386	350	229	166	233	147	52	55	10	15	1,686
State Jail Felony	81	879	651	449	273	240	40	17	10	0	0	2,640
Felony (No Details)	25	267	224	84	54	61	26	13	9	3	0	766
TOTAL	489	3036	2115	1464	1022	1358	840	436	430	189	110	11,489

5. Mental health programs at the Jail. With approximately 2,500 inmates on some type of psychotropic medication at any time, the Harris County Jail is a principal provider of mental health treatment and services. The Sheriff’s Office contracts with the Harris County Mental Health and Mental Retardation Authority (MHMRA) to provide clinical personnel (psychiatrists, nurse practitioners, case managers) who do initial screening of newly booked inmates, prescribe and administer medications, provide follow-up services, and monitor medication. There are a number of positive features of the Jail’s behavioral health system:

- Most of the persons with mental health issues are identified at the point of admission to the jail through early screening by trained personnel. The early screening helps to prevent later crises through placing inmates on appropriate psychotropic medication. If necessary, inmates with mental health problems are housed in one of the jail’s Mental Health housing units

⁵ Data derived from table provided by Harris County Sheriff’s Office, February 2009.

(total of 244 beds) or in the Harris County Psychiatric Center unit (24 beds, 16 for men and 8 for women). Forty percent of those admitted to the mental health units do not have a target or priority population diagnosis (schizophrenia/schizoaffective disorder, bipolar, or major depression) and thus do not meet the criteria for post-incarceration acceptance into a MHMRA program.

- Specialized Mental Health Officers with a minimum of 112 hours of crisis intervention training (CIT) supervise inmates in the four jail mental health units. These officers also help to defuse incidents within the jail, working in two-person Crisis Intervention Response Teams to de-escalate and resolve conflicts. This has significantly reduced the need for use of force to ensure inmate compliance, and has reinforced the value of CIT training for all jail staff.
- All jail security staff now receive a minimum of 24 hours of CIT training (above the state requirement of 16 hours for peace officers).
- Mental health housing units are deliberately operated below their originally designed capacity in order to enable more effective management of inmate behavior through intensive and therapeutic staff-inmate interaction.

It seems clear that the Sheriff's Office has taken steps in recent years to significantly improve the quality of mental health treatment and services at the jail, and the approach is widely praised by practitioners familiar with what has been accomplished. However, senior officials in the Sheriff's office who have had leadership roles in bringing about the changes will be among the first to say that the jail is far from the optimum locus for treatment and delivery of services to mentally ill offenders—especially the chronically mentally ill persons who are repeatedly arrested and jailed for minor offenses. As a practical matter, the jail has become the only residential mental health treatment facility available to many chronically mentally ill persons, many of whom are “frequent fliers” not only at the jail but also with emergency services and at hospital emergency rooms.

6. Other programs for inmates. The Jail has a small substance abuse treatment program known as “New Choices” that admits approximately 350 persons annually. There are 180 beds—90 each for women and men. The program is funded by a federal grant (which is apparently decreasing in amount) with matching funds provided by the county. More than half of the participants in the program are admitted as a result of court orders made in response to probationers' violation of probation conditions. Most of the others are sentenced directly to the program by the sentencing court as an initial condition of a longer probation term.

New Choices uses a “Hazelden for Criminal Offenders” curriculum, which is six months in duration. The program, which has been in operation since 1997, reports a recidivism rate of only 13 percent. One significant feature: the program assists with re-entry, and the program reports that 95 percent of the male offenders have jobs before they leave the jail.

C. Pretrial Services Interviews, Bail Schedules, and Trends in Pretrial Release Practices

1. Pretrial Services Interviews and Report Preparation. One of the first steps in the process, after an individual has been arrested, is the conduct of an interview by staff of the Harris County Pretrial Services. Pretrial Services officers located at two Houston Police Department facilities (HPD Central and Southeast) conduct about half of the interviews. Another group of officers, assigned to the Jail's Inmate Processing Center in the 1201 Commerce Street building adjacent to the Criminal Courts building, interview the persons who are brought directly to the IPC after being arrested. These inmates have usually been arrested by the Sheriff's patrol personnel or one of the other law enforcement agencies in the county. About 85 percent of persons arrested on felony charges or for Class A or B misdemeanors are interviewed by Pretrial Services staff, using a computer-based interview format that captures a great deal of information that may be relevant to pretrial decision-making by judicial officers. In many instances the information may also be useful to prosecutors, defense attorneys, and probation officers. The information could also be useful for re-entry or re-integration when the individual is subsequently released from custody. Almost all of the persons not interviewed are individuals who obtained rapid release by posting financial bond pursuant to the bail schedule prior to an interview. There are also a few individuals who simply refuse to be interviewed.

The agency provides the information it has acquired through defendant interviews plus information gained from other sources (including prior criminal history record checks) to judicial officers. Pretrial Services staff members prepare a standard report—the "Defendant Report"—generated through the JIMS system. The report has a cover sheet that summarizes information about risk factors and provides a summary "Risk Assessment Score" that uses a point scale to calculate the risk of non-appearance or pretrial crime. This risk assessment calculation, derived from assigning points for factors in the defendant's background and criminal history that have historically been associated with risks of nonappearance or re-arrests, is based upon information gathered through the defendant interview and from other sources. The risk assessment is intended to provide input to judicial officers on the extent of the risk of nonappearance or pretrial crime posed by a defendant's release.

The cover sheet for the Defendant Report has places for the pretrial officer who completes it to indicate any mitigating or aggravating factors that might be relevant to a decision to override the Risk Assessment Score derived from application of the point scale. Thus, for example, factors that could be viewed as mitigating (and thus indicating a lower risk level) include indications that the defendant has stable employment, has family controls and support, and has previously had success on pretrial release. Conversely, aggravating factors (leading to a higher risk classification) include membership in a gang, the existence of an active hold from another jurisdiction, and a criminal record more serious than the raw risk score reflects.

In addition to the numerical score shown on the cover sheet, the Defendant Report includes information on a range of factors that may be relevant to a judicial officer's decision concerning bail and the possible imposition of conditions of release, including:

- The defendant's physical descriptors, education level, citizenship, and language spoken;
- The defendant's prior criminal record – including the defendant's own reports of criminal and juvenile case history plus information acquired by Pretrial Services from sources that include the Houston Police Department, the JIMS data base, and the databases of the Texas Crime Information Center (TCIC) and the National Crime Information Center (NCIC);
- Any prior failures to appear if the person has previously been a defendant;
- Any open warrants for the defendant;
- Any other cases in which the individual is a defendant;
- The defendant's current and former addresses, living arrangements, and length of residence in the Harris County area;
- The defendant's employment status and information on previous employment;
- The defendant's financial situation;
- Whether the defendant has an automobile or other access to transportation;
- Whether the defendant has a telephone;
- Information about possible disabilities, physical health problems, mental health problems, or desire for substance abuse treatment; and
- Persons named by the defendant as next-of-kin and/or as persons who can verify information provided during the interview.

The risk assessment tool now in use was developed very recently, based on a study conducted by JFA Associates in cooperation with Harris County Pretrial Services and judges of the District and County Courts. As of the time of this JMI study, the risk assessment instrument is in initial stages of implementation by Pretrial Services and the JFA report is still being finalized.

After the arrested person has been interviewed, members of the Pretrial Services staff follow up by checking on the defendant's criminal record and (if there is sufficient time) making phone calls to references to verify information provided by the

defendant in the interview.⁶ A four-page Defendant Report summarizing the information acquired by Pretrial Services is generated via the JIMS-based computer. The Defendant Report is provided to the magistrate who presides at the probable cause hearing (see below).

2. Bail Schedules for the District Courts and County Courts. When an assistant district attorney reviews a new police report and decides what charge(s) to file, the ADA also indicates a bond amount that must be posted by the defendant in order to obtain release. That bond amount is ordinarily the same as the bond amount for particular categories of cases set forth in the bail schedules promulgated by the District Courts and the County Criminal Courts at Law. In order to have a higher bond than is indicated on the bail schedule, approval by a judicial officer is required. An arrested person can bond out directly from the jail, even before seeing a judicial officer, if the person can arrange to have the bond amount posted.

The bond amounts on the bail schedules are based on the level of seriousness of the charge and the prior record of the accused person. For persons charged with a first offense, the bond amounts are relatively low. For the District Courts, the amounts range from \$2,000 for a state jail felony (the lowest-level felony) to \$20,000 for a first degree felony other than murder; \$50,000 for murder. In the County Courts, the range is from \$500 for a Class B misdemeanor to \$1,500 for a misdemeanor charge involving family violence or threat of violence.

For arrested persons who have a prior criminal record or who are already on bond or are on probation or parole, the amounts are appreciably higher. In the District Courts, the schedule calls for no bond for persons who are already on bail for a felony charge or who are on probation for any grade of felony. For persons charged with a state jail felony, the bond amount is \$5,000 if the person has a previous conviction or \$15,000 if there has been more than one previous conviction. For more serious felony charges, the amounts increase with seriousness--\$10,000 for a third degree felony charge if the person has a previous conviction, \$20,000 for a second degree felony charge, and \$30,000 for a first degree felony charge. Any person charged with a felony who does not have proper citizenship or residency documents has bail set at \$35,000.

Misdemeanor arrestees also have higher bonds set if they have prior convictions, but the amounts are much smaller. Thus, for example, a person charged with a Class B misdemeanor (the lowest level handled by the County Courts) has bond set at \$500 plus another \$500 for every prior misdemeanor conviction and \$1,000 for each prior felony conviction. The maximum bond amount for County Court defendants is set at \$5,000 on the bail schedule.

⁶ The prior record check procedure followed by Pretrial Services involves checking several different criminal history databases, including those of the Houston Police Department, other local law enforcement agencies, the state and national criminal history repositories (TCIC and NCIC) and the JIMS system. It is done using identifiers recorded during the interview (e.g., name, date of birth) and includes a check on other pending cases as well as prior cases.

3. Trends in Release on Bail and Utilization of Pretrial Services. About 50% of the persons arrested in Harris County obtain release on bond prior to the disposition of the charges against them. The great majority of these releases (more than 80%) are on surety bond, with the remainder divided between cash bond and personal bond. Release on personal bond is granted almost exclusively in cases involving only misdemeanor charges. In 2008, 4,180 misdemeanor defendants were released on personal bond, but only 356 felony defendants were released in that fashion.⁷

When surety bond is posted for a defendant, the bondsman's obligation is to assure that the released defendant appears for scheduled court events; if not, the bond amount is to be forfeited. The bondsman has no obligations regarding the defendant's conduct while on release apart from seeing to it that the defendant returns to court when scheduled. Judges, however, are often concerned about a defendant's conduct while released pending case resolution, and in recent years many judges have been placing additional conditions on the release of defendants on surety bail. Many of these conditions call for some type of supervision by the Pretrial Services Agency.

Pretrial Services' original mission was two-fold: (1) to interview newly arrested defendants and provide information to judicial officers about defendants backgrounds and criminal histories that are relevant to setting bond amounts and considering release on personal bond; and (2) to monitor and supervise defendants released on personal bond. Through its supervision unit, Pretrial Services has some capacity (albeit limited capacity) to provide several types of supervision. Thus, all defendants supervised by the agency are required to comply with the following standard conditions of release:

- Check-ins with the agency by telephone at least every two weeks.
- Call-in to the agency the day before court to confirm the court date.
- In-person check-in at the agency's office in the courthouse on the court date.
- Notify the agency of any change in address, telephone number, or employment.
- No travel out of the Harris County area.
- No contact with a complaining witness.

In some instances, additional or "enhanced" conditions may be set on the release of a defendant on personal bond. Typical enhanced conditions include providing urine samples for drug testing (by far the most common additional condition for defendants on any type of bond), submitting to requirements for home confinement and electronic monitoring, and abiding by curfew requirements and "stay-away" orders forbidding contact with alleged victims or witnesses. Since the early 1990s, the agency has also been asked by some of the judges, in both the District Courts and the County Courts, to provide supervision for some defendants released on surety bail with special conditions that must be monitored. As the following table shows, the frequency

⁷ *Harris County Pretrial Services 2008 Annual Report*, p. 14.

with which the agency has provided supervision for defendants released on financial bond (i.e., cash bond or surety bond) has increased very sharply over the past decade, rising from a total of 243 cases in 1994 to 6,596 in 2008. During the same period, the number of defendants on personal bond who are supervised by the agency has dropped from 8,754 to 4,556—a 48% decrease.

Because the amount of work and the skills needed for supervising defendants released on special conditions are far greater than for supervising those on general conditions, this has meant significantly greater workloads for agency staff responsible for supervision of defendants. The staff of the agency has increased only slightly in the past 15 years, from 101 in 1994 to 110 in 2008. Over the same period, the number of interviews conducted has increased by about 50%. The number of persons supervised by Pretrial Services has increased by about 28%, but the level of effort involved in supervising defendants released subject to compliance with “enhanced” conditions is far greater than in 1994.

Table 3. Pretrial Services Supervision Caseloads, 1994-2004

Defendants Supervised	1994	1997	2000	2003	2004	2005	2006	2007	2008	Percent Change, 1994-2004
Personal Bond - Misd	6,895	4,103	2,899	2,864	3,173	3,768	3,935	4,157	4,180	-39%
Personal Bond – Felony	1,859	687	147	131	109	110	183	153	376	-80%
Financial Bond - Misd	7	377	1,988	2,341	2,114	2,101	1,994	2,111	2,301	30,514%
Financial Bond - Felony	236	642	1,637	2,490	2,998	3,286	3,901	3,898	4,295	1,720%
Post Adj/Other	0	25	24	38	27	44	75	37	21	
TOTAL	8,997	5,834	6,695	7,864	8,421	9,309	10,088	10,346	11,223	24%

Source: Pretrial Services database.

When Pretrial Services is directed to supervise defendants on personal bond, the released defendant is required to pay a fee to the agency (which can be waived in the case of indigent defendants) to help cover the cost of supervision. However, when a defendant on surety bond obtains release under special conditions that require the defendant to be subject to monitoring by the agency, no such fee is paid to the agency. The defendant must pay a fee for some specific types of supervisory services such as electronic monitoring, but the fee revenue goes into the County general fund rather than to Pretrial Services. The level of PTSA staff resources required to monitor compliance with the conditions of the defendant on surety bond is often substantially greater than what is needed to monitor defendants on personal bond, because many of the defendants on such “courtesy supervision” pose greater risks to public safety and need closer monitoring. The practical effect of the increased utilization of courtesy supervision of

defendants on surety bond is to divert agency resources from defendants potentially eligible for personal bond to supervision of persons who are able to afford release on surety bond—even though those defendants may be greater risks to public safety than the persons who remain in detention because of inability to post financial bond.

D. The Caseflow Process from Charging to Resolution

1. Charging. When an individual is arrested by a law enforcement officer, the process for initiating charges is very efficient. Indeed, in some respects the “front-end” practices in Harris County are among the best in the United States. The officer first contacts the District Attorney’s office to briefly discuss the facts of the case and the appropriate charge with an assistant district attorney in the DA’s Intake Section. If the ADA approves the filing of charges, the police officer prepares a report that includes a statement of the facts that constitute the offense and that show probable cause for making the arrest and enters it into the District Attorney’s information management system (“DIMS:”).

At the police station (or, alternatively, at the Houston City Jail [for arrests made by HPD] or at the Harris County Jail’s Inmate Processing Center), the arrested person’s fingerprints are taken, and identity and prior record information are checked. A second prior record check is made at the District Attorney’s office, once the arresting officer has entered essential data on the person and the facts of the arrest into the DIMS system. When the information has been received at the DA’s office, an assistant district attorney reviews these materials. If the ADA decides that the facts warrant the filing of a complaint, the complaint is prepared immediately and electronically transmitted to the District Clerk’s office. Along with the complaint, the ADA indicates a recommended bond amount, which is usually the same amount that the applicable bail schedule authorizes for the charged offense(s).⁸ The DA’s screening unit functions on an around-the-clock basis, so the response time on police arrest reports is very rapid.

The complaint filed by the District Attorney’s office serves as the charging document and statement of probable cause to hold the defendant to answer the charges. The filing of the complaint with the Clerk initiates the court process. When the clerk files the charges, a computer also randomly assigns the case to one of the 22 Criminal District Courts (if the complaint charges a felony) or to one of the 15 County Criminal Courts at Law (if the complaint alleges a misdemeanor offense).⁹ Once the charges have been

⁸ The bail schedules for the District Courts and the County Courts are posted on the web sites for these courts. For the District Courts, the url is <http://www.justex.net/BailBondSchedule.aspx>. For the County Criminal Courts at Law the url is <http://www.ccl.hctx.net/attorneys/BailSchedule.pdf>. For discussion of these schedules, see Section D below.

⁹ It is possible for a defendant to be charged with both felony and misdemeanor offenses arising out of the same or related transactions. In these instances, the felony charges are assigned to a District Court and the misdemeanor charges to a County Court.

filed, unless the person bonds out (see discussion of bail schedules, below), the next steps are admission to the Jail and the defendant's initial appearance before a magistrate.

2. Initial appearance before a magistrate—advisement, probable cause determination, and bail setting. The first court event following arrest is called the probable cause hearing, but it actually involves several actions. The proceeding is conducted via closed circuit video, with the magistrate and an assistant district attorney in a small courtroom at the Criminal Courts building while the newly arrested persons are in a room at the Inmate Processing Center. Two-way video and audio communications enable the inmates and the magistrate to see and talk with each other.

The probable cause hearings are held seven days a week, throughout the day and night. An arrested person who does not post bail at a police station or the Houston City Jail will generally be brought before a magistrate at the Criminal Justice Center for a probable cause hearing in less than 12 hours after the arrest.¹⁰ At the hearing, the magistrate informs the defendants, individually, of the nature of the proceeding, the charges against them, and their right to counsel including the right to have counsel appointed by the trial court if they cannot afford counsel.¹¹ The magistrate also reviews the complaint filed by the prosecutor to determine whether it sets forth probable cause. If it does, the magistrate will then set a bond amount, taking account of the bail schedule, the bond recommendation made by the assistant district attorney, and information in the Defendant Report provided by Pretrial Services.

Under the statutory scheme established by the Texas Constitution and Article 17 of the Texas Code of Criminal Procedure, the determination of whether to grant bail—and, if so, what kind of bail and in what amount—is essentially a matter of judicial discretion, to be exercised within a framework established by Article 17.15 and taking account of the circumstances of individual cases. Article 17.15 provides a specific set of guidelines for the exercise of judicial discretion in setting bail:

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 on this point.

¹⁰ In *County of Riverside v. McLaughlin*, the U.S. Supreme Court held that a probable cause hearing must be held within a maximum period of 48 hours following the arrest of the accused person. The practice in Harris County is well within the standard established by that case.

¹¹ Defendants are not represented by counsel at the probable cause hearing and initial bail setting proceeding unless they have already retained a lawyer who is present at the probable cause proceeding.

5. The future safety of the victim of the alleged offense and the community shall be considered.¹²

Texas law provides for two types of bonds: a “bail bond” and a “personal bond” designed to assure the appearance of the accused person for scheduled court events. The term “bail bond” includes both *cash bond* and *surety bond*. Cash bond is a written undertaking by the defendant, to appear for court proceedings, with U.S. currency posted with the custodian of funds of the court providing security to back the promise. Surety bond—which is by far the most common type of bond used in Harris County—is a written promise to appear made by both the defendant and the surety (generally a commercial surety bond company), with the amount of the bond to be forfeited by the company if the defendant fails to appear for court events. The bonding company has a separate agreement with the defendant under which the defendant (or a family member or friend) pays a fee for the bond to be posted and agrees to indemnify the bonding company if the defendant fails to appear.

Personal bond is simply a promise by the defendant to appear for court proceedings and to pay the full amount of the bond amount set by the court (plus collection expenses) in the event of nonappearance. The term personal bond is sometimes used interchangeably with the terms “release on recognizance” or “personal recognizance” (“PR”), but the Texas statute that authorizes this practice uses the term “personal bond.”¹³ No separate surety is involved. Under Texas law, a county or judicial district may establish a *personal bond office* to “gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond” and report its findings to the court before which the case is pending.” If a court releases a defendant on personal bond, it is to assess a fee of \$20 or 3 percent of the amount of the bail fixed for the offense, whichever is greater. The fee amount (which can be reduced or waived by the court for good cause) is to be used to help defray the expenses of the personal bond office. In Harris County, the personal bond office is Harris County Pretrial Services.

The criminal justice system in Harris County utilizes all three types of bond, though the practices of individual judges and magistrates vary in the ways that they are used. Over the past thirty years, the bail/pretrial release system in Harris County has evolved through a series of court decisions and changing local practices and jail conditions. At present, decisions made by the magistrate at the probable cause hearing are shaped to some extent by the practices (or directions) of the judge to whom the case has been randomly assigned by the computer in the District Clerk’s office. Generally, the magistrate sets bond at an amount consistent with the bail schedules established by the judges of the District Courts (for felony cases) and the County Courts at Law (for misdemeanor cases). Most District Court Judges and some of the County Court Judges have declined to delegate to the

¹² Texas Code of Criminal Procedure Article 17.15

¹³ Texas Code of Criminal Procedure Articles 17.03-17.04.

magistrates authority to grant release on personal bond, and the number and percentage of defendants released on personal bond has decreased considerably over the past fifteen years.

3. Initial appearance in the assigned court: Advisement of rights, consideration of bond, and procedures regarding representation by counsel. In all felony cases and in all misdemeanor cases in which the defendant is unable to post bond, the case will be on the calendar in the assigned court on the next morning that the court is in session. If a misdemeanor defendant does post bond before the next court day, the first appearance will be set for a date within seven days. At the probable cause hearing, the magistrate informs the defendant of the court to which the case has been assigned.

When a defendant first appears in the court to which his or her case has been randomly assigned, the judge provides the standard advice regarding the charges and the defendant's rights, including the right to have counsel appointed if the defendant cannot afford to hire a lawyer. In some instances, the judge may also review the determination of probable cause previously made by the magistrate. The judge will also consider what type and amount of bond will be set during further court proceedings, and may decrease or increase the amount established presumptively by the bail schedule or set by the magistrate at the probable cause hearing.

The information about the defendant that has been developed by Pretrial Services and entered into the agency's Defendant Report form will have been printed out and sent to the judge by the agency unless the judge has informed Pretrial Services that the form should not be sent.¹⁴ Some judges make extensive use of the information in the Defendant Report when fixing a bail amount and setting other conditions of release, while others barely glance at the form or simply do not use the information at all. One copy of the Defendant Report on every defendant is provided to the District Attorney's office, which in turn provides the reports to the assistant district attorneys assigned to each courtroom. Defense attorneys do not routinely receive a copy of the Defendant Report, but some judges try to make sure that they receive one.

Unless they have retained their own attorney, defendants are typically not represented by counsel when they first arrive at the courtroom of the judge to whom their case has been assigned. Practices regarding assignment of counsel vary from judge to judge, though if a defendant requests counsel a lawyer may be appointed to provide representation during this court session. In general (though not invariably) defendants who have been able to post bond are presumed to be able to afford their own lawyer, and are rarely provided with an appointed attorney. Reportedly, many judges relieve an appointed attorney of the appointment if a defendant is able to post bond.

¹⁴ Information provided at JMI's request by Pretrial Services indicates that most of the 15 County Criminal Courts at Law Judges receive the Defendant Reports and that less than half of the 22 Criminal District Court Judges receive them.

From discussions with practitioners, it appears to be common for judges to make some inquiries of the defendant regarding income and financial situation, to determine eligibility for appointment of counsel. Additionally, there is some information about the defendant's financial circumstances on the Defendant Report prepared by Pretrial Services staff.

For situations where a defendant is incarcerated or otherwise unable to retain a lawyer, there appear to be several different approaches to the appointment of counsel:

- Some judges arrange to have a “lawyer for the day” who is paid a flat fee for that day’s work, is in the courtroom for the call of the first appearance calendar, and may be appointed for as many as 5 defendants who have their first appearance that day.
- Some judges arrange to have one or two “lawyers for the week” who will be appointed to handle all defendants who appear on the calendar for the first time during that week. In some courts, these lawyers typically serve in the court for two weeks at a time.
- Some District Court judges have contracts with individual lawyers to handle a portion of the incoming cases over the course of a year or portion of a year.
- Some judges assign cases individually to defense lawyers, with the assignment based on the seriousness/complexity of the case and the lawyer’s experience.
- Some judges use a combination of these approaches.

The initial appearance proceedings in District Courts and County Courts are basically similar with respect to the actions taken. Assistant district attorneys handling cases at first appearance routinely allow defense attorneys to look at police reports and other non-confidential information in their case files, a practice that is helpful in enabling early case resolution.¹⁵ In both the District Courts and the County Courts, it is common for the prosecutor to be prepared to make a plea offer at the time of the initial appearance, unless the case is especially serious or involves a victim that the DA’s office has not yet been able to contact. For defendants with their own lawyer or for whom counsel is appointed, the first appearance sometimes becomes an opportunity to resolve the case—especially if the defendant does not have a prior criminal history. In the County Courts, if the plea offer provides

¹⁵ Until very recently, defense attorneys were allowed to look at the prosecutor’s file and take notes, but not to have copies of any documents. Under a policy introduced by newly-elected District Attorney Pat Lykos, defense attorneys are now provided with copies of relevant police reports and other documents, though confidential information may be redacted. Police reports have more information than the barebones statement of facts setting forth probable cause for charging the defendant with an offense. The police reports are often—but not always—available at the time of first appearance in the assigned court.

for a guilty plea to a relatively minor offense and a sentence of probation or deferred adjudication, defendants will often agree to the offer after consulting with counsel. Sentencing in these cases can take place on the same day as the initial appearance.

For cases that are not resolved at the initial appearance the judge will set a date for the next court event, generally in consultation with counsel and with the court clerk and/or the judge's own court coordinator. From that point on, however, the process is significantly different in misdemeanor cases and felony cases.

4. Misdemeanor caseflow: County Criminal Court processes. In the County Criminal Courts at Law, the complaint filed by the District Attorney's office serves as the charging document, and the courts can move rapidly to resolve cases. No two County Court judges handle cases in exactly the same fashion, but there is considerable commonality in the approaches followed. In general, misdemeanor case processing moves rapidly. Generally, if a case involving a defendant in custody is not resolved at the first appearance, it will be re-set for a second appearance a few days later. A high proportion of in-custody cases are resolved in a week or less. The ones that take longer commonly have one or more of the following characteristics:

- The case involves a victim, and the prosecutor has difficulty locating the victim.
- The defendant has mental health issues that complicate resolution of the case, often because of questions of competency to understand the proceedings.
- The defendant has a pending felony charge, and adjudication is withheld until the felony charge has been resolved.

Cases involving defendants on bond often take considerably longer to resolve than those involving jailed defendants. Re-sets are common in these cases, and the time between court events is often appreciably longer than for defendants in detention.

5. Felony caseflow: District Court processes. District Court processes are generally considerably lengthier than those in the County Courts, in part because of the statutory requirement that a felony case be initiated by Grand Jury indictment unless the defendant waives indictment.¹⁶ Pre-indictment processes are under the control of the District Attorney's office. The time from the filing of an initial complaint to the filing of an indictment is generally about 30 days, although the period can be longer if it is necessary to wait for the results of forensic tests. Cases involving drug sale or possession charges have been particularly problematic: it has been common for the pre-indictment process to take 6-10 weeks because of delays in the turnaround of lab tests on the suspected drugs. It is possible for a defendant to waive indictment and enter a plea to an agreed-upon charge set forth in an information filed by the District Attorney's office.

¹⁶ Approximately one-third of the cases prosecuted in the District Courts are prosecuted on the basis of a felony information rather than an indictment.

Most felony charges are prosecuted on an indictment filed after presentation of the case to a Grand Jury by the District Attorney's office. Once an indictment has been filed, the procedures followed by District Court judges and their court coordinators vary. The actual scheduling of cases is done by the judge's court coordinator, acting under general instructions from the judge. Typically the coordinator schedules future events in a case in consultation with the attorneys. The number of appearances in a case and the length of time between scheduled court events can vary widely by case type and by judge and coordinator. Throughout the process, there is opportunity for negotiation between defense counsel and the assigned prosecutor regarding a possible negotiated disposition.

6. Use of specialized dockets. In recent years, the Harris County District Courts have begun to develop some specialized caseloads—i.e., dockets that consist of cases of persons who have been identified as having substance abuse or mental illness problems (sometimes both) that are major factors in their criminal behavior.

- The STAR Drug Court program¹⁷ is a highly structured three-phase program designed for defendants with a pending charge of possession of a controlled substance, probationers, and probation violators who have a history of drug convictions and have a documented history of drug or drug and alcohol dependency. Four District Court judges are involved in the program, each with a docket of cases. Each judge presides over a docket during one afternoon a week. Two staff members manage the caseload, which currently consists of about 120 participants. Most begin by participating in a 90-day residential substance abuse treatment program. Since the program's inception in 2004, over 150 persons have graduated from the program (approximately 36 percent of those admitted), and less than 8 percent have been rearrested.
- Two District Court judges preside over mental health dockets that are designed for mentally ill defendants or probationers who have one of the three MHMRA priority population diagnoses: schizophrenia, bipolar disorder, or major depression. The participants will be receiving mental health services in one of the MHMRA programs. The role of the court is to conduct periodic reviews of participants' progress and compliance with conditions, including conditions requiring the taking of prescribed medications. Participants are monitored by both MHMRA and CSCD personnel, and reports are provided to the two judges who preside over these dockets. The judges have direct interaction with the participants and use an array of graduated sanctions and incentives to help reduce the likelihood of probation revocation
- The Change Through Intervention (CTI) program is a collaboration between 19 of the 22 District Court Judges and the Community Supervision and Corrections Department. It is one of CSCD's specialized caseloads, designed to take persons who score medium-to-high risk on the Department's risk assessment scale. The caseload includes a high proportion of probationers (approximately 85-90 percent) who have a substance abuse problem. On an on-going basis, CTI officers have

¹⁷ The STAR acronym stands for "Success Through Addiction Recovery."

frequent face-to-face contacts with the probationer, and urine testing for possible drug use is done randomly at least once a month. Each judge sets aside an afternoon once a quarter to conduct a CTI review docket for persons sentenced in that court. The docket calls follow a drug court model, with direct interaction between the judge and the probationer, praise for a participant's progress when it occurs, and an array of graduated sanctions for non-compliance. Both judges and the CSCD officers involved in the CTI program are enthusiastic about its effectiveness, but no evaluation has yet been undertaken.

The specialized dockets, with emphasis on cross-disciplinary collaboration and judicial monitoring of participants' progress in treatment, have helped to catalyze closer collaborations and foster mutual respect between justice system and treatment professionals. The practitioners involved in these programs recognize that available substance abuse and mental health resources are not sufficient to meet the needs of offenders afflicted with mental health and addiction problems. However, they share a strong sense that these programs provide evidence that greater emphasis on treatment can produce more positive long-term results than continued reliance on traditional criminal case processing.

E. Trends in Court Case Volume, Performance Indicators, and Resources

1. The rise in case volume. As Charts 3 and 4 show, caseloads have increased in both the Criminal District Courts and the County Criminal Courts at Law over the past ten years. Caseloads have increased sharply in the District Courts over the past ten years. From a total of 27,628 new cases filed by indictment or information in 1999, the total has risen to 45,163 in 2008—an increase of over 63 percent. The increase in cases involving possession of illegal drugs has been especially striking: from a total of 7,609 cases filed in 1999, the total more than doubled by 2008, when 15,926 drug possession cases were filed.

The increase in misdemeanor cases filed in the County Criminal Courts at Law has been much less steep—from 56,031 cases in 1999 to 76,680 in 2006 (37%), then dropping off to 69,913 cases in 2008 (an increase of 25 percent over 1999 filings). During the past decade, however, misdemeanor drug cases in the County Courts (mainly possession of marijuana or drug paraphernalia) have more than doubled, from 6,599 in 1999 to 13,328 in 2008.

2. Clearance rates. One of the tools often used in assessing a court's caseload management effectiveness is the clearance rate—the percentage derived from dividing the number of cases disposed during a calendar quarter or a full year by the number filed during the same period. Because of seasonal fluctuations, the percentage may vary from month to month or from quarter - to quarter. However, over the course of a full year, the ratio should be at least equal to (and preferably greater than) 100 percent. For a court that has a significant backlog of old pending cases, the clearance rate should exceed 100% until the backlog is substantially eliminated. As Charts 2 and 3 (page 27) show, the clearance rates for the District Courts and the County Courts have fallen short of 100% during most of the past ten years.

Chart 2. Filings and Dispositions in the Criminal District Courts, 1999-2008

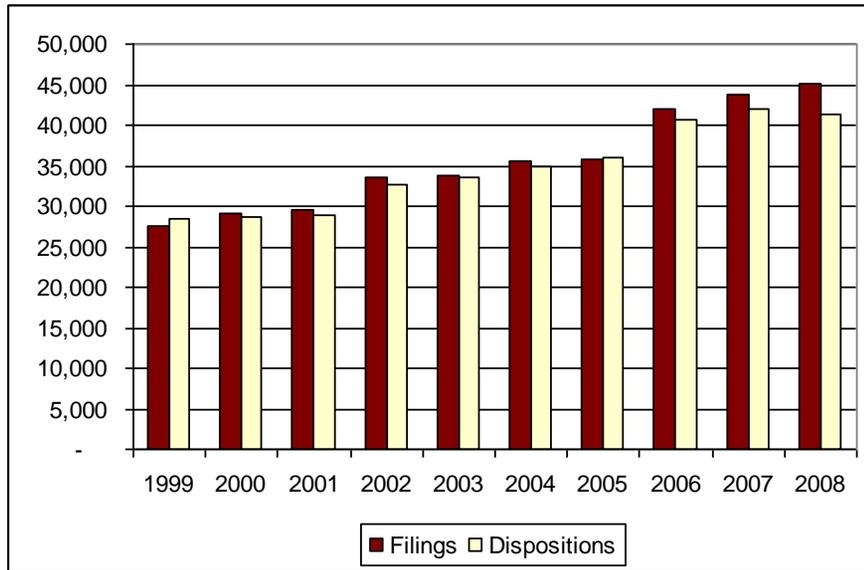
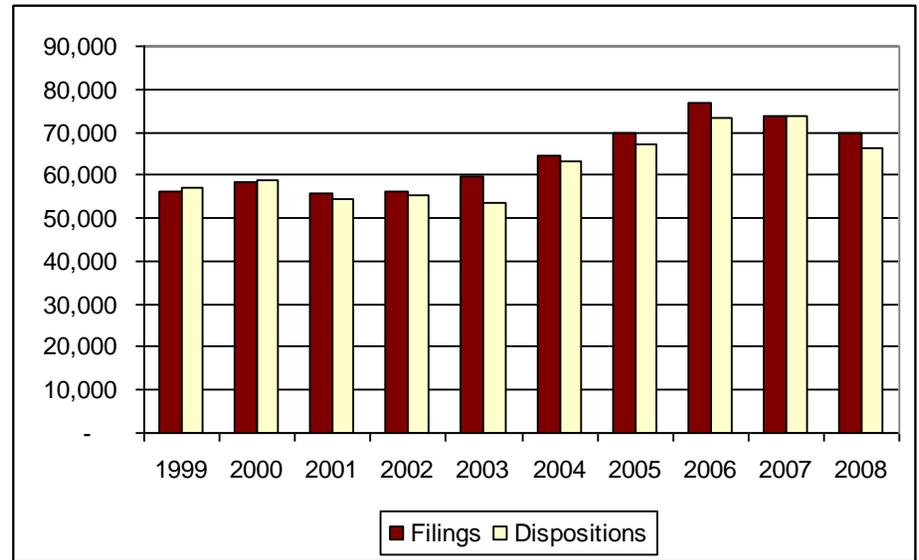
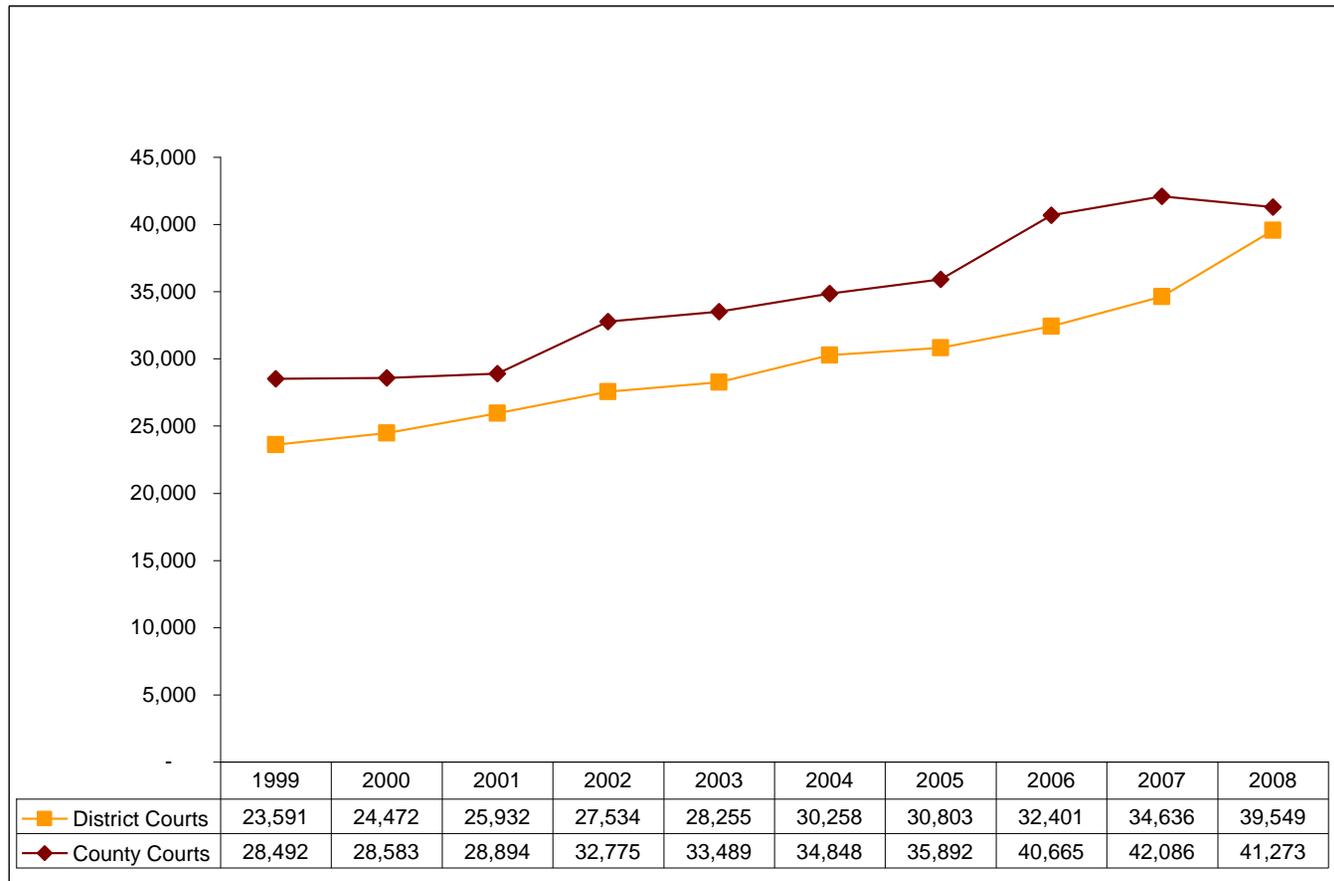


Chart 3. Filings and Dispositions in the County Criminal Courts at Law, 1999-2008



3. Pending Caseloads. When dispositions consistently fail to equal or exceed new filings, the direct result is an increase in a court’s pending caseload. This has clearly happened in Harris County. In the District Courts, the number of cases pending at the end of the year has increased steadily over the past decade, rising from 23,591 at the end of 1999 to 39,549 at the end of 2008—a spike of almost 68 percent. In terms of the caseloads of individual judges, the difference is striking: an increase from 1,072 cases per judge at the end of 1999 to 1,797 cases per judge at the close of 2008. In the County Courts, the increase in the pending caseload has been even greater—from 19,040 on December 31, 1999 to 34,754 at the end of 2008, or a 76 percent rise. For individual judges, this translates to an increase from 1,269 in December 1999 to 2,316 in December 2008. Chart 4 (page 28) illustrates the increases in the pending caseloads of these courts.

CHART 4: End of Year Pending Caseloads in Harris County Criminal District Courts and Criminal Courts at Law, 1999-2008



4. Court resources. Trends in court resources—principally the number of judges in the District Courts and County Criminal Courts at Law—have been basically flat for many years. In the Criminal District Courts the number of judges has remained unchanged at 22 since 1984, when the 351st District Court was established. In the 25 years since then the volume of cases filed has more than doubled, rising by 136 percent. Recently, the Criminal District Courts have engaged a visiting judge to help address the

rising number of state jail felony cases. It is too early to determine if this initiative has made a difference in reducing the caseload or time required to resolve these cases.

In the County Criminal Courts at Law, judgeship resources have been level since 1995, when the fifteenth court was added—the first new court since 1986. Case volume has not spiked as dramatically in the County Courts as in the District Courts, but filings have increased by 25 % over the past decade.

In order for criminal case processing to function effectively it is important for the attorneys (prosecutors and defense lawyers), as well as the judges and their coordinators to be able to have reasonably sized caseloads and to manage their caseloads effectively. One problem that emerged in the course of interviews and observation is a sense that a number of defense attorneys have extraordinarily high caseloads, with cases in different courts. One inevitable result is scheduling conflicts and a need for re-sets that have the effect of prolonging the time required for case resolution and contribute to increased caseloads.

F. Probation Caseloads and Offender Supervision Practices

1. CSCD organization and funding. The Harris County Community Supervision and Corrections Department (CSCD) is one of the largest in the nation, with a staff of over 800, of whom 380 are full-time community supervision officers. The officers supervise approximately 30,000 probationers. CSCD is overseen by and accountable to the Board of Judges, which consists of all 22 Criminal District Court judges and all 15 County Criminal Court at Law judges. In practice, the Board of Judges is organized to act through its nine-member Standing Committee on Supervision matters, which also oversees the operations of the Pretrial Services Agency.

Harris County provides facilities and equipment for CSCD, but the great bulk of CSCD's funding for staff and program activities comes from the state (approximately 40%) and from supervision fees charged to persons on probation (approximately 60%). The primary governmental funding source is the Texas Department of Criminal Justice (TDCJ), which provides guidelines and supervision for all community supervision departments in the state through its Community Justice Assistance Division (CJAD). CJAD monitors and reviews the budgets of the state's probation departments, establishes standards for community supervision, awards grants to local departments for specific projects and initiatives that are consistent with CJAD standards and priorities, and provides training and technical assistance to the local-level departments. In recent years, consistent with directives from the Texas Legislature, CJAD has encouraged community supervision departments to emphasize use of risk assessment instruments as a means for allocating resources (with more resources devoted to supervision of higher risk offenders), adoption of systems of progressive sanctions and incentives as mechanisms to respond to probationers' behavior, and other practices that have been demonstrated as being effective in reducing recidivism.

2. Organizational change in CSCD: Toward implementation of evidence-based practices. As of early 2009, the Harris County Community Supervision and Corrections Department is in the midst of an important organizational transformation. It is attempting to move away from an old “contact” model of client supervision that focuses primarily on monitoring compliance with standard court-ordered conditions of probation, toward an evidence-based practices (EBP) approach that emphasizes enhanced public safety through client behavioral change and reduced recidivism. In undertaking this effort, CSCD joins the ranks of community corrections departments across the U.S. that are attempting to apply the latest results of research in their field to their daily operations.

From review of documents and interviews with CSCD leaders and senior staff, it is evident that significant progress has already been made in moving toward integrating EBP into the on-going operations of the Department but that many challenges remain. In particular, it will be a challenge to change deeply embedded organizational norms so that practices shown to be effective in working with clients and reducing recidivism are embraced at every level of the organization. To date, more progress seems to have been made in incorporating principles and techniques of evidence-based practice into specialized caseloads than into the general supervision caseloads that—in numerical terms—comprise the largest portion of the Department’s overall caseload. For example, officers in the specialized units utilize a grid that provides for an array of progressive sanctions that can be used—before a motion to revoke probation is submitted—if a probationer fails to comply with conditions. No such grid has so far been developed for the general supervision caseloads.

Since 2003 risk assessments have been made routinely for persons placed on probation, the Department’s training program has been strengthened, and new CSCD specialized caseload programs have been established to deal with mental health, substance abuse, co-occurring disorders, gender issues and alternatives to revocation.¹⁸ These specialized programs have been based on the best available research and have developed a highly motivated and committed staff. Staff in the specialized units that handle these caseloads get to know the clients, watch them develop, and have a sense of success. However, not as much progress has been made in integrating this “evidence-based practices” approach and developing a sense of “possibility for success” of clients into the day-to-day work of officers who have general supervision responsibilities.

Operationally, departmental leaders are frustrated by three key factors that inhibit organizational effectiveness: (1) low compensation levels for staff, which is widely believed to be a major factor contributing to high staff turnover rates; (2) outmoded

¹⁸ A 2003 report on then-current issues related to CSCD operations identified these areas as ones in which improvement was clearly needed. See Barry Mahoney and Peggy McGarry, *The Harris County Community Supervision and Corrections Department: A Preliminary Assessment of the Current Situation* (Denver: The Justice Management Institute, March 2003).

computer systems that make it difficult to prepare and implement case management plans and also inhibit evaluation of CSCD programs; and (3) lack of bi-lingual officers for caseloads that include a high proportion of non-English-speaking probationers.

G. Resources for Addressing Problems of Offender Substance Abuse and Mental Illness

1. Substance abuse treatment resources. As a rough estimate, somewhere between 60 and 80 percent of the individuals arrested for criminal offenses in Harris County have a problem of substance abuse or addiction. However, there appears to be no inventory of the full range of substance abuse treatment modalities or the number of treatment “slots” available for substance abusing persons charged with or convicted of criminal offenses. From the fragmentary data available, it seems clear that the resources available for addressing substance abuse—both in residential facilities and in non-residential/outpatient programs with varying levels of intensity—fall far short of meeting the needs. For example, jail inmates waiting time to get into treatment programs are typically about a month to six weeks, but in some instances can be as long as five months.

When legislation creating the category of “state jail felony” was adopted in 1994, it was anticipated that the state jails created by the legislation would include robust substance abuse treatment capacity. That concept has withered, however, and the state jails—designed primarily for low-level, non-violent offenders – including persons convicted of possessing small amounts of illegal drugs—now have no (or virtually no) treatment capacity.

2. Mental health treatment resources and related services. With approximately 2,500 inmates on some type of psychotropic medication at any time, the Harris County Jail is a principal provider of mental health treatment and services. The Sheriff’s Office contracts with the Harris County Mental Health and Mental Retardation Authority (MHMRA) to provide clinical personnel (psychiatrists, nurse practitioners, case managers) who do initial screening of newly booked inmates, prescribe and administer medications, provide follow-up services, and monitor medication.

The Sheriff’s Office has taken a number of steps in recent years to significantly improve the quality of mental health treatment and services at the jail, and the approach is widely praised by practitioners familiar with what has been accomplished. However, senior officials in the Sheriff’s office who have had leadership roles in bringing about the changes will be among the first to say that the jail is far from the optimum location for treatment and delivery of services to mentally ill offenders—especially the chronically mentally ill persons who are repeatedly arrested and jailed for minor offenses. As a practical matter, the jail has become the only residential mental health treatment facility available to many chronically mentally ill persons. Many of these individuals are “frequent fliers” who are repeatedly booked into jail and at other times are utilizing emergency medical and mental health facilities.

The county's resources for dealing with chronically mentally ill minor offenders are severely limited. As a practical matter, the key agency is the Harris County Mental Health and Mental Retardation Authority (MHMRA), which since 1999 has been operating a set of "Comprehensive Psychiatric Emergency Programs" (CPEP) that provide a continuum of residential and non-residential crisis service options. A primary purpose of the programs is to keep chronically mentally ill individuals out of jail and psychiatric hospitals. The options include the following:

- Psychiatric Emergency Services (PES) is open to voluntary and involuntary admissions. Approximately one-third of its annual admissions of 11,000 are brought to the NeuroPsychiatric Clinic (NPC) in central Houston by the Houston Police Department and others. NPC has a capacity of 35 and functions as a crisis intervention center. About half of the individuals brought there by the police would otherwise have been taken to jail. For all admissions brought to NPC by police, the District Attorney's intake unit is contacted to determine if charges will be filed because of the behavior that led to police intervention. This decision determines whether a police referral will be eligible for the various voluntary crisis services offered by CPEP.
- Admission to the Crisis Stabilization Unit (average length of stay 3-5 days, voluntary only) and Crisis Residential Unit (stays of 7-14 days, voluntary only) are available to those arrestees for whom the DA does not file charges.
- The Mobile Crisis Outreach Team (MCOT) is a voluntary crisis outreach service that collaborates with law enforcement agencies' Crisis Intervention Team (CIT)-trained officers¹⁹ and the Crisis Intervention Response Team (CIRT, see below) as needed to help individuals in a mental health crisis, and refer to more restrictive care when needed.
- Projects for Assistance in Transition from Homelessness (PATH) offers voluntary day services to mentally ill homeless individuals; does not require target population diagnosis
- Critical Time Intervention (CTI) offers 20 intensive case management slots (up to nine months of services) to prevent homelessness for voluntary clients coming out of jail who have a target population diagnosis (schizophrenia/schizo-affective disorder, bi-polar, or major depression).
- The Dual Disorders Program (DDP) offers up to three months in residential substance abuse for dually diagnosed (target population) referred from CPEP (voluntary).

¹⁹ A Crisis Intervention Team (CIT) is a unit within the police department, consisting of officers who have been specially trained on effective ways of responding to situations involving individuals with serious mental illness who are experiencing psychiatric distress. CIT officers learn how to recognize the signs of psychiatric distress, how to de-escalate a crisis, and how to link the individuals involved with appropriate treatment services. CIT programs within law enforcement agencies are generally linked closely with mental health providers and family and consumer advocates for the mentally ill.

- The Crisis Intervention Response Team (CIRT) program has established several teams in which partners specially trained (CIT) law enforcement officers are partnered with licensed MHMRA clinicians. These teams respond to crisis calls involving individuals with mental illness and to SWAT scenes, and can be accessed by MCOT. Clients need not have target population diagnosis, and may be voluntary or involuntary.
- Branard Street Crisis Respite Living (CRL) offers 9 apartments (total capacity 16 residents) for mental health clients unable to be treated in outpatient settings, for voluntary placements with target population diagnosis only.

There is a general sense among criminal justice practitioners in the county that progress has been made toward improving street-level responses to persons with mental illness. In particular, HPD’s CIT training, the use of the CIRT teams, and the availability of NPC are regarded as major assets in addressing problems posed by mentally ill persons who commit minor offenses. However, there is also a widely shared sense that three characteristics of MHMRA’s operations—the necessity (by law) of relying on voluntary client participation in its programs,²⁰ the limited scope of the programs (in terms of the number of “slots” available), and the limitations on services for persons whose diagnosis does not put them within one of the priority categories for MHMRA services—mean that MHMRA falls well short of meeting the mental health needs of the population of chronic minor offenders with mental illness. Chronic offenders tend to decline opportunities for voluntary treatment and many do not have a priority diagnosis that would make them eligible for a slot if they were amenable to treatment.

As a practical matter, the Harris County Jail functions as the major mental health services provider for many chronically mentally ill persons. It is, de facto, the largest single mental health facility in the state of Texas. Inmates are screened for mental health issues at the time of initial admission to the Jail, and medications are prescribed if needed. As noted above, approximately 25 percent of the inmates in the Harris County Jail (over 2,500 persons) are on some type of prescribed psychotropic medications. For inmates with relatively severe mental health problems, there are four mental health housing units, with a total of 244 beds. The Jail also has access to an additional 24 beds in the Harris County Psychiatric Center. There is a general sense among justice system and mental health practitioners that the Jail’s capacity to provide good quality mental health treatment for inmates has been markedly increased in recent years. Within the jail, all types of mental health issues can be addressed (within the ability and skills of the mental health staff at the jail) but the situation is different once a person has been released from the jail.

²⁰ Under Texas law, any mental health treatment must be voluntary on the part of the individual receiving the treatment unless that there has been court intervention either ordering the treatment (e.g., probation) or finding that there is an adequate legal basis for involuntary treatment (e.g., a finding that the individual is a danger to himself or herself or to others).

The county's capacity to provide good quality mental health services outside the confines of the jail for persons who fall into a broad category of "mentally ill chronic minor offenders" is severely limited. MHMRA allocates the bulk of its resources to treatment and case management services for persons who fill a defined number of "slots" for which MHMRA receives funding from the state—about 8,400 slots in all. The slots are reserved for persons who have one of the three priority population diagnoses—i.e., schizophrenia/schizo-affective disorder, bi-polar, or major depression—and are limited to voluntary participants. The number of persons in the county who fit one of these diagnoses far exceeds the number of available slots. Further, many of the chronic offenders who cycle through the criminal justice system repeatedly are persons who—though clearly mentally ill (and often addicts or substance abusers, too)—do not have one of the three priority diagnoses.

Complicating the matter further, there is no system for consistently engaging mentally ill persons with needed treatment services or housing at the time of their release from jail. In many instances, Medicaid benefits and other public benefits for these persons have often been suspended (or even revoked) while they were in jail, making it difficult for them to obtain needed medications and other necessities. Many lack housing and lack sufficient resources to live on a day-to-day basis. Not surprisingly, they often cycle back into criminal behavior, arrest, and additional jail stays and court appearances.

MHMRA has only a limited number of "slots" available and these are not reserved for offenders. Additionally, MHMRA focuses its services only on the "big three" mental illnesses: schizophrenia and schizo-affective disorder, bi-polar, and major depression. Many defendants and offenders have other mental illnesses, often complicated by the fact that they also have substance abuse problems. MHMRA programs necessarily operate on a "voluntary" basis, so it is difficult if not impossible to provide for any type of coerced treatment to be ordered through criminal justice processes. Among justice system practitioners, there is a widely shared feeling that many of those who now come into the criminal justice system would better served by development of a much broader array of options for diversion, treatment (both residential and non-residential), and related services including housing and case management.

While needs for treating mentally ill persons who come in contact with the criminal justice system have been increasing, resources have been diminishing. The needs exist at key points along the continuum of criminal case processing. They are most apparent at the point of initial law enforcement contact with offenders and at the point of release from jail and re-entry into the community. At the front end of the process, although MHMRA's NeuroPsychiatric Center (NPC) is widely praised as an excellent alternative to arresting mentally ill persons for minor offenses, it has a capacity of only 35 and it is often filled. When NPC is full, police officers have to bring mentally ill minor offenders to the jail. At the back end of the process, when offenders are released from jail, there is no established system for assisting with their transition into the community. Further, MHMRA's protocols for allocating slots limit it to taking only "voluntary" participants and to taking only individuals who have one of the three high priority diagnoses.

Treatment resources are not the only resources needed for persons with mental illness. Particularly as mentally ill persons are released from confinement in jail (or even if they are in some type of non-jail crisis stabilization center) there is an acute need for some type of transitional housing and related services, often including food and clothing. As with resources for addressing substance abuse and addiction, it appears that the need for mental health treatment and related services far outstrips their availability. The result is a perpetuation of long-existing practices of arresting and jailing persons whose behaviors are basically a result of problems that should be addressed by the public health system.

3. *Specialized courts and related programs designed to address substance abuse and mental health issues.* As noted above, in recent years the Harris County District Courts have begun to develop some specialized caseloads—i.e., dockets that consist of cases of persons who have been identified as having substance abuse or mental illness problems (sometimes both) that are major factors in their criminal behavior.

The specialized dockets, with emphasis on cross-disciplinary collaboration and judicial monitoring of participants' progress in treatment, have helped to catalyze closer collaborations and foster mutual respect between justice system and treatment professionals. The justice system practitioners and treatment professionals involved in these programs recognize that available substance abuse and mental health resources are not sufficient to meet the needs of offenders afflicted with mental health and addiction problems. However, there is a strong sense among practitioners that these programs provide evidence that greater emphasis on treatment can produce more positive long-term results than continued reliance on traditional criminal case processing. Again, capacity is a problem: the drug court and mental health court dockets are very small in size, and expansion of the programs will depend on having greater availability of treatment services and funds to support delivery of the services.

H. Summary: Implications of the Key Trends for Criminal Justice System Policy and Resource Allocation

The trends discussed in this section of the report raise serious issues for the future of criminal justice system operations in Harris County, and pose obvious issues related to allocation of scarce resources. Over the past quarter century (and especially in the past five years), law enforcement agencies in the county have placed strong emphasis on drug-related offenses, with arrests for even trace amounts of illegal drugs a key part of this strategy. One main result has been a steady increase in the number of persons arrested and charged with crime, particularly drug-related offenses, with the sharpest rise coming in the past five years. During the same period, there has been no increase in the number of judges handling criminal cases except for one County Court judge added in 1995. Filings have been consistently exceeding resolutions, caseloads have risen sharply, and it is clear that delays and backlogs of old cases are increasing. Not surprisingly, the jail population has also been increasing, to the point where the Harris County Jail is now responsible for housing over 1,800 more inmates than called by its design capacity.

Although substance abuse is clearly a major problem (with 60-80% of the persons entering the jail having some type of substance abuse problem) and although about a quarter of the jail population has a mental health problem that is a likely contributor to criminal behavior, the existing resources for substance abuse and mental health treatment are well below what is needed. There has been little change in long-established practices for handling criminal cases and little investment in alternative practices and procedures.

Particularly in view of the jail population issues, it will soon become necessary for the County to deal with difficult choices regarding the future direction of criminal justice policy and practice. The choices can be broadly framed as presenting two general approaches, or options, regarding to future criminal justice system operations in Harris County:

- **Option A:** Continuation of existing policies and practices regarding arrest and charging, bond setting and pretrial release, case scheduling, plea negotiation, sentencing, and probation supervision/revocation; also continuation of existing practices regarding budget processes and resource allocation. The likely result will be continuation of a “silo” approach to policymaking and practice, further increases in arrests for drug-related offenses, and continued expansion of jail facilities to accommodate a steadily increasing volume of arrests and criminal charges.
- **Option B:** Development of a much broader range of community-oriented responses to illegal behaviors (e.g., more pre- and post-arrest diversion to community-based programs, increased use of pretrial release alternatives, greater use of probation and treatment as alternatives to jail sentences); and development of a “system” approach to performance monitoring and resource allocation. This will require movement toward more collaborative policy development, stronger oversight by central government independent of any single institution or agency, and investment in new resources and new programmatic approaches at every stage of criminal case processing. It is also likely to substantially reduce the need for construction and operation of new jail facilities. Additionally, if evidence-based practices regarding sentencing and community corrections practices are implemented, this approach should lead to reductions in recidivism and to safer communities.

The recommendations in this report are consistent with Option B. It is our sense that the problems facing the criminal justice system in Harris County (as in any large urban county) are exceedingly complex, rooted in long-established practices and cultural norms, and well beyond the ability of any single institution or agency to address adequately on its own.²¹ It will be important to develop a fresh vision for the County’s criminal justice system—one that takes account of the close relationship between criminal

²¹ Many of the problems described in this report have deep roots. For earlier discussion of jail crowding problems and related issues, and proposed approaches to addressing them (many of them similar in some respects to the recommendations in this JMI report), see Teri K. Martin et al., *Harris County Corrections Plan* (National Clearinghouse for Criminal Justice Planning and Architecture [1975]); Norman R. Cox et al., *Jail Population Reduction Study – Harris County Commissioners Court, Houston Texas* (San Antonio: N.R. Cox Associates, Inc., August 1985).

justice system operations and the capabilities of other social services systems. And, as and after that vision is shaped, it will be essential to have a significant central county government capability for collecting information on system operations and related resources, identifying problems, and working on planning, policy development, and overall coordination of system operations and resource allocation.

Because of the pressing nature of the jail population problems and their implications for County budgets, the top priority area for attention and action is the development of plans for rapid reduction of the jail population. Development of an effective array of actions to address this problem will require a considerable amount of collaboration, innovation, and coordination. Success in achieving significant jail population reduction through implementation of a number of measures can provide a foundation for future improvements in system operations. A significant start toward the necessary collaboration and coordination has been made already, with the establishment of the new Harris County Criminal Justice Coordinating Council and the Office of Criminal Justice Coordination.

In considering potential improvements in the current system, policymakers in Harris County have the advantage of being able to work with an array of well-established agencies and institutions. There are a number of effective policies and practices in place and, perhaps most importantly, key leaders in the institutions and agencies that make up the system have indicated strong interest in addressing problems and implementing constructive changes. In the next section of the report, we provide a summary of what the JMI team sees as major strengths of the current system.

STRENGTHS OF THE SYSTEM

Harris County has a strong foundation upon which to build as it seeks to address the jail crowding problems and make overall system improvements. The strengths of the system provide a solid base for considering possible changes that can enable the system to function with greater effectiveness and efficiency, reduce jail crowding and accompanying costs, increase fairness in the process, and make it a model for other large urban jurisdictions. They include the following:

- **Strong justice system institutions.** The courts, the District Clerk’s office, the District Attorney’s office, the defense bar, the Sheriff’s office, and the County Attorney’s office are all well-established county-level institutions. The principal law enforcement agency that brings new arrestees into the system—the Houston Police Department—is also highly regarded. In many of these institutions, the top-level leaders are new, and they have brought fresh perspectives and new energy to consideration of criminal justice problems and issues.
- **Highly efficient front-end case processing.** Basic information about each criminal case involving an arrest is transmitted rapidly by law enforcement officers to the District Attorney’s office. The DA’s intake staff, working on an around-the-clock basis, reviews police reports, contacts the arresting officer if necessary to obtain clarification, obtains information on the arrested person’s prior criminal record, drafts charges, and files complaints with the Clerk’s office. The initial stages of the pretrial process move very quickly, with the case record in electronic form. With a judicial officer (magistrate) on duty throughout the day and night, a probable cause determination is typically made within 12 hours after the arrest. The same magistrate sets bond for detained defendants at the time of the probable cause hearing. We know of no other urban criminal justice system that handles the early stages of case more efficiently.
- **Excellent procedures for gathering information about newly arrested persons.** The Harris County Pretrial Services Agency does an excellent job of acquiring information about arrested defendants. The information is directly relevant to the initial setting of bond by the magistrate and to the trial judge’s review of the bond and consideration of possible pretrial release when the case is on the court calendar the next court day. It should also be helpful to defense attorneys and prosecutors, too, in gaining a rapid sense of the defendant’s background and developing approaches to resolution of the case. Additionally, it could be a foundation for building a defendant-specific information base relevant to subsequent risk assessment and supervision by the Community Supervision and Corrections Department and for discharge/re-entry/re-integration planning by the Sheriff’s Detention Command and agencies involved in supporting the re-entry to the community of persons who have been in jail. Unfortunately, the information is not easily accessible and at present is not used nearly as widely as is desirable.

- **Excellent forensic testing at the Harris County Medical Examiner’s Office.** The Harris County Medical Examiner’s office has been awarded numerous top certifications for the quality of its crime lab work and is nationally recognized for its outstanding performance. With a highly experienced staff of scientists and other personnel, the office has an excellent foundation for top-quality work in DNA testing and other types of forensic testing.
- **Progress toward improvements in indigent defense services.** In September 2009 Commissioners Court approved plans for initial development of a Public Defender Office for Harris County including staffing and cost projections for operation of the office as a county department. Progress has been made in formulating plans for having a public defender office take a percentage of cases in the Criminal District Courts and for having a specialized unit of qualified defense lawyers handle cases in the County Criminal Courts that involve defendants with indicated mental illness or mental retardation.
- **Good basic management information about cases, defendants, and caseloads.** The case-specific information available to judges and other system practitioners is extensive, timely, and generally regarded as reliable. The JIMS system regularly produces a number of standard reports that are very useful for purposes of monitoring caseload status and identifying possible problems. However, the JIMS system is difficult to program, can be difficult to access, and does not readily produce ad hoc reports needed for real-time management. There is a clear need for migration to web-based systems that enable rapid retrieval and exchange of information and that enable analysis of systemic issues. The information in the JIMS system can be a valuable base for next stage planning and automated system development.
- **Significantly improved capacity in the courts for analysis of available information.** In recent years, the administrative offices of the County Criminal Courts at Law and the District Courts have made major strides in developing a web-based system for obtaining and analyzing information on defendants, cases, and overall caseloads. The system builds on the data in JIMS and is able to provide rapid analysis of key aspects of court and systems operations. Work on linking the courts’ “Business Intelligence System” with the information systems of individual agencies is in progress, and can potentially provide a model for very rapid and effective multi-entity information sharing. In recent months, the District Clerk’s office has made significant strides in introducing new technology into the operations of that office.
- **Improvements in the capacity of the Community Supervision and Corrections Department to supervise offenders using evidence-based practices.** In the six years since JMI conducted an assessment of CSCD’s operations and needs, significant progress has been made in upgrading operations and training capabilities. The introduction of risk assessment methodology and the use of evidence-based practices that emphasizes public safety through client behavioral change in many of CSCD’s specialized units are especially noteworthy. CSCD’s leadership has expressed enthusiasm for organizational change that would expand the improvements in the specialized units to units responsible for general supervision of offenders.

- **System leaders' openness to improvements in the operation of the system.** The justice system leaders and senior-level staff with whom JMI team members have spoken during the course of the project have evinced interest in the project and have been candid in describing what they perceive to be problem areas. Many of them have had very constructive suggestions for improvement, and all have indicated that they would support changes that would enable overall system improvement.
- **County government support for innovation and improvement.** This study was authorized by the Harris County Commissioners Court, and the JMI team has received indications that commissioners will carefully consider the study's recommendations. Indeed, shortly after JMI's Preliminary Report was submitted in July, Commissioners Court took two significant steps to act on recommendations in that report: establishment of a new Criminal Justice Coordinating Council and establishment of an Office of Criminal Justice Coordination with senior-level staff. Senior officials in the Department of Management Services and the County Attorney's Office have made it clear to JMI team members that they are extremely interested in developing feasible ways to reduce the jail population and introduce greater efficiency, cost-effectiveness, and fairness into the criminal justice system in Harris County. They recognize that this may involve investments in new approaches and new resources in some areas such as mental health and substance abuse treatment and related services.

KEY ISSUES

- 1. The population of the jail.** With over 11,200 inmates in the custody of the Sheriff as of July 2009, the number of jail inmates is approximately 1,800 over the design capacity of the County's jail facilities and about 2,400 over the target figure for safe operation of the jail. Swiftly and safely reducing this population should be a top priority goal.
- 2. County government's limited current capacity for system oversight and coordination.** At present, it is difficult to look across the agency and court "silos." The County needs a greatly strengthened capacity for analysis of justice system operations, planning, policy development, and resource allocation.
- 3. Arrest and charging policies.** The number of arrests and filings—especially in drug possession cases—has risen sharply, with major impacts on the jail population. These policies and practices, and their impacts, should be examined closely.
- 4. Indigent defense organization and practices.** Possible development of a public defender system or indigent defense coordinator is a major system improvement issue.
- 5. Bail and pretrial release supervision practices.** These practices need to be modernized. Potential changes include revision of bail schedules, greater use of personal bonds, bond reviews of defendants detained because of inability to post bond, and strengthened supervision of released defendants.
- 6. Caseload management and delays in case resolution.** There is a clear need to address problems of backlog and delay that contribute to jail crowding through lengthy periods of pretrial detention.
- 7. Forensic testing.** The County should have a top-quality unified crime lab that is independent of any law enforcement agency. High priority should be given to ensuring capacity for timely and accurate testing of DNA evidence and suspected illegal drugs.
- 8. Practices in probation supervision and handling of probation violations.** Top priorities for CSCD include full implementation of evidence-based practices, more effective handling of violations of conditions, upgrading of automated information systems needed for case management, and strengthened internal research capabilities.
- 9. The need to strengthen treatment and related services for the mentally ill and for substance abusers.** There is a critical shortage of both residential facilities and non-residential resources for addressing the needs of system-involved persons with mental illness, substance abuse issues, or both.
- 10. Information technology and utilization of information.** Too many components of the justice system and related service agencies are burdened by outdated computer software and paper-based records systems that make exchange of information

difficult, slow the processing of cases, complicate delivery of needed services, and make it exceedingly difficult to conduct research on program operations and impacts.

11. Education and training. As changes are introduced in long-established policies and practices, practitioners at all levels will need to know the reasons for new approaches, understand what is expected, and develop the skills needed to meet new expectations.

RECOMMENDATIONS

As noted in the section on “Strengths of the System” Harris County has a strong foundation upon which to build as it seeks to address the current jail crowding problems and make overall system improvements. The core institutions are strong, the County has a history of effective organization and use of management information, and it is clear that key leaders—in the courts and in criminal justice agencies directly involved in criminal case processing and in central government—are interested in pursuing constructive change in existing practices.

From the discussion of key trends it should be clear that—unless the County is prepared to spend very large amounts of money on constructing and operating new jail facilities—it will be important to make significant changes in long-established policies and practices. The top priority area for attention is undoubtedly the jail population. The recommendations that follow include many that are explicitly designed to help reduce intake into the jail and to reduce the duration of stays for persons once they are admitted.

The recommendations are divided into two categories: (1) recommendations for mounting a focused program aimed at rapidly and safely reducing the population of the jail to an acceptable level (Recommendations # 1 – 4); and (2) recommendations for overall system improvement (Recommendations # 5 - 27). Not surprisingly, there is some overlap between the two sets of recommendations. Many of the steps that can be taken to address the jail crowding problem are ones that should also improve the overall efficiency and effectiveness of the entire system. However, while most of the recommendations directed at reducing the jail population are necessarily focused on what can be done in the short-term, some of those aimed at system improvement recommendations are ones that can be regarded as recommendations for long-term or medium-term development and implementation.

A. RECOMMENDATIONS FOR RAPIDLY REDUCING THE JAIL POPULATION

Recommendation # 1: As a top priority, initiate a multi-faceted Jail Population Reduction Program involving key justice system and central county government leaders, with top-quality staff support.

(a) Establish a Jail Population Reduction Working Group or Task Force with knowledgeable staff provided by Commissioners Court and the participating agencies.

(b) Set targets for gradual reduction of the jail population to an acceptable level. Seek to bring the jail population into compliance with Texas Jail Commission standards within two years.

(c) Develop action plans for achieving the desired jail population reductions, focusing on (1) reducing admissions to the jail; and (2) reducing the duration of confinement

(d) Provide for oversight and monitoring of the program and the action plans by central county government.

COMMENT: Over-population of the jail is the most pressing problem facing the Harris County criminal justice system. At present, the Harris County Jail has a population that greatly exceeds its rated capacity of 9,434 inmates and the trend in recent years has been steadily upward. To handle the burgeoning population, the County has been “outsourcing” approximately 1,000 inmates each month to jail facilities in Louisiana, has recently made arrangements for housing approximately 2,100 inmates in jail facilities in other Texas counties, and has been granted a temporary variance to the population standards promulgated by the Texas Jail Standards Commission. The Commission has authorized housing an additional 1,612 inmates in the Harris County jail facilities over the rated capacity of 9,434. A December 2008 forecast of jail population made by Dr. Charles Friel (based on past trends and assuming no change in existing practices) indicate that the population could rise to 12,809 by the end on November 2009.

Particularly in view of the very substantial costs involved in using jail facilities in Louisiana and elsewhere in Texas to hold Harris County inmates—and the even larger costs involved in constructing new jail facilities and operating them—it makes sense to initiate a comprehensive plan to reduce the population to acceptable levels as rapidly as possible. Doing this logically involves setting goals or targets—framed in terms of the size and composition of the jail population—for reduction of that population on a phased basis. The targets can be set by an inter-agency working group or task force that includes senior-level representatives of the principal institutions and agencies that are, in effect, “stakeholders” of the jail population. An initial start has been made in addressing the jail population problem through creation of a Jail Population Committee of the new Criminal Justice Coordinating Council. Stakeholders whose knowledge about aspects of the jail population problem and views about possible approaches are relevant include at least the following:

- Sheriff’s Office
- Houston Police Department
- District Attorney
- Harris County Criminal Defense Bar
- Criminal District Courts
- County Criminal Courts at Law
- Pretrial Services
- Community Supervision and Corrections Department
- Mental Health/Mental Retardation Authority
- Commissioners Court
- Management Services
- County Attorney’s Office
- Business Community/Public

Because the jail population problems are the result of multiple causes, reducing the inmate population will require the cooperation and collaboration of all of the entities indicated above and probably others. In view of the significance of the jail

population issue to the County and the need for coordination of actions by the agencies and institutions involved in criminal justice processes, the program should be overseen by Commissioners Court, acting through appropriate central county government entities including the new CJCC. Recommendations # 5 and 6 below suggests a possible approach to developing a structure for long-term criminal justice planning and policy development at the county level. The work of the CJCC's Jail Population Committee, with some central staff support, can provide a start toward development of such a capability.²²

A basic target for jail population reduction is suggested in Recommendation # 1: full compliance with the Texas Jail Commission standards (without the current temporary exception to the standards that allows for temporarily increasing capacity of the existing facilities) within two years. Optimally, this could mean reducing the total population to approximately 10, 200 within one year and to less than 9,000 within two years. The inter-agency working group or task force can set the targets with greater specificity and with an understanding of which policies and practices can be altered relatively quickly. Recommendations # 2 – 4 set forth suggested ways of achieving the needed reductions, focusing on the two key variables that determine the size of the jail population: the number of persons admitted to the jail and the duration of confinement of those who are admitted.

Recommendation # 2: Develop and implement strategies for reducing the intake of persons to the jail, using at least the following approaches:

- (a) Law enforcement agencies: Re-examine and consider revising arrest policies and practices regarding persons who have committed relatively minor non-violent offenses, to make greater use of pre-arrest diversion.**
- (b) District Attorney's Office: Review policies and practices regarding intake and charging in cases involving minor non-violent offenses. Provide for pre-charging diversion to community programs, with treatment when needed, if possible.**
- (c) CSCD and the courts: Revise procedures for handling "technical" violations of conditions of probation, to provide for the submission and filing of motions to revoke probation only when CSCD internal sanctions and intensified supervision have proven ineffective in achieving compliance with key conditions. Reduce the frequency and duration of "jail therapy" as a response to non-compliance with probation conditions.**
- (d) Law enforcement agencies, Sheriff's office, MHRA, and County Commission: Develop and use a broader range of options for dealing with situations involving minor offenders who are intoxicated or mentally ill.**

²² In the early months of 2009, before the creation of the CJCC and the formation of its Jail Population Committee, Harris County justice system leaders had formed a work group, co-chaired by County Criminal Courts at Law Chief Judge Jean Hughes and Assistant County Attorney Terry O'Rourke, to begin addressing the jail crowding problem. The Jail Population Committee, which is chaired by Judge Hughes, can build on initial work done by the work group.

(1) Continue and expand Crisis Intervention Team (CIT) training for law enforcement officers, to enable them to handle these situations more effectively and make greater use of pre-arrest diversion of mentally ill persons.

(2) As an early priority, develop community-based case management services, of varying levels of intensity, that will enable effective support and supervision of mentally ill minor offenders whose incarceration in jail does not serve a public safety purpose.

(3) Develop and use a low security facility (which could be adjacent to the jail) that can provide detox and mental health crisis intervention, to supplement the NPC facility now in operation and provide limited term housing for “nuisance” offenders who may require short-term intervention/treatment but do not need to be confined in high security jail facilities.

(4) Develop facilities and related policies to provide limited term housing for “nuisance” offenders who are not in “crisis” (and thus do not need NPC-like facilities) and do not need to be confined in high security jail facilities, but who may require short-term intervention/treatment.

(e) Sheriff’s Office and District Courts: For sanctions imposed on District Family Court and Civil District Court detainees ordered to spend time in jail (a total of 37 in April and 42 in May 2009, mainly jailed for failure to pay child support), develop and use alternatives to confinement in secure jail facilities, including (a) a minimum security facility; and/or (b) work program, perhaps combined with electronic home confinement.

COMMENT: This recommendation focuses on one of the two key variables that affect the population of the jail: the number of persons admitted as inmates. Although reducing the duration of confinement (see below, Recommendations # 3 and 4) will have greater impact, reducing the number of persons booked into the jail (or even brought to the Inmate Processing Center prior to formal booking) will help alleviate crowding. Importantly, reducing initial intake will also reduce pressures on the already stressed facilities of the Inmate Processing Center.

Recommendation 2 (a) – Law enforcement agency arrest policies and practice: Pre-arrest diversion of persons who have committed relatively minor offenses is one obvious way to reduce the intake of new inmates. Law enforcement officers generally have some discretion regarding ways of handling such offenses, and we do not know the extent to which there may already be substantial use of pre-arrest diversion (e.g., issuance of a warning) in these situations. It seems likely, however, that there is room for increased use of such discretion, within criteria established by departmental guidelines.

Recommendation 2 (b) – District Attorney Intake and charging policies: The District Attorney’s policies regarding initial charging (including what level of charge, if any to file) and diversion for minor offenders charged with non-violent offenses

have the potential to significantly reduce intake to the jail. To make such a policy work effectively, however, it will be necessary to have diversion programs in place that can provide needed services and can make it possible to hold diverted individuals accountable for their behavior.

Recommendation # 2(c) - Reduce use of jail as a response to technical violations of probation: Current policy at the courts and the Department of Community Supervision and Corrections provides for motions to revoke probation (“MRPs”) and motions to adjudicate guilt (“MAGs”) to be initiated by the community supervision officer when the probationer has violated the conditions of supervision by committing a new offense or by failing to comply with one or more “technical” conditions of probation (e.g., failing to pay required supervision fees, failing to appear for a scheduled meeting with the probation officer). The motion papers are accompanied by a warrant which, when signed, authorizes arrest of the probationer. When arrested, the probationer is taken to jail and the case is then placed on the docket of the sentencing court. Frequently, the case is re-set to enable counsel to consult with the probationer and prepare a response to the motion. Not infrequently, the MRP is dismissed, though the judge may take the opportunity of the court appearance to admonish the probationer and perhaps impose more demanding conditions of probation. It seems likely that many of the motions to revoke probation could be handled through use of an internal CSCD system of graduated sanctions, without need for involving the sentencing court through a motion to revoke probation and thus without arresting and jailing the probationer. An internal system of sanctions (and incentives for good performance) is now being used for the probationers involved in CSCD’s Change Through Intervention (CTI) program, and is reportedly working effectively.

In the past “jail therapy” has been a commonly used technique for getting the attention of probationers who were lax in complying with conditions of probation, even if they had not committed a new offense. At a minimum, they would spend a night or two in jail (sometimes much longer if the case had to be re-set), even if the motion to revoke probation was subsequently dismissed. Given the crowded condition of the jail at present, jail therapy is a technique that should be discarded for technical violations of probation conditions. This is a practice which could be revised relatively quickly, with significant savings in jail days and improvement in CSCD’s supervision of probationers.

Recommendation 2 (d) – Development and use of a broader range of options for dealing with situations involving minor offenders who are intoxicated or mentally ill: This recommendation has several components, and is aimed at building on advances that have already been made in handling the high volume of cases that involve repeat offenders who commit low-level offenses. The Houston Police Department (HPD) has been a national leader in implementing CIT training for its officers. HPD now has many officers trained in crisis intervention, and has a clear policy of seeking to use crisis intervention techniques for dealing with mentally ill persons involved in minor criminal behavior, using pre-arrest diversion techniques rather than arrest whenever possible. HPD has also developed a Crisis Intervention Response Team (“CIRT”) that involves

teaming a CIT-trained officer with a mental health paraprofessional on patrol duty to deal with crises as they arise. This approach is sound and we note that the Sheriff's office has also begun strengthening its CIT and CIRT capability. Utilization of CIT and CIRT teams should be expanded where feasible. The approach will be most effective if there are alternatives to the jail for CIT and CIRT officers who find it necessary to take a mentally ill person into custody. The need for such services and facilities—needed for persons who are in a mental health crisis, and also in some situations where the crisis is not acute but where an individual is intoxicated (or under the influence of drugs) and has been exhibiting “nuisance” behavior—is discussed below in connection with Recommendations # 21-25.

Recommendation # 2 (e) – Alternative facilities for persons detained under the authority of the Civil District Courts: The Harris County jail population report consistently shows several dozen persons as “Civil District Court detainees.” Most of these persons (37 in April, 42 in May) are in jail for failure to pay court-ordered child support. It is not likely that these persons need to be held in custody in a high security jail setting. If possible, some type of minimum security/“halfway house” type setting should be found for these individuals.

Recommendation # 3: Develop strategies for reducing the duration of confinement of persons who are in pretrial detention.
Review the feasibility of the following approaches and implement changes where feasible:

- (a) Revise bail schedules and bond-setting policies to minimize the possibility that low-risk persons remain in detention solely because of inability to post bond.**
- (b) Use Pretrial Services' risk assessment tools to determine level and types of monitoring/supervision likely to be needed to protect public safety and assure defendant's return to court if released.**
- (c) Make increased use of personal bond, with special conditions (to be supervised by Pretrial Services) when appropriate.**
- (d) Develop and use a broader range of supervised release options for persons released on personal bond, including (1) use of electronic reporting and notification systems centered in kiosks distributed around the county; (2) day reporting centers for moderate risk defendants released on personal bond; and (3) use of electronic home confinement linked, if regarded as necessary for public safety, to GPS monitoring.**
- (e) Conduct periodic reviews of the bond amounts of persons whose risk assessment scores (as computed by Pretrial Services) are low or moderate and who remain in custody because of inability to post bond. The reviews should be conducted by Pretrial Services staff. The initial review should be conducted within 7-14 days after initial appearance and subsequent reviews should be conducted thereafter at monthly or more frequent intervals. The review process should**

include production of a report that reviews and updates the original risk assessment and, where appropriate, suggests appropriate conditions of release to mitigate risk of non-appearance or pretrial crime.

(f) **Revise District Attorney case intake screening and charging criteria to encourage greater use of pretrial diversion (deferred prosecution or deferred adjudication) in (1) cases involving trace amounts of illegal drugs that have in the past been charged as state jail felonies, especially as first or second offenses; and (2) cases involving defendants with indicated mental health or mental retardation problems who are accused of committing minor offenses.**

(g) **Develop and implement plans for rapid judicial consideration and resolution of motions to revoke probation that involve persons in jail. Seek to resolve the motions within 1-14 days after the probationer has been admitted to the jail.**

(h) **Establish a Case Coordination Unit in the Sheriff's Detention Command or, alternatively, in Pretrial Services or via staff of the CJCC Jail Population Committee (see Recommendation # 1). Provide for the staff of this unit to identify pretrial defendants in cases pending more than specific periods of time (which may vary by seriousness of charge – see next recommendation) and to notify the assigned judge, court coordinator, and District Attorney's office of the time that these cases have been pending.**

(i) **Adopt and use case processing time standards or guidelines for the periods of time within which cases involving pretrial defendants in jail should be resolved and for the time from initial appearance to indictment of information in felony cases. The time periods may vary in accordance with the seriousness/complexity of the case, and should be used to guide case scheduling. The extent to which the standards or guidelines are met should be monitored, and reports provided to the judges and the District Attorney. Consider the following suggested time standards:**

- **District Courts: Cases involving defendants in custody who are charged with state jail felonies and third degree felonies should be targeted for resolution within 45 - 60 days after initial appearance; less if possible. More serious felony charges are likely to require longer periods, but ordinarily not more than 120 days except in capital cases and other extraordinarily serious/complex cases.**
- **District Attorney's Office: The time from initial appearance to the filing of an indictment (or to waiver of an indictment and filing of an information) should be targeted for a maximum of 30 days in state jail felony cases and third degree felony cases; a maximum of 45 days in other felony cases.**
- **County Criminal Courts at Law: Cases involving defendants in custody should be targeted for resolution within a maximum of 30 - 45 days after initial appearance; less if possible.**

(j) Seek to enable rapid turnaround of lab tests of suspected drugs, so that the test results are available within 14 days or less, to enable much more rapid resolution of cases involving possession or sale of illegal drugs.

(k) For cases in which a defendant is held in custody on both felony and misdemeanor charges: Develop policies and procedures to ensure that the misdemeanor charges are resolved immediately (on the same day) following the resolution of the felony charge.

COMMENT: This recommendation addresses one of the primary determinants of the second main cause of jail over-population: lengthy duration of confinement. Many jail stays are very short, because inmates (especially those arrested for low-level offenses) either bond out quickly or have their cases resolved by a guilty plea or deferred adjudication at the time of first appearance in County Court. Data compiled by the Sheriff's Office in November 2005 indicated that approximately 21% of all inmates are released within 24 hours after arrival at the Inmate Processing Center, 40% within 48 hours and 52% within 72 hours. However, those who are not released quickly often remain in jail for lengthy periods. Persons charged with felony offenses and awaiting disposition of their cases are by far the largest category of inmates.

Because there are many factors that contribute to lengthy case processing, the recommendation covers a number of different areas, ranging from policies regarding bail pretrial release to practices concerning case and caseload management by the courts and the District Attorney's office. Key points are discussed in the following paragraphs.

Recommendation # 3 (a) –(e) – Policies and practices regarding bail and pretrial release: These recommendations focus on a key policy issue: how should the jail be used? Current bail policies in Harris County involve the setting of bail primarily (and sometimes exclusively) on the basis of the level of seriousness of the charge against the defendant and the defendant's record of prior convictions and/or current status on probation or parole. The recommendations call for greater flexibility in setting initial bail amounts, more use of Pretrial Services' risk assessments to help guide judicial officers in setting bail and conditions of release, greater use of personal bond, strengthened supervision capability for Pretrial Services, and periodic reviews of persons who appear to be low or moderate risks if released. While estimates vary, there is a sense among many knowledgeable practitioners that the jail has a great many inmates in pretrial status who cannot afford to post the bond set, do not pose risks to public safety and who, if released under supervision, would be very likely to appear for scheduled court dates. They remain in jail simply because of inability to raise the money needed to post the financial bond that has been set. If individuals can be safely released under appropriate supervision, it makes little sense to have them confined in jail while awaiting resolution of the case. Supervision—beyond the standard check-ins that are routinely required of defendants who are released on personal bond—will undoubtedly be required in some cases, and that is why paragraph 3 (c) calls for use of a broader range of supervision options by Pretrial Services.

Recommendation # 3 (f) – DA case intake screening and charging; greater use of diversion: The new District Attorney has already initiated more refined case screening processes and use of pre-filing diversion (deferred prosecution) in cases involving juveniles charged with non-violent offenses. This recommendation calls for developing and using fresh criteria for deciding upon acceptance and filing of charges and considering alternatives to prosecution in two categories of cases that contribute significantly to jail crowding—the large number of cases involving arrests for trace amounts of illegal drugs and cases involving persons with mental illness or mental retardation problems who are accused of committing minor offenses. There is broad consensus among the practitioners that in many such cases it makes sense to consider alternatives to conventional criminal case processing for these persons. If police decline to exercise their discretion to use “street-level diversion” the next logical place for the exercise of sound discretion is the intake staff in the District Attorney’s office. It should be possible to develop criteria that will enable assistant district attorneys doing the screening (generally on the basis of phone conversations with law enforcement officers) to ascertain whether a case is appropriate—on the basis of facts that are ascertainable about the defendant’s background, prior record, and history of involvement with substance abuse or mental health treatment—for pre-filing diversion or for charging a case as a misdemeanor rather than as a felony.

Recommendation # 3 (g) – Rapid resolution of motions to revoke probation: The JMI team has been unable to obtain reliable data on the length of time that persons spend in jail while awaiting resolution of a motion to revoke probation. Reportedly, these times vary widely, and are sometimes very lengthy. It seems desirable to have a general policy of very expeditious consideration and resolution of these motions. The grounds for the motion are set forth in the papers prepared by the CSCD officer who initiates the motion, and it should be possible to resolve a high proportion of them expeditiously.

Recommendation # 3 (h) – Case Coordination Unit in the Sheriff’s Detention Command: The Sheriff’s Detention Command is strongly interested in reducing the jail population. As part of its inmate population management strategy, it should be feasible for staff in the Detention Command to track inmate length of stays and to identify cases in which defendants have been in custody for unduly long periods. If this type of tracking can be done, with appropriate notification to the court and the District Attorney’s office, it provides additional impetus for prompt resolution of cases.

Recommendation # 3 (i) – Case processing time standards or guidelines for cases involving defendants in pretrial detention. Case processing time standards have been adopted in many jurisdictions. They provide guidelines for the time within which cases should ordinarily be expected to be resolved, and reflect a public interest in timely case resolution. Ultimately, they should be adopted for all types of cases (see Recommendation # 15 below). However, this recommendation focuses solely on the desirability of having such standards—and using them—in managing caseloads that include defendants in detention. The standards suggested in the black letter recommendation above are deliberately demanding, reflecting the urgency of

addressing the problems caused by relatively lengthy case processing times for many cases—principally felony cases—involving defendants in pretrial detention.

Recommendation # 3 (j) –Rapid turnaround of lab tests of suspected drugs: When the JMI team first began work in Harris County in February 2009, we learned that it was common for lab tests of suspected drugs to take from 6 to 8 weeks to be completed; sometimes longer. It is technologically feasible to complete such tests and have the results available within 24-48 hours. Particularly given the very large number of state jail felony cases that are in the system, rapid turnaround of these tests is highly desirable. Once the lab test results are available and the nature and quantity of the substance is known, it is likely that cases can be resolved very rapidly. It will still be necessary to find appropriate sentencing or diversion options, but the issues are narrowed and it is feasible to consider ways of resolving the case that will move the defendant out of the jail rapidly.

Recommendation # 3 (k) – Contemporaneous resolution of felony and misdemeanor charges: When a defendant has both felony charges in a Criminal District Court and misdemeanor charges in a County Criminal Court pending at the same time, it is common practice to hold the misdemeanor charges in abeyance until the felony charges are resolved. Often, but not always, the misdemeanor case is routinely calendared for the same day that the felony case is on the calendar in the District Court. When the felony case is resolved, it should then be easy for the lawyers and the defendant to move directly to the County Court to resolve the misdemeanor case the same day. This should be standard policy, with savings of jail days, lawyer fees, and inmate transportation costs.

Recommendation # 4: Develop strategies for reducing the length of time that persons convicted of felony or misdemeanor charges are confined in the Harris County Jail after conviction. Review the following approaches and implement changes where feasible:

- (a) Authorizing the Sheriff to award a greater amount of “good time” credit for time served with good behavior.**
- (b) Expanding the use of electronic home confinement (using GPS if necessary for public safety), with allowance for good time credit for time in home confinement.**
- (c) Using housing options other than Harris County Jail, including work farms and work release with partial confinement in low security facilities.**
- (d) Developing procedures to allow accelerated release of some categories of inmates sentenced to County time who are nearing the end of their sentence (probably subject to court approval).**

Comment: The County Attorney’s office has undertaken a thorough review of the law regarding possible options for housing inmates, utilizing work release programs, allowing good time credit.²³ The Jail Population Committee of the new Criminal Justice Coordinating Council is now considering the recommendations in the County Attorney’s report, as well as other ideas suggested by Harris County practitioners. The recommendations outlined in this report and in the County Attorney’s report are all ones that have been used in other jurisdictions seeking to alleviate jail crowding.

B. RECOMMENDATIONS FOR STRENGTHENING THE COUNTY’S CAPACITY FOR JUSTICE SYSTEM OVERSIGHT, PLANNING, POLICY DEVELOPMENT, AND RESOURCE ALLOCATION

Recommendation # 5: Establish a Criminal Justice Coordinating Council (CJCC) or similar entity that includes (a) leaders of the institutions and agencies involved in or significantly affected by criminal justice system operations in the County; and (b) representatives of the public and of Commissioners Court. The CJCC should be charged with responsibility for policy development and oversight of system improvement initiatives that involve multiple entities and effect the overall operation of the justice system in the County. The CJCC, with support from staff, should develop a fresh vision for criminal justice in Harris County, should establish goals for the effective performance of the criminal justice system as a whole, and should develop a system of performance indicators that can be used to gauge the effectiveness of system operations.

COMMENT: This “black letter” recommendation is set forth as it was originally presented in JMI’s Preliminary Report in June 2009. The recommendation was acted upon promptly by Commissioners Court, which established the new Criminal Justice Coordinating Council on July 14. At the same time, Commissioners Court also established a staff unit (the Office of Criminal Justice Coordination) to provide essential staff support to the CJCC. The new CJCC is composed of the District Attorney, District Clerk, Sheriff, County Attorney, Administrative Judge of the District Courts, Presiding Judge of the County Criminal Courts, Presiding Judge of the 16 Justice of the peace Courts, one Constable (representing the eight constables in the county), and two members of Commissioners Court. The Commissioners Court order establishing the CJCC provides for the Council to decide on its organization, officers, priorities and committees, and provides for committees to include persons who are not members of the Council but who have knowledge and expertise in specific subject matters.

The membership of the CJCC consists entirely of elected officials and—importantly—includes two persons (the two members of Commissioners Court) who represent the public. Significantly, the Commissioners Court has also provided for inclusion of non-

²³ Vince Ryan, Harris County Attorney: *Report to the Criminal Justice Coordinating Council – Overview; A Review of Jail Inmate Housing Options; Inmate Work and Jail Industries Programs; Credit for Time Served in Satisfaction of Sentence; Certain Sentencing Options; and Short-Term Immediate Solutions* (September 9, 2009).

members of the Council on committees, so that their knowledge and expertise can be utilized when appropriate. The establishment of the coordinating council is an important recognition, by Commissioners Court, of the fact that fair, efficient, and effective operation of the criminal justice system is a legitimate and appropriate focus of concern for central county government and for the public. Establishment of the coordinating council can provide a vehicle for addressing the jail population management problems and related systemic issues that are beyond the capacity of any single institution or agency to handle alone.

At a minimum, the existence and active operation of the Criminal Justice Coordinating Council provides a mechanism for the exchange of information and ideas relevant to improved system functioning. Notably, the order of Commissioners Court establishing the CJCC includes a concluding sentence stating that “The Criminal Justice Coordinating Council will be the focal point for efforts to improve the criminal justice system and seek reductions in the jail population.” At its best, the CJCC can be a major force for constructive change. The Commissioners Court order provides a mandate for the Council to be the main locus for initiating and overseeing overall system improvement efforts, including development of a fresh vision for the system, formulation of goals for system operation and performance, on-going oversight of system performance in relation to the goals that are set, and development of effective justice system linkages with other sectors of society that can contribute to safer and healthier communities. Development of system goals and performance indicators should be considered for at least the following areas:

- Jail population size and composition
- Duration of pretrial jail stays, by category of inmate
- Utilization of different methods of pretrial release on bond, and the effectiveness of each type in terms of failures to appear and re-arrest of persons released.
- Utilization of alternative methods of handling cases involving persons with mental illness.
- Court case clearance rates
- Pending caseload size and age
- Court case processing times
- Utilization of probation by the courts
- Timeliness, accuracy, and completeness of information entered into automated information systems.
- Success of persons on probation, by seriousness of conviction offense and level of risk as determined by CSCD.

The discussion above in connection with the work of the Criminal Justice Coordinating Council’s Jail Population Committee (Recommendation # 1) includes a list of entities who can be regarded as “stakeholders” with respect to criminal justice system operation. Such a group could initially focus on the jail crowding problems. Because those problems are so closely related to the issues involved in overall system improvement, this group would be a logical nucleus for working on system goals and performance indicators. One key to an effective council is high quality staff support, including staff with the ability to obtain and analyze relevant information about system operations and performance in relation to goals that are set. As discussed in connection with the next

recommendation, Commissioners Court, in establishing the Office of Criminal Justice Coordination, has put in place a promising mechanism for providing the needed support, including an information gathering and analysis capability.

Recommendation # 6: Establish a central staff unit, headed by a Criminal Justice Coordinator to be appointed by Commissioners Court, that will (a) provide staff support for the CJCC or Advisory Council; and (b) provide direct assistance to Commissioners Court in developing and analyzing information about overall criminal justice system operations that are relevant to decisions about planning, budgeting, resource allocation, and policy development.

COMMENT: This recommendation is also left in the same form in which it was presented in JMI’s Preliminary Report in June 2009. Commissioners Court acted on the recommendation by creating a new Office of Criminal Justice Coordination at the same time as it established the Criminal Justice Coordinating Council on July 14, 2009. The recommendation contemplated establishment of a central staff unit that would work closely with the Criminal Justice Coordinating Council to help support development of a modernized criminal justice system and enable Commissioners Court to undertake essential planning and resource allocation from a systemic perspective. Historically, budgets have been developed and resource allocation decisions made on an agency-by-agency and court-by-court basis, with little or no capacity for Commissioners Court to look across the “silos” and develop policies and budgets aimed at achieving optimum performance from the system as a whole.

For the Criminal Justice Coordinating Council to function effectively, and for Commissioners Court to obtain the type of analysis that is desirable for system oversight and for planning and resource allocation decisions it will be essential to have strong and effective staff support. The initial steps taken by Commissioners Court in establishing the new office are encouraging. The office is staffed by two senior-level persons—a Director who has had experience as a prosecutor and District Court Judge and a Deputy Director who is very familiar with criminal justice system issues from prior work as a senior level official in the Office of Budget Management. Optimally, this initial staff will be reinforced by the addition of top-quality policy analysts, because there is a strong need for the staff with analytic capability, not consumed with the need for immediate action, to do the information gathering, related research, and analysis that will enable development of true system performance monitoring and planning capability. The staff should regularly produce reports on system operations in relation to the goals that are set and should have the ability to draw on external resources (e.g., university based researchers, other consultants) to assist in developing policy-relevant information in specific areas and in evaluating the effectiveness of pilot projects and other specific programs.

Recommendation # 7: Undertake planning for facilities and related resources currently needed or likely to be needed in the near future as the population of Harris County continues to increase, including:

- **At least one new crisis intervention facility, with related stabilization/temporary housing capacity**

- Residential facilities for persons who have committed minor offenses related to mental illness or intoxication and who, though not in crisis, are in need some type of temporary housing and related services.
- Facilities for treating substance abusing offenders and persons diverted from criminal case processing on a residential and intensive outpatient basis.
- “Step-down” re-entry facilities for persons released from or nearing the end of terms of confinement in the Harris County Jail, with transitional services (especially for mentally ill inmates)
- Low-security facilities (halfway-house type) for detention of persons committed to the jail by the District Family Courts and Civil District Courts
- A new Inmate Processing Center (IPC) and initial assessment center, possibly housing for newly arrested persons who are likely to be released within 72 hours following arrest.
- Ultimately—after implementation of all of the recommendations designed to reduce admissions and shorten the length of confinement—additional jail facilities at all levels of security, to provide needed jail bed space

COMMENT: This recommendation reflects the JMI team’s recognition Harris County clearly needs some increased capacity for housing and providing services for offenders and accused persons. However, that does not mean that the new jail construction should be a top priority. Rather, top priority should be given to addressing the problems posed by the large number of mentally ill and substance abusing persons who currently comprise a very significant portion of the population of the jail.

At the outset we note that it is difficult to obtain a reliable sense of the dimensions of the treatment needs and of the facilities and other resources (including personnel) that currently exist to provide treatment and other services to mentally ill and substance abusing persons. A key initial set of tasks for the new Office of Criminal Justice Coordination (see commentary accompanying Recommendation # 6 above) should include (1) undertaking an inventory of existing resources (including information on different treatment modalities, both in-patient and out-patient) for treatment of substance abuse/addiction, mental illness, and co-occurring disorders; and (2) learning the nature and extent of the substance abuse and mental illness of persons who enter the jail. With this type of basic information in hand, it will be possible to begin planning for needed facilities and personnel resources.

We recognize that, as the County’s population continues to grow, there is likely to be a need for additional jail facilities. Practitioners in Harris County have indicated that they see a high priority need for a new inmate processing Center (IPC), in view of the currently cramped (and increasingly overcrowded) inmate processing area at the 1201 Commerce Street facility. Given the importance of timely and good quality risk and needs assessment—focused on the nature and seriousness of the risks of releasing a newly arrested person and also on rapidly assessing likely needs for treatment of mental illness and/or substance abuse—it makes

sense to consider a significant risk/needs assessment component of jail facilities. Considerable planning work for a new Intake Processing Center (IPC) was done in advance of the bond issue that failed in 2007, and it should be possible to draw on some of that work in developing fresh plans.

As noted in this report's brief summary of Harris County's population trends, it appears that population growth is likely to continue, with most of it occurring in what are now outlying areas of the County. As this growth continues it seems likely that attention will have to be paid to possible development of some de-centralized facilities and services—another task for central staff, working with Commissioners Court and the CJCC.

C. RECOMMENDATIONS CONCERNING SPECIFIC ASPECTS OF SYSTEM OPERATIONS

Arrest Policies and Practices

Recommendation # 8: Examine practices and trends in arrests for criminal offenses in light of the effect of the arrest policies on jail population and court caseloads. Consider ways in which arrest policies might be altered to alleviate population pressures on the jail without compromising public safety. In particular, study the impacts (including impacts on the jail population and on crime prevention and suppression) of policies and practices involving arrests for possession of trace amounts of illegal drugs. Consider possible alternative approach to enable reduction in the volume of felony arrests for these offenses while achieving desired crime prevention and suppression objectives.

COMMENT: In all, there are more than 130 police agencies in Harris County, any of which can make an arrest or issue a citation that will initiate a criminal case. The largest, by far, is the Houston Police Department (HPD). In 2008, HPD made approximately 31,000 arrests for felony or misdemeanor offenses—an increase of almost 50 percent over the number of arrests made only three years earlier. The second largest and most active law enforcement agency in the County is the Harris County Sheriff's Office (HCSO), which is responsible for patrolling the large unincorporated areas of the county. In addition, pursuant to contracts with some municipalities, HCSO deputies patrol in some municipalities. .

Both HPD and the Sheriff's Office Patrol Command have in recent years placed strong emphasis on repressing drug-related crime, and patrol practices have produced a significant upsurge in arrests for crimes involving possession, delivery, or attempted delivery of controlled substances (i.e., illegal drugs). Because data indicate that persons charged with possession of a controlled substance as a felony comprise a large proportion of the jail population and the caseloads of the District Courts, the JMI team members discussed arrest policies regarding possession of small amounts of illegal drugs with senior-level commanders in the HPD and HCSO. These officials were emphatic in asserting that they felt that aggressive policies regarding drug possession were desired by the community at large and were also effective in deterring other types of criminal behavior.

The extent to which the aggressive policies regarding arrests for drug possession have had the effect of reducing other types of crime is not known. Further, there is no readily available information concerning the prior records of the persons arrested for drug possession offenses, the outcomes of these cases (e.g., conviction of a state jail felony or drug paraphernalia misdemeanor), the long-term impacts on the behavior of the individuals who are arrested for these offenses, or the attitudes and perceptions of community residents concerning these approaches to patrol and arrest practices. At this point, the JMI team is not prepared to recommend changes in patrol practices beyond greater use of pre-arrest diversion in cases involving minor non-violent offenses. We emphasize, however, that it seems desirable to conduct focused research on the impacts of current patrol and arrest policies on the jail population, court caseloads, case outcomes, and community perceptions of the practices and their effects. It may be possible to conduct a comparative analysis of different approaches, to ascertain which approaches are most likely to produce the optimum combination of program impacts.

Prosecutorial Policies and Practices

Recommendation # 9: Consider revision of intake, charging, and plea negotiation policies and practices in cases involving persons accused of relatively low-level offenses whose conduct does not pose a danger to others or to property. In particular:

(a) Seek to utilize pre-trial intervention / diversion in a significantly higher proportion of cases involving (1) mentally ill persons accused of committing relatively minor offenses; and (2) persons charged with possession of small amounts of illegal drugs as a first offense.

(b) Revise plea and sentence recommendation practices to encourage greater emphasis on drug abusing offenders receiving substance abuse treatment. Seek to avoid building felony conviction records in cases involving persons charged with possession of small amounts of illegal drugs, particularly as a first or second offense.

COMMENT: The new District Attorney has already instituted a non-petition deferred prosecution program for first offender juveniles who commit non-violent offenses. These juveniles are not charged with a crime but are instead diverted to a community supervision program that, when completed, will not result in a criminal conviction or record. It should be possible to adapt the same approach to the handling of some types of non-violent offenses committed by adults, thus keeping them out of jail and avoiding the build-up of a criminal record. Where pre-charging diversion (deferred prosecution) is not appropriate—for example in the case of persons with substantial prior criminal records—it should nevertheless be possible to make greater use of deferred adjudication with appropriate supervision and services, especially in cases involving chronic minor offenders.

Of particular importance, the District Attorney's office may be in a position to encourage—through its charging and plea negotiation practices—much greater emphasis on deferred adjudication and sentencing decisions that place considerably greater

emphasis on treatment for mental illness and substance abuse. Optimally, decisions to recommend these types of dispositions would be made at a very early stage of the post-arrest process, so that persons who commit offenses involving drug possession are routed into viable treatment programs at an early stage.

Because of the apparent paucity of slots for treatment of mental illness and substance abuse, full implementation of this recommendation may not be possible in the immediate future. For a major shift in emphasis from use of incarceration to provision of treatment with supervision to take place, the County's resources in these areas will have to be substantially enhanced. See Recommendations 21-25 below.

Indigent Defense Services

Recommendation # 10: Continue the planning for improved indigent defense services that is currently underway. Initiate changes in policies and practices regarding delivery of indigent defense services that will ensure effective delivery of defense services in a fair and cost-effective fashion.

- Provide for the new system to be independent of direct judicial control, with accountability and transparency in the delivery and utilization of these services.
- Establish a non-partisan governing board to oversee development of public defense services and to provide general oversight regarding delivery of and payment for indigent defense services.
- Provide for a chief public defender (or chief executive officer under a different title) who has overall responsibility for organization and delivery of public defense services in the County—whether through utilization of staff, contracts with firms and individual attorneys, or a combination of approaches—and is accountable to the governing board.
- Through the governing board, establish:
 - (a) standards regarding attorneys' caseload sizes, taking account of the varying seriousness and complexity of cases and of the experience and demonstrated ability of individual attorneys;
 - (b) standards/requirements for education and training for lawyers providing indigent defense services;
 - (c) standards regarding access to and compensation of experts and investigators;
 - (d) a system for reviewing the quality of attorney service delivery, recognizing outstanding performance, and addressing problems that emerge.
 - (e) requirements for reporting on workloads and utilization of resources.

- **Place priority on development of a special unit or cohort of attorneys qualified to represent mentally ill defendants, as currently planned by the County Criminal Courts.**
- **Develop and implement plans for conducting research and evaluation studies designed to help shape a system for delivery of indigent defense services that assures effective representation of counsel in all criminal proceedings and that is cost-effective.**

COMMENT: As with Recommendations # 5 and 6 above, we have left this recommendation in the same form that it appeared in JMI's Preliminary Report in June 2009. We recognize, however, that Commissioners Court has recently (at its meeting on September 29, 2009) taken initial steps to implement this recommendation through establishment of a public defender's office. The office will begin on a phased basis, initially handling (a) state jail felony cases and other less serious felony cases in five Criminal District Courts and (b) a portion of the cases involving defendants with indicated mental health problems in the County Criminal Courts at Law. The office will also handle some appellate cases and juvenile cases. Many of the structural and governance issues noted in the recommendation are still in the process of being worked out.

As of the time that JMI conducted field research on system operations, judges in the Criminal District Courts and the County Criminal Courts were using a variety of methods to appoint lawyers to represent defendants who could not afford to hire a lawyer. For example, some judges appoint a "lawyer for the day" who is paid a flat fee for that day's work, is in the courtroom for the call of the first appearance calendar, and may be appointed for as many as 5 defendants who have their first appearance that day. Others would have one or two "lawyers for the week" who would be appointed to handle all defendants who appear on the calendar for the first time during that week. A few District Court judges have contracts with individual lawyers to handle a portion of the incoming cases over the course of a year or portion of a year. Finally, some judges have assigned cases individually to defense lawyers, with the assignment based on the seriousness/complexity of the case and the lawyer's experience. Others have used a combination of these approaches.

Although limits have been set on the number of new cases on which a lawyer can accept appointment in a single day or week, there have been no limits on the number that can be accepted over the course of a year or on the number that an attorney can have pending at a time. There has been no overall coordination of defense representation. The fact that defense attorneys work in several different courts (often with substantial caseloads in these courts) means that scheduling conflicts—and resultant re-sets—are inevitable. Further, the judges' roles in appointing defense attorneys, ruling upon requests for expert and investigator services, and approving invoices for payment of services raises concerns in the view of some observers regarding the independence of the defense function from the judiciary.

In April 2008, Commissioners Court set in motion a review of indigent defense services, with explicit instructions to consider possible development of a public defender’s office. Reports on this review have now been prepared and submitted, and—as noted above—the result is a commitment for start-up of a public defender’s office handling a limited number of cases in some courts. Many issues related to the organization and operation of the office are not yet resolved.

The JMI team spoke with a number of defense attorneys in the course of the study, and it is clear from those meetings that there has been considerable disagreement among defense attorneys regarding the desirability of a public defender’s office. There is, however, clear consensus on the desirability of establishing a cohort of lawyers—whether in a new public defender’s office or organized in some other way—who would be trained and qualified to handle cases involving persons who are (or are believed to be) mentally ill or mentally retarded. Establishment of such a unit or cohort in the County Criminal Courts at Law, as is now planned, can provide a foundation for further coordination and oversight of indigent defense services. Additionally, five of the Criminal District Court judges have agreed to participate in an experiment with a pilot project approach involving a public defender office of at least limited scope, thus providing opportunity for learning how such an office could function in handling felony cases.

In considering next steps regarding indigent defense services in Harris County, the first of the ten American Bar Association’s *Ten Principles of a Public Defense Delivery System* seems directly relevant:

“1. The public defense function, including the selection, funding, and payment of defense counsel, is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the manner and to the same extent as retained counsel. To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems. Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense. The selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff.”²⁴

There are a variety of ways in which a more independent system of public defense could be structured. The JMI team is not close enough to the situation to suggest a specific approach, but practitioners and justice system leaders in Harris County should be able to develop an appropriate structure. We emphasize the desirability of having an independent governing board that would set standards and address the other key points listed in bullets in this recommendation.

Recommendation # 11: Consider the feasibility of providing for representation of newly arrested persons at initial appearance proceedings at which bond is set and conditions may be established for release on personal bond.

²⁴ American Bar Association, *The Ten Principles of a Public Defense Delivery System*. Resolution adopted at the February 2002 meeting of the American Bar Association.

COMMENT: One of the fundamental precepts of effective representation of accused persons is that the representation should begin as soon as feasible after the defendant’s arrest. In Harris County, the defendant is not represented at the probable cause, although an assistant district attorney is present and may speak and make bond recommendations. While a defendant eligible for appointed counsel is typically appointed an attorney at the defendant’s first court appearance, which is generally the first business day following a probable cause determination, by then critically important decisions about bail and pretrial release have already been made. In Harris County, magistrates conduct probable cause hearings around the clock and hearings are typically held within about 12 hours after the accused person’s arrest.

For defendants who remain in detention following the probable cause hearing and initial consideration of bond by the magistrate, the first appearance date is the time that an attorney is appointed. Often (especially in misdemeanor cases in the County Court) the first appearance is an opportunity to resolve the case, especially if the defendant does not have a prior criminal history. In the County Courts, if the prosecutor’s plea offer provides for a guilty plea to a relatively minor offense and a sentence to time served, or to deferred adjudication, defendants will often accept the offer after consulting with counsel. The opportunity for meaningful communication between counsel and the defendant at this stage is obviously severely limited. At best, the appointed defense counsel may have had an opportunity to look at or obtain a copy of the probable cause statement and any police reports in the prosecutor’s file and to talk briefly with the defendant in a holding cell adjacent to the court. Because defense counsel do not routinely receive copies of the Defendant Report prepared by Pretrial Services, they know little about the defendant’s background or about the “risk score” calculated by Pretrial Services staff.

The possibility of having counsel available to represent and consult with indigent defendants in advance of the initial appearance in the assigned court (and optimally at the probable cause hearing at which the bond amount is initially set) should be explored. Obviously, this would be a major change in system operations, and it would make sense to try a pilot project before making a full commitment to a revised system. The potential benefits include enabling more defense counsel to learn about the case and the defendant’s circumstances at an early stage, more effective defense advocacy at the outset of the criminal proceedings (including advocacy concerning bail and potential conditions of release), and increased likelihood of an early non-trial disposition of the case.

Bond Amounts and Utilization of Pretrial Services

NOTE: The recommendations in this section build upon and supplement the recommendations regarding bond practices that are in Recommendation # 3 (a) – (e) above.

Recommendation # 12: Revise bond policies and procedures to provide for a range of bail amounts and supervision options to be set by judicial officers. Provide for judicial officers to take into consideration the risk levels identified through the risk assessment

instrument used by Pretrial Services plus input from prosecution and defense attorneys. In particular, consider (a) lowering the presumptive bond amounts applicable to persons charged with misdemeanors and low-level felonies; and (b) making increased use of personal bond, with conditions of supervision that are appropriate to the nature and level of risk posed by the person's release.

COMMENT: Under the statutory scheme established by the Texas Constitution and Article 17 of the Texas Code of Criminal Procedure, the determination of whether to grant bail—and, if so, what kind of bail and in what amount—is essentially a matter of judicial discretion, to be exercised within a framework established by Article 17.15 and taking account of the circumstances of individual cases. That article provides a specific set of guidelines for the exercise of judicial discretion in setting bail, including a caution that “the power to set bail is not to be used so as to make it an instrument of oppression” and a direction that “the ability to make bail is to be regarded and proof may be taken on this point.”²⁵

For defendants who cannot afford to post surety bond, personal bond—a simple promise to appear for court proceedings and to pay the full amount of the bond amount set by the court (plus collection expenses) in the event of nonappearance—is an option that can be used in the discretion of the judicial officer who sets bond. In recent years, however, personal bond has been used less frequently in the County Courts and very rarely in the District Courts.

A judicial officer's decision regarding bond and possible conditions of release should optimally be set with knowledge of the potential risks that would be posed by release of the defendant. The risk assessment instrument currently employed has been updated very recently, based on a study conducted by JFA Associates in cooperation with Pretrial Services and the judges of the District and County Courts. The instrument calculates a “risk score” that takes account of the defendant's prior criminal record, living and employment situation, and other factors that have been shown to be relevant to the risk of nonappearance or pretrial crime. A four-page Defendant Report summarizing the information is prepared and generated via the JIMS computer system. The report, together with a one-page cover sheet that summarizes the results of the risk assessment and shows the “risk score” is provided to the magistrate who presides at the probable cause hearing. Copies of the Defendant Report and risk score for all defendants in detention are provided to judges who have indicated that they want to receive them. However, this is a minority of the judges—as of May 2009, fewer than half of the District and County Court judges had indicated that Pretrial Services should deliver the reports to their courts. Some of the judges who receive the reports make extensive use of the information in them, while others barely glance at it or do not use the information at all. One copy of the report and risk score for every defendant in detention

²⁵ Texas Code of Criminal Procedure Article 17.15. See also the opinion by then Chief Justice Rehnquist for the United States Supreme Court in *United States v. Salerno*, 481 U.S. 739 (1987), in which he noted that “In our society liberty is the norm and detention prior to trial is the carefully limited exception.” 481 U.S. 739 at 755. That opinion (though in a case interpreting a federal law regarding bail) reinforces the basic principle that bail should be set in light of information about the individual defendant as well as simply the seriousness of the charge and the defendant's prior criminal record.

is provided to the District Attorney's office, which provides the reports to the assistant district attorneys assigned to each courtroom. Defense attorneys do not receive copies, but some judges try to make sure that they can see the report.

Because the Defendant Reports are on the JIMS system, it should theoretically be possible to access them via computer. However, it is extremely difficult to navigate the JIMS system in order to do so, and judges and attorneys simply do not attempt to use a computer to learn what is in the report. The practical result is that a great deal of very valuable information gathered by Pretrial Services at the outset of the criminal case process—information relevant not only to bail setting and imposition of conditions of supervision if released, but also to subsequent decisions about case resolution and subsequent supervision by the Community Supervision and Corrections Department—is grossly under-utilized.

The Pretrial Services risk assessment does not, of course, take account of some types of factors relevant to the pretrial release/detention decision, such as information about the circumstances of the offense and about victims of crime. A judicial officer considering bail issues should obviously also take account of information known to the prosecutor and the defense attorney that does not appear in the Defendant Report, but the risk assessment information in the Defendant Report is clearly relevant to the bail decision. Using the risk assessment information and exercising discretion beyond the rigid parameters of the bail schedules would likely result in fewer persons being held in detention because of inability to post bond, and would be consistent with the directives in Article 17.15 of the Code of Criminal Procedure.

This recommendation calls for significantly greater attention to the risk assessment conducted by Pretrial Services in making bail decisions and setting conditions of release. It also calls for re-examination of the existing bail schedules to create a framework for decision-making that provides greater flexibility in bail setting—e.g., establishing a range of bail amounts for the various levels of offenses and providing for judicial officers to take account of the Pretrial Services risk assessment results and input from the attorneys in setting bail and conditions of release in individual cases. Additionally, recognizing that many low-risk and moderate-risk defendants are financially unable to post bond, it calls for significantly greater use of personal bond accompanied—where called for by the risk assessment and other circumstances—by supervision designed to minimize risks of nonappearance and pretrial crime.

In the course of interviews with defense attorneys and some other system practitioners, JMI team members heard a number of concerns expressed about the existing bond schedules and the bond setting practices of many judges. Particular concerns were voiced about the very high bond amounts that are imposed on persons charged with a felony who have a prior criminal records—e.g., \$5,000 bond for a defendant charged with a state jail felony who has any prior conviction; \$15,000 if there has been more than one previous conviction. Lower presumptive bond amounts would be likely to enable pretrial release of a greater number of defendants.

Recommendation # 13: Strengthen the ability of the Pretrial Services Agency to (1) provide useful information on newly arrested persons to judicial officers, prosecutors, and defense attorneys; and (2) provide effective supervision of low-to-moderate risk persons who are unable to post bail. In particular:

(a) Fully implement the recently revised risk assessment instrument and Defendant Report form and cover sheet.

(b) Ensure that reports and risk assessments on interviewed defendants are delivered to every courtroom in advance of first appearance and are made available to defense attorneys as well as to prosecutors

(c) Develop procedures for periodic reviews of persons charged with relatively low-level offenses (e.g., misdemeanors, state jail felonies, third degree felonies) who have been unable to make bond within 6 days after initial appearance. Provide updated information and recommendations to the judge, prosecutors, and defense attorneys.

(d) Develop a significantly enhanced supervised release program capable of providing effective supervision to persons release on personal bond with conditions of supervision.

(e) Re-examine Pretrial Services' role in monitoring and supervising released defendants. Establish priorities for the types of cases in which the agency will be asked to supervise released defendants and for the types of conditions to be imposed on defendants and monitored by agency staff. Place top priority on monitoring and supervision of defendants released on personal bond and end the practice of having Pretrial Services staff supervise persons released on surety bond.

COMMENT: This recommendation is consistent with Recommendation # 3 (a) – (e) above. As a first priority, it seems desirable to make utilization of the Defendant Report and the risk assessment scores produced by Pretrial Services a routine part of the process of setting bond amounts and conditions of release. To do this, it will be important to provide education and training for judges and prosecutors about the utilization of the Defendant Report, the risk assessment instrument and score, and the use of evidence-based practices regarding supervision. The key concept here is use of minimal supervision for low risk persons and allocation of supervisory resources to higher risk defendants. It will also be important to develop ways of making the Defendant Report and risk score easily accessible to everyone involved in the process. In the short term, this could be done by simply providing copies to every judge and establishing a policy of ensuring that every defense attorney routinely gets a copy at the time the attorney enters an appearance as the defendant's lawyer. Longer term, it is obviously desirable to have the reports easily accessible via computer with appropriate security and privacy protections built into the programming.

The practice of having a pretrial services agency undertake periodic reviews of the status of persons who have been unable to post bond is one that is recommended by national standards. Additionally, Article 17.15 of the Texas Code of Criminal Procedure—which requires courts to ensure that the power to require bail is “not to be so used as to make it an instrument of oppression” and calls for the courts to take account of the defendant's ability to make bail—would seem to authorize

reconsideration of the circumstances of individual defendants who pose low risks of nonappearance and danger to public safety but who are unable to make the bail originally set.

The new risk assessment tool adopted by Pretrial Services and the revised Defendant Report form with a cover page that shows a “score” for every defendant interviewed, can provide a starting point for review of cases in which low-risk and moderate-risk defendants remain in detention. The JIMS system is capable of providing a daily report of defendants in detention, indicating the most serious offense charged and the length of time that the defendant has been in detention. It would be possible to review this report on a regular basis (possibly daily; in any event not less frequently than weekly) to identify the defendants classified as low or moderate risk who have remained in detention longer than a defined period of time. At a minimum, these cases could be flagged for review by the judges to whom the case is assigned, for possible re-consideration of bail and release conditions. If thought appropriate, additional information relevant to a risk determination and the defendant’s financial circumstances could be developed by Pretrial Services staff and provided to the court, the defense attorney, and the prosecutor.

Developing such a bail review function within Pretrial Services would, of course, require staff resources. Thus, consideration of the importance of this function—and the priority that it should be given in resource allocation—must be weighed against the other demands on the agency’s staff and on the County’s overall allocation of resources. However, to the extent that a problem of unnecessary detention of low-risk defendants exists in Harris County, it is incumbent upon the judiciary and county officials to address it. Such detention contributes to jail crowding and is contrary to public policy favoring the release of defendants prior to trial unless they pose unacceptable risks of nonappearance or danger to the community.

In calling for significantly enhanced supervised release program, paragraph (d) of this recommendation contemplates substantially increased use of electronically monitored home confinement, possible development of a day reporting center, and use of other types of modern technology. The goal would be to provide effective supervision of considerably more defendants than are currently under supervised by Pretrial Services. At present virtually all of the “enhanced” supervision conducted by Pretrial Services is for defendants released on surety bond under the condition that they submit to such supervision—typically involving drug testing, electronic monitoring, curfews or stay-away orders, or use of an ignition interlock device. It is likely that many of the defendants on surety bond who are subject to this “courtesy supervision” are more serious risks for nonappearance or illegal behavior than are some of the defendants who remain in detention because of inability to post bond. Paragraph (e) of this recommendation calls for revision of existing policies to enable Pretrial Services to focus its attention on monitoring and supervising defendants released on personal bond, thus freeing resources now devoted to supervision of defendants on surety bond in what amounts to a subsidy of the surety bonding companies.

Forensic Testing

Recommendation # 14: Develop and implement plans for upgrading and expanding unified forensic testing capabilities in Harris County to ensure timely turnaround of lab test results with particular attention to timely and accurate testing of DNA evidence.

COMMENT: Problems in the Houston Police Department’s Crime Lab have been the subject of recurrent investigations and recommendations that the crime lab function be located in an independent entity. The JMI team has not sought to go over ground that has been thoroughly covered by others.²⁶ However, we strongly emphasize the desirability of having a crime lab that is independent of law enforcement, employs rigorous scientific standards in its work, is able to produce timely and accurate results of forensic tests, and is subject to on-going oversight by qualified inspectors.²⁷

The two top priority areas for attention as plans for the crime lab function are developed should be to ensure that accurate DNA test results are available on a timely basis, especially when such evidence is available in the investigation of violent crimes. The experience of the past decade, with hundreds of persons exonerated on the basis of newly analyzed DNA evidence, demonstrates the importance of DNA evidence in criminal investigations and prosecution—both for helping to convict the guilty (and preventing future victimizations) and for exonerating the innocent.

Because of the high volume of drug cases in the courts, a second priority should be to ensure that tests of suspected illegal drugs are conducted very promptly and the results provided to prosecutors and defense attorneys. With adequate staff and equipment, it is technologically feasible to have the results in less than 48 hours, and often within 24 hours. Having drug test results available within that period of time would significantly change the dynamics of the plea negotiation and sentencing process and should help develop more effective policies for handling drug cases. Particularly as substance abuse treatment becomes more readily available in the County (see Recommendations # 20-24 below), having lab test results available very promptly will enable rapid decisions regarding case resolution and possible entry into a substance abuse treatment program.

²⁶ See, e.g., Jim McKay, “Police Crime Labs Struggle with Funding, Training, and Bias Issues” in *Government Technology*, July 8, 2008. As the article in *Government Technology* makes clear, problems in forensic testing are widespread, but the problems in the HPD lab were especially egregious.

²⁷ In mid-2009, the Research Council of the National Academies of Sciences published a comprehensive report on the state of forensic science in the U.S. The report emphasized the fragmented nature of forensic science activities and overall found serious flaws in the current state of forensic sciences. The report, conducted pursuant to a Congressional mandate, made a number of recommendations for improvement, many centered around the need for forensic labs to be independent of law enforcement agencies and prosecutors’ offices, have quality standards and quality control mechanisms, have active oversight from an independent governing board, and be adequately funded. It recommended creation of an independent National Institute of Forensic Science that could, among other things, provide a model of best practices for states and localities. See National Research Council of the National Academies of Science, *Strengthening Forensic Science in the United States: A Path Forward* (Washington, D.C.: National Academies Press, 2009).

Caseflow Management in the Courts

Recommendation # 15: Establish and implement case processing time standards to guide case scheduling and set expectations for timely resolution of cases. The standards should take account of:

- The seriousness and complexity of different categories of cases, with standards reflecting an expectation that relatively simple cases will be resolved speedily and that more time may be needed for cases that are more serious and/or more complex.
- The custody status of cases, with standards calling for speedier resolution for cases involving defendants in custody.
- The medical and mental health status of defendant and the desirability of providing for prompt attention to delivery of needed treatment and related services.
- The need for adequate time for preparation and court events in all cases.

Recommendation # 16: Implement principles and techniques of differentiated case management, in order to enable swift resolution of relatively simple cases, provide adequate time for preparation and negotiation in all cases, and enable timely resolution of every case consistent with the standards that are adopted.

Recommendation # 17: Develop and implement a targeted old case backlog reduction program in the District Courts, in order to reduce pending caseloads to a more manageable level and help assure more timely resolution of all cases. Provide for additional temporary resources—visiting judges, additional prosecutors and defense attorneys, and court staff—to handle the higher volume of cases and court proceedings needed to significantly reduce pending caseloads, especially in the District Courts.

COMMENT: These recommendations are grouped together because they are closely interrelated. They address what is becoming an increasingly serious problem of delays in the processing of criminal cases, especially felony cases, in Harris County. Many felony cases (including cases involving defendants in custody) are pending for lengthy periods of time and re-sets are common. The delay problems are not nearly as serious in the County Courts, which deal with cases that tend to be simpler and in which the consequences of conviction are not as severe. However, practitioners readily acknowledge that there is room for improvement in both sets of courts.

There is ample evidence that the adoption of case processing time standards, with active monitoring of actual performance in relation to the standards, is very important in successful delay reduction and on-going caseflow management.²⁸ Additionally,

²⁸ See. e.g., William Hewitt *et al.*, *Courts That Succeed: Six Profiles of Successful Courts* (Williamsburg: National Center for State Courts, 1990), esp. pp. 17-18 (Montgomery County [OH] Court of Common Pleas); 36-37 (Detroit [MI] Recorder's Court); and 72-73 (Fairfax [VA] Circuit Court); also John Goerd, "Slaying

having such standards gives everyone involved—judges, attorneys, defendants, witnesses, and other interested parties—a rough sense of the time within which a particular type of case should ordinarily be resolved. Having such standards is also a public statement of commitment to achieving timely resolution of cases.

Recommendation # 15 takes a common-sense approach in calling for adoption of case processing time standards that take account of the seriousness and complexity of different types of cases, the custody status of defendants, and the medical and mental health status of defendants. Cases that are complex and/or involve potentially very serious consequences upon conviction are naturally likely to require more time for case preparation, forensic testing, motions, and ultimate resolution (whether by negotiated resolution or by trial) than relatively simple cases. Similarly, cases involving defendants with major medical or mental health problems may require additional time to enable attention to those needs. Cases involving defendants in custody warrant particular attention both because of the liberty interest of the defendant and because of the costs to the county of lengthy jail stays. Possible case processing time standards applicable to cases involving defendants in pretrial detention are suggested in Recommendation # 3 (i) above and can provide a starting point for development of more comprehensive standards covering all criminal cases.

Recommendation # 16 is a logical corollary to Recommendation # 15: in order to achieve resolutions within the time frames adopted for different categories of cases, it makes sense for courts, working with the District Attorney's office and the defense bar, to adopt and implement techniques of differentiated case management ("DCM"). A number of jurisdictions have succeeded in developing systems for early identification of cases that are relatively complex and likely to require time and resources to resolve. These jurisdictions have also shown that it is possible to identify cases that are not especially complicated with respect to the facts, the law, and relevant characteristics of the defendants, and can thus be resolved expeditiously.²⁹ In Harris County, one obvious example would be the state jail felony cases, provided that rapid turnaround on lab tests of suspected drugs could be accomplished.

the Dragon of Delay: Findings from a National Survey of Recent Court Programs, *The Court Manager*, Vol. 12, No. 3 (Summer 1997), pp. 30-37; Maureen M. Solomon, Caroline S. Cooper, and Holly Bakke, "Building Public Trust and Confidence Through Effective Caseflow Management" in Gordon M. Griller and E. Keith Stott, Jr., Eds, *The Improvement of the Administration of Justice (Seventh Edition)* (Chicago: American Bar Association, 2002), esp. p. 114.

²⁹ See, e.g., ABA *Standards on Speedy Trial and Timely Resolution of Criminal Cases*, Standards 12-1.3, 12-3.4, and 12-4.3(j); also Maureen Solomon, *Improving Criminal Caseflow* (Washington, D.C.: American University, July 2008); Suzanne Alliegro *et al.*, "Beyond Delay Reduction: Using Differentiated Case Management," *The Court Manager*, Vol. 8, No. 1 (Winter 1993), pp. 24-29 (DCM in Pierce County, WA and Middlesex County, NJ) and No. 3 (Summer 1003), pp. 23-30 (DCM in Detroit, MI and Philadelphia, PA); David C. Steelman *et al.*, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg: National Center for State Courts, 2000), pp. 5-8, 49, 51-52; Maureen M. Solomon, Caroline S. Cooper, and Holly Bakke, "Building Public Trust and Confidence Through Effective Caseflow Management" in Gordon M. Griller and E. Keith Stott, Jr., eds, *The Improvement of the Administration of Justice (Seventh Edition)* (Chicago: American Bar Association, 2002), esp. pp. 118-120.

Recommendation # 17 focuses on the existing backlogs of old cases, mainly in the Criminal District Courts. Total pending caseloads in the District Courts have increased by 63% in the past decade (and by about 136% since the last new Criminal District Court Judge was added in 1985), and many cases are taking far longer to resolve than is desirable. As recognized by at least two sets of standards adopted by the American Bar Association, reduction of existing backlogs is essential to achieving timely case resolution.³⁰ The commentary to an ABA Standard dealing with essential elements of a jurisdictional plan for effective caseflow management emphasizes the importance of backlog reduction:

A case backlog must be addressed at the outset of any jurisdictional initiative to improve overall caseflow management. Unless and until the backlog is eliminated it will act like a cancer in the system, making it impossible to achieve goals for timely resolution of cases.³¹

To eliminate a backlog, a jurisdiction necessarily has to resolve more cases than it takes in, until the caseload is down to a manageable size and there are few or no “old” cases in the inventory. Because the current complement of judges is already swamped with cases, it will almost certainly be necessary to have some infusion of *temporary* additional resources—judges (for example, visiting judges or judges transferred from duties in other courts in Harris County), prosecutors, defense attorneys, court coordinators, and courtroom clerks. If the sharp upward trend in criminal caseloads that has developed over the past several years continues, additional permanent resources will probably be necessary. However, if new case filings level off or decrease, or if revisions in case processing practices produce greater efficiencies, there will be less need for permanent new resources.

***Recommendation # 18:* Consider major expansion of specialty dockets, in light of the high proportion of persons charged with misdemeanor offenses and lower-level felony offenses who have substance abuse, mental illness, or co-occurring disorders. Incorporate “best practices” identified through research on the operations of specialty courts and dockets in other jurisdictions.**

- **Significantly expand the STAR Drug Court program.**
- **Consider the use of pre-adjudication diversion to a drug court program for persons charged with drug possession as a first or second offense.**
- **Explore expansion of the Mental Health Court dockets now in operation.**

³⁰ See, e.g., American Bar Association *Standards Relating to Trial Courts*, Standard 2.54 (1992) and accompanying commentary; also ABA *Standards on Speedy Trial and Timely Resolution of Criminal Cases*, Standard 12-4.3 (p) (2006).

³¹ ABA *Standards on Speedy Trial and Timely Resolution of Criminal Cases*, Commentary to Standard 12-4.3 (p) (2006).

- **Because of the unique problems posed by substance abusing and mentally ill veterans of U.S. wars who become involved in illegal activities, explore the possibilities of establishing special dockets that focus explicitly on the issues involved in responding to alleged criminal behavior by these individuals.**

COMMENT: In recent years, the Harris County Criminal District Courts have developed drug court dockets and mental health court dockets, but the number of individuals involved in these specialized dockets (typically held during a portion of one half day per week) is relatively small. Most defendants whose substance abuse and mental illness is a primary cause or major factor leading to their illegal behavior are dealt with in ordinary criminal case dockets spread across all of the judges in the District and County Courts. This recommendation calls for serious consideration of an alternative approach—one that would require early identification of cases amenable to handling through a specialized docket; development of an “early assessment” capability so that the nature of the risks and needs posed by potentially eligible defendants could be ascertained rapidly; and major reallocation of resources to enable handling of these cases in a fashion that would address the mental illness and substance abuse problems consistent with attention to public safety. It would also require the availability of treatment resources and related services that at present are in short supply in the County.

Because this approach would involve major changes in established policies and practice, it would necessarily require time for planning and development, including development of new assessment capabilities, residential facilities, outpatient modalities and personnel resources. It would also require formulation of new policies regarding case processing and new ways of organizing court, prosecutorial, and defense resources.

Probation Policies and Practices

Recommendation # 19: Undertake an organizational development initiative within the Community Supervision and Corrections Department, centered on integration of the principles and techniques of evidence-based practice (EBP) into the full range of CSCD operations.

- (a) Clarify and strengthen the relationship between CSCD and the Courts, to establish courts’ support for the Department’s implementation of EBP.**
- (b) Institutionalize an integrated continuum of services for probationers from the point of assessment to the point of departure from court-ordered supervision, including both specialized and general supervision.**
- (c) Develop and implement a grid for use of progressive sanctions by CSCD officers, in the event of a probationer’s failure to comply with conditions of probation, to strengthen the effectiveness of CSCD supervision and reduce the frequency with which motions to revoke probation are submitted to the courts.**

- (d) Simplify the formal process for case management by officers, including upgrading information system capabilities so that officers can easily access and transmit data needed for case management.**
- (e) Streamline the revocation process, to make it less paperwork-intensive and reduce the frequency with which motions to revoke probation are filed.**
- (f) Expand comprehensive training for staff, with particular attention to: (1) training (or re-training) CSCD officers in the principles and techniques of effective case management and core practices for dealing with clients; and (2) training for front-line supervisors in the principles and practices of EBP and effective supervision practices in the context of an organization implementing EBP.**
- (g) Develop a substantially strengthened capability for conducting research on the effectiveness of specific CSCD programs and the overall effectiveness of the Department in reducing criminogenic behavior.**
- (h) Work collaboratively with the Texas Criminal Justice Assistance Division in planning and implementing the overall organizational development initiative.**

COMMENT: This recommendation calls for implementation of a number of related changes in policy and practice that are consistent with CSCD’s recent progress toward implementing evidence-based practices in probation. There are five main themes to the set of proposed changes: (1) greater autonomy for CSCD in developing and using internal sanctions for responding to non-compliant behavior by probationers; (2) significantly improved information management (including computer system upgrades), to improve the exchange and use of information about probationers; (3) a major investment in education and training for staff at all levels, focused in integrating the principles and techniques of evidence-based practice (“EBP”) into the on-going operations of the department; (4) an emphasis on developing departmental research capabilities, to enable evaluation of pilot projects and on-going programs; and (5) collaboration with the courts and the state agency responsible for general oversight and major funding of probation in Texas counties.

EBP principles and techniques are drawn from two decades of research on “what works” in probation. Of particular importance, one key theme involves allocation of resources in accordance with level of risk—i.e., more intensive supervision on the higher risk probationers; minimal supervision for low risk persons; and avoiding mixing persons with widely varying levels of risk in group counseling and related supervisory activities. These principles and techniques have been embraced at senior levels of CSCD and in many of the specialized units, but have not yet found traction with the officers responsible for general supervision—i.e., the staff members responsible for the great bulk of the supervision conducted by CSCD.

In discussions with JMI team members, leaders of CSCD expressed strong interest in working closely with the Texas Criminal Justice Assistance Division (CJAD) in the research and organizational development work required to fully implement EBP across the

department. Since CJAD is a major funder of CJAD and a strong advocate of adoption of EBP by local-level CSCDs in the state, additional grant funding from CJAD could facilitate the integration of EBP into on-going departmental practices in Harris County. The progress made by CSCD in using risk assessments to gauge level of supervision needed by probationers and in implementing EBP in the specialized units provides a good foundation for further work in this area.

In order to implement the recommendations outlined here, CSCD will have to work collaboratively with the courts. It seems clear that there is room for improvement in existing practices regarding the handling of violations of probation. Although there has been some movement toward greater consistency across courts in the use of jail as a condition of probation and in the handling of violations of other conditions, these remain areas in which much more can be done.

Recommendation # 20: Strengthen relationships with external organizations that provide needed services to mentally ill and substance-abusing probationers.

- (a) Strengthen existing ties and develop new partnerships that will enable effective delivery of services through a full range of treatment modalities, including varying levels of outpatient treatment as well as residential treatment and care.**
- (b) Seek to ensure effective transitions from probation supervision to community-based supporting services as persons are discharged from probation.**

COMMENT: The Community Supervision and Corrections Department already has links with a number of community-based agencies that provide treatment and related services to probationers who have substance abuse and mental illness problems. Recognizing that substance abuse and mental illness are major drivers of the jail population and the overall level of criminal activity in Harris County, this recommendation calls for major expansion of those linkages. There is opportunity—and need—for development of a much broader range of treatment modalities linked directly to CSCD, including substantially enhanced utilization of outpatient treatment providers. Equally important, attention needs to be paid to development of greatly strengthened processes for transition of probationers from supervision by CSCD officers to community-based case management and other support services as individuals near the end of their probationary period and readied for discharge from probation.

D. RECOMMENDATIONS CONCERNING THE COUNTY'S CAPACITY TO PROVIDE TREATMENT AND RELATED SERVICES NEEDED TO ADDRESS PROBLEMS OF SUBSTANCE ABUSE AND MENTAL ILLNESS

Recommendation # 21: Strengthen the county's capabilities for multi-agency planning, allocation of additional resources to address the problems posed by substance abusing and mentally ill persons who commit non-violent offenses.

- (a) Establish a special task force or other vehicle to develop plans for new approaches to these pervasive problems. Engage citizen leaders, as well as criminal justice and treatment professionals, in development and implementation of strategies to address these problems.
- (b) Develop a data base, accessible by justice system agencies, that provides basic information on the availability of different types of treatment modalities relevant to the treatment of substance abuse, mental illness, and co-occurring disorders for persons charged with criminal offenses.
- (c) Develop and use an assessment tool which will enable practitioners to determine which treatment modalities are most appropriate for placement of individuals into treatment programs and delivery of needed services.
- (d) Develop an action plan for experimentation with new approaches, including rapid diversion coupled with justice system monitoring and supervision, housing, treatment, and case management services.
- (e) Develop the capability of conducting program evaluations/performance monitoring to improve utilization of available resources and achieve reductions in recidivist behavior and drug usage.

Recommendation # 22: Expand the crisis intervention/stabilization capabilities that law enforcement and medical/mental health agencies in the County need for responding effectively to misbehavior by intoxicated and/or mentally ill persons.

Recommendation # 23: Develop housing for mentally ill chronic minor offenders in residential facilities outside the jail.

Recommendation # 24: Substantially expand the capacity of the County to provide treatment and aftercare for substance abuse, mental illness, and co-occurring disorders in residential and outpatient centers. Ensure that there is a broad range of options and that they include gender-responsive treatment options for women that address the complex needs and multiple challenges that have brought them into the criminal justice system.

- Ensure that there is a broad range of options and that they include gender-responsive treatment options for women that address the complex needs and multiple challenges that have brought them into the criminal justice system.

- Expand programs that can provide case management of varying levels of intensity to persons who frequently become involved in the criminal justice system. Seek to ensure that effective outreach and service delivery systems are used to provide services needed by the “chronic system users.”
- Utilize modern risk assessment tools to enable appropriate placements and delivery of services, taking account of risks and needs.

Recommendation # 25: Develop plans for delivery of comprehensive services aimed at reintegrating offenders into communities in Harris County when they are released from incarceration, including attention to issues of housing, subsistence, transportation, medical care, and employment assistance. Develop programs for mentally ill chronic minor offenders as a top priority.

COMMENT: These recommendations are closely related. One of the principal themes that emerged from the JMI team’s interviews with practitioners in virtually every institution and agency involved in criminal justice in Harris County is a sense of strong need to end the long-standing over-reliance on jail as the primary—and often only—resource for dealing with individuals whose law-breaking behavior is principally a result of substance abuse and/or mental illness.³² Some of the law-breaking by substance-abusing and mentally ill persons is so serious that the only feasible approach is conventional criminal case prosecution. However, there is broad recognition that in a large number of instances—particularly in cases involving chronic minor offenders and persons charged with possession of small amounts of illegal drugs—alternative approaches are needed.

There are some major obstacles to development of alternative approaches. These include at least the following:

- *Restrictions on the availability of publicly supported treatment services.* For example, the Mental Health and Mental Retardation Authority (MHMRA) has treatment slots only for persons diagnosed with schizophrenia/schizo-affective disorder, bipolar disorder, or major depression. Additionally, MHMRA takes only “voluntary” clients, making it difficult for courts to order treatment, and the number of “slots” in existing facilities is very small in relation to the overall needs.
- *Lack of knowledge about available treatment resources.* Although there are some lists of organizations that provide various types of services, there is no on-going inventory of treatment modalities (including outpatient as well as residential programs) and available slots.

³² A 2004-05 study by an MHMRA researcher documented the prevalence of persons with mental disabilities in the Harris County Jail and compared these offenders with others along a number of dimensions. The study found, among other things, that mental health consumers (defined for this purpose as persons who had a record in the MHMRA clinical practice database) are appreciably more likely to be arrested for a subsequent offense, face more serious charges, stay approximately twice as long in jail, incur more jail time for similar offenses. See paper by Tuan D. Nguyen, *Criminal Offending and Mental Disability in Harris County* (Mental Health and Mental Retardation Authority of Harris County, May 2005)

- *Lack of funding for treatment.* In the past, substance abuse and mental health treatment for offenders has been funded almost exclusively by the state and occasionally through federal grants. However, the reality is that the great majority of persons who become involved with the criminal justice system through behavior related to addiction or mental illness (or both) have little or no financial resources. They generally can't afford to pay the costs of treatment, though it is reasonable to expect them to contribute to some portion of the costs.
- *Lack of support for treatment-related services.* The most important services needed by substance-abusing and mentally ill persons, as they seek to re-enter society, is for housing and case management. Lacking housing and lacking the guidance and support that can be provided through effective case management by competent social services personnel, these individuals will all too often fall back into patterns of criminal behavior.

Given this array of obstacles, it is clear that there is no quick fix for the over-reliance on use of the jail as a mental health facility and holding facility for substance abusers and addicts. For progress to be made in reducing the extensive re-cycling of non-violent and substance-abusing persons through the criminal justice system, it will be necessary to develop a broad-based approach, probably beginning incrementally. For example, it should be possible to develop and evaluate pilot projects involving pre-filing diversion of defendants in these categories and arranging for assistance to offenders (especially mentally ill offenders) who are released from jail or prison. At the same time, information can be gathered about existing treatment and related resources, about the scope and range of needs for treatment and case management, and about practices that are followed in other urban jurisdictions that have started to address this set of interrelated problems.

Recommendation # 21, which calls for multi-agency planning and formation of a special task force that includes citizen leaders, reflects the complex nature of this set of issues, the need for broad-based leadership (not limited to the criminal justice system) in addressing the problems, and the desirability of learning more about the issues as a predicate to taking action steps beyond small-scale pilot projects.³³ Collection and analysis of information about the dimensions of the problem will be a necessary early step. It is likely that a relatively small number of persons are very heavy users of the jail, hospital emergency rooms, other medical and mental health facilities, and the time of law enforcement officers and medical and mental health personnel. However, there is currently no reliable data on the size of this group, the range of problems and needs that they present, and the costs to public and private entities of responding to their behavior and illnesses. Nor is there much information on the scope of the

³³ For an overview of current county-level initiatives in other regions of the U.S. that are focused on re-entry to the community of jail inmates (especially those with mental health and substance abuse problems, see Justin Carmody, *Reentry for Safer Communities: Effective County Practices in Jail to Community Transition Planning for Offenders with Mental Health and Substance Abuse Disorders* (Washington, D.C.: National Association of Counties and Bureau of Justice Assistance, 2009). For discussion of the economic benefits to communities of effective re-entry programs, see John Roman and Aaron Chafin, *Does it Pay to Invest in Reentry?* (Washington, D.C.: Urban Institute, 2006).

problems posed by larger subgroups of mentally ill and substance abusing non-violent offenders or on the effectiveness of different treatment modalities.

Recommendations # 22 – 25 outline an array of action steps that can be taken as more knowledge is developed about the problems and possible responses. For the most part, these are recommendations for medium-term and sometimes for long-term action, though planning for them should begin as rapidly as possible and some pilot projects, from which much can be learned, can be mounted relatively quickly. If residential facilities (perhaps adjacent to the jail) and qualified personnel can be obtained, it may be possible to move rapidly in this area, particularly in developing alternatives for mentally ill chronic minor offenders.

E. RECOMMENDATIONS CONCERNING DEVELOPMENT OF INFORMATION SYSTEMS, RESEARCH CAPABILITIES, AND EDUCATION AND TRAINING

Recommendation # 26: Continue to strengthen the capacity of County agencies and the courts to obtain, store, exchange and use information on individuals involved in criminal justice processes.

- (a) Build on the existing JIMS system and on the web-based information system recently developed by the administrative offices of the County Criminal Courts at Law and the Criminal District Courts and by the District Court Clerk's office.
- (b) As an early priority, develop a web-based system that will integrate (1) Pretrial Services' Defendant Report and risk assessment tool; (2) information in the Jail's management information system concerning defendant status and background; (3) information about cases and defendants in the records of the District Court Clerk; (4) CSCD's probation management system; and (5) to the extent feasible, information on offender mental health histories available from MHMRA.
- (c) Seek to enable a continuous flow of accessible information concerning individuals charged with criminal offenses as they move through the system, thus eliminating duplicative data entry, enabling updating as needed, and providing justice system decision makers with timely and accurate information relevant to custody status, treatment needs, case resolution, and supervision if an individual is placed under the supervision of Pretrial Services or CSCD.

COMMENT: One of the striking things about criminal case processing in Harris County is the extent to which—despite the technological revolution of the past quarter century—much of the work is still done on paper. Although the JIMS system was conceived as a vehicle for ongoing storage, retrieval, and exchange of information about cases and persons, it has not been updated and the programming software is old and outdated. Many of the justice system entities have developed stand-alone systems of their own that do not readily exchange information with others or with JIMS. The result is a great deal of duplicative data entry,

continued utilization of long-outdated manual record-keeping systems, development of “silo” approaches to obtaining and holding information, frustration on the part of practitioners, slower case processing, and avoidable costs to taxpayers.

Recently, the District Court Clerk’s office and the administrative offices of the County and District Courts have made good progress in developing web-based information systems that are able to upload information in the JIMS system. It seems desirable to build on these advances in moving forward—utilizing the “Court Business Intelligence System” and expanding its linkages with JIMS , the Clerk’s office, Pretrial Services, and CSCD. Of particular note, it seems highly desirable to build on the information initially developed by Pretrial Services on new arrestees. The initial background information and risk assessment developed by Pretrial Services should be very useful to judges, prosecutors, and defense attorneys for purposes of plea negotiation and sentencing. For defendants placed on probation, the information developed by Pretrial Services—both through its initial interviewing and in its monitoring and supervision of released defendants—can provide a foundation for CSCD’s preparation of files and information on defendants. Some information would have to be updated, but having it in electronic form could eliminate considerable duplicative data entry.

Recommendation # 27: Strengthen the ability of the agencies and institutions involved in criminal justice to engage in and learn from research on the impacts and effectiveness of alternative approaches to criminal justice issues and practices.

- (a) Through budgetary appropriations, encourage development of agency-specific research capabilities.**
- (b) Establish an independent “Criminal Justice Research and Policy Institute” that will (1) be a clearinghouse and resource for information about findings from research done in Harris County and elsewhere; and (2) have the capacity to conduct its own research on key system operations issues.**

COMMENT: This recommendation calls for Harris County to make significant investments in research on the operations of its criminal justice system and in learning from good quality research done in other jurisdictions. At present, there is almost no capacity to conduct program-specific evaluation, to learn about the relative effectiveness of different types of pretrial release and supervision practices, to compare the relative effectiveness of different programs that provide services to probationers, or to learn on an on-going basis from evaluation of innovations undertaken in other jurisdictions. It seems desirable for agencies (especially Pretrial Services and CSCD) to be able to conduct their own research, whether by on-staff researchers or through contracts.

In recommending establishment of an independent “Criminal Justice Research and Policy Institute” we envision a unit of qualified researchers who could (a) conduct research themselves on key aspects of criminal justice system operations in Harris County; (b) arrange for contracted research by others and for research projects jointly conducted with others; and (c) develop a base of knowledge about policy-relevant research done in other jurisdictions. There are several possible models for establishment of such an entity, including the Washington State Institute for Public Policy, the North Carolina Institute of Government, the Center for

Court Innovation (in New York), and a recently-initiated effort by the District of Columbia to establish a Juvenile and Criminal Justice Research and Policy Institute for the District.

Recommendation # 28: Provide for education and training programs to familiarize practitioners in the courts and justice system agencies and in other “partner” agencies with the goals and policies that are developed, to enable them to function effectively in implementing plans for system improvement.

- (a) Consider developing a “*Criminal Justice Training Institute*” that would be responsible for providing training on (a) system operations that involve multiple entities; and (b) by arrangement with courts and agencies, providing training that is specific to those entities.
- (b) Ensure that education and training are provided on an on-going basis, including (a) orientation for new hires; and (b) continuing education and training for staff at all levels.

COMMENT: The recommendations in this report call for significant changes in long-established organizational structures, policies, and procedures. Even if only partially implemented or implemented incrementally, the recommendations should lead to major changes in expectations regarding criminal case processing, use of modern information and communications technology, and handling of cases involving mentally ill and substance abusing persons. In order for these changes to be absorbed and for the system to function reasonably well in achieving the goals that are set, it will be essential to make an investment in education and training for practitioners at every level in all of the agencies and institutions involved in the adjudication process. Developing a new “Criminal Justice Training Institute”—perhaps linked with a college or university—would be one way to address the need for such training, especially in areas that involve multi-agency coordination and collaboration.

The initial focus for education and training should be on the needs of practitioners doing front-line work on cases—judges, court coordinators, court clerks, prosecutors, public defenders, probation officers, and Sheriff’s office personnel. The education and training should cover the goals and objectives of the changes (what is sought to be accomplished, and why the changes are needed), as well as the mechanics of the new practices and procedures. There are a variety of ways that such education and training can be accomplished. It seems desirable to conduct training both within individual organizations and on an inter-disciplinary basis.

In addition to education and training programs, it will be desirable to develop operational manuals with detailed written descriptions of policies and procedures applicable to different types of cases and case events. Having such manuals, in electronic form and easily updatable, will increase the likelihood of consistent application of policies and procedures across courtrooms and departmental sub-groups.

APPENDIX A: LIST OF PERSONS INTERVIEWED

Harris County Sheriff's Office

Sheriff Adrian Garcia

Information Technology:

Penny Crianza, Director of Systems and Applications

Detention Command:

Maj. Mike Smith
Capt. Greg Summerlin
Capt K. Raddabaugh
Lt Taylor

Patrol Command:

Maj. Ron Silvio
Sgt Jimmy Cash

Health Services Bureau:

Dr. Mike Seale, Medical Director

New Choices Substance Abuse Treatment Program:

Beverly Burke, Female Program Coordinator
Duane R. Boyd, Male Program Coordinator

Harris County District Attorney's Office

District Attorney Pat Lykos

Jim Leitner, First Assistant District Attorney
Roger Bridgewater, Chief, Professional Development Bureau
John Barnhill, General Counsel

Hannah Chow, Chief, Public Services and Infrastructure Bureau
Lynne Parsons, Chief, Intake Division
Don McWilliams, Chief Investigator

Harris County Criminal Defense Attorneys

Patrick F. McCann
Staci Biggar
Vivian King
Mark Bennett
Carey McCracken

Lee Guerrero
Wendell Odom
George Parnham
Mary Parnham

Harris County Criminal District Court Judges and Staff

Judge Debbie Stricklin, Chief Judge

Judge Mark Ellis

Clay Bowman, District Courts Administrator

Michael DeForker, Management Analyst

Stephanie Armand, Business Process Manager

Annette Manuel, Court Coordinator, 180th District Court

Mary Covington, Drug Court Coordinator

Harris County Criminal Courts at Law Judges and Staff

Judge Jean Hughes, Chief Judge

Judge Mark Atkinson

Bob Wessels, Court Manager

Ed Wells, Assistant Court Manager, Administration & Public Information

Marshall Shelsey, Staff Attorney

Harry Leverette, Assistant Court Manager, Information & Technology Resources

Yolande Florido, Court Coordinator, Court 4

Brenda Bedford, Court Coordinator, Court 12

Mary Smith, Court Coordinator, Court 13

Laura Colbert, Court Coordinator, Court 15

Harris County Community Supervision and Corrections Department

Paul Becker, Director

Kim Valentine, Deputy Director, Operations

Gilbert Garcia, Deputy Director, Finance

Shueyun Ko, Branch Chief, Information Technology

Sam Smith, Residential Programs Facility Director

Winfred Dean, Branch Director, Sex Offender Unit

Debbie Castello, Branch Director, Special Programs

Clara Perez, Branch Director, West Region

Josie Rodriguez, Branch Director, South Region

Elaine Hilton, Human Resources Manager

Sandra Cortes, Staff Development

Joel Zamarripa, Branch Director, Community Partnerships and Client Support

Donna Battenfield, Court Services

Neil Wilson, Change Through Intervention (CTI) & Residential Program Manager

Harris County Pretrial Services

Carol Oeller, Director

Harris County Mental Health and Mental Retardation Authority

Dr. Stephen B. Schnee, Executive Director

Rose Childs, Deputy Director, Mental Health Services Division

Kim Kornmayer, MCOT/CIRT

Dr. Daryl Knox, Medical Director-CPEP

Barbara Dawson, Deputy Director, NPR Neuropsychiatric
Center

Dr. Sylvia Muzquz, Medical Director, Mental Health
Services

Monalisa Jiles, MHMRA Operations at Harris County Jail

Dr. Charles Kopecky, Medical Director, Psychiatric Emergency
Services (PES)

Harris County Attorney's Office

Vince Ryan, County Attorney

Marc Hill, First Assistant County Attorney

Terry O'Rourke, Special Counsel

Kim Ogg

Harris County District Clerk's Office

Loren Jackson, District Clerk

Margaret Wolfe, Director, Criminal Bureau

Harris County Management Services

Dr. Dick Raycraft, Director

Amir Rashid

Clarissa Stephens

Ronny Velez

Kevin Seat

Harris County Commissioners Court

Commissioner Sylvia Garcia

Gloria Moreno, Aide to Commissioner Garcia

Caprice Cosper, Aide to Commissioner Radack

Houston Police Department

Chief Mike Thaler (Patrol)

Lt. Mike Lee (Mental Health Unit; CIT/CIRT)

Joe Pennington, Senior Police Officer (HPD Liaison with DA's Office)

Service Providers in Harris County

Willis Robinson, Houston Department of Health and Human Services, Community Re-Entry Program

Frances Isbell, Executive Director, Healthcare for the Homeless