



# INTERIM REPORT

## TO THE 88<sup>TH</sup> TEXAS LEGISLATURE

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HOUSE COMMITTEE ON  
COUNTY AFFAIRS  
NOVEMBER 2022

**HOUSE COMMITTEE ON COUNTY AFFAIRS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2022**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
88TH TEXAS LEGISLATURE**

**LYNN STUCKY  
VICE-CHAIRMAN**

**COMMITTEE CLERK  
JORDAN OVERTURF**

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Committee On  
County Affairs

November 14, 2022

Lynn Stucky  
Vice-Chairman

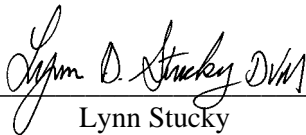
P.O. Box 2910  
Austin, Texas 78768-2910

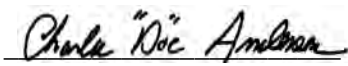
The Honorable Dade Phelan  
Speaker, Texas House of Representatives  
Members of the Texas House of Representatives  
Texas State Capitol, Rm. 2W.13  
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

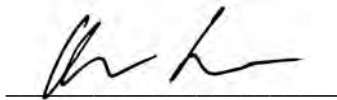
The Committee on County Affairs of the Eighty-seventh Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-eighth Legislature.

Respectfully submitted,

  
Lynn Stucky

  
Charles "Doc" Anderson

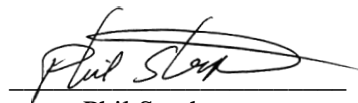
  
Jeff Cason

  
Oscar Longoria

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Jolanda Jones

  
Ray Lopez

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David Spiller

  
Phil Stephenson

  
John Turner



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# INTRODUCTION

In the 87th Legislative Session, the Honorable Dade Phelan, Speaker of the Texas House of Representatives, appointed nine members to the House Committee on County Affairs: Dr. Lynn Stucky, Vice-Chair; Charles “Doc” Anderson; Jeff Cason; Jolanda Jones; Oscar Longoria; Ray Lopez; David Spiller; Phill Stephenson; and John Turner.

The House Rules adopted by the 87th Legislature give the House Committee on County Affairs its jurisdiction. Rule 3, Sec. 6 reads as follows:

The committee shall have nine members, with jurisdiction over all matters pertaining to:

1. counties, including their organization, creation, boundaries, government, and finance and the compensation and duties of their officers and employees;
2. establishing districts for the election of governing bodies of counties;
3. regional councils of governments;
4. multicounty boards or commissions;
5. relationships or contracts between counties;
6. other units of local government; and
7. the following state agency: the Commission on Jail Standards.

During the interim, the Speaker assigned charges to the Committee.

The Committee on County Affairs held the following hearing:

- June 14, 2022, Capitol Room E2.014, Austin, Texas
- June 15, 2022, Capitol Room E1.030, Austin, Texas (Joint-Hearing with the Committee on Corrections).



## INTERIM STUDY CHARGES

### **CHARGE I: Legislative Review**

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 87th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

- HB 1545, relating to the continuation and functions of the Commission on Jail Standards;
- HB 1906, relating to grants awarded to reimburse counties for the cost of monitoring defendants and victims in cases involving family violence; and
- HB 2073, relating to quarantine leave for firefighters, peace officers, detention officers, and emergency medical technicians employed by, appointed by, or elected for a political subdivision.

### **CHARGE II: Border County Operations**

Complete a study of assigned charges related to the Texas-Mexico border issued in June 2021.

- Review the existing and anticipated populations in state prisons and city and county jails located near the Texas-Mexico border.
- Make recommendations for alleviating or addressing any increase or over-crowding that may result as well as any other particularized needs or circumstances that have arisen or could arise as a result of an increase in population in correctional facilities, including, but not limited to, intake capacity, adequacy of facilities and other health and safety considerations.
- Make recommendations to mitigate any associated costs borne by border counties and municipalities. (*Joint charge with Committee on Corrections*)

### **CHARGE III: Transfer Fees**

Study statutorily mandated services provided by sheriffs and constables and determine whether fee schedules are set at sufficient levels to allow for cost recovery without placing undue burdens on recipients of those services.

### **CHARGE IV: Mental Health Services in Texas Criminal Justice**

For individuals in county jails and Texas Department of Criminal Justice facilities, or on community supervision or parole, examine:

- The availability of behavioral health services; and
- The current treatment and recovery options available for those who are experiencing withdrawal from drug or alcohol use.
- Make recommendations for best practices to address the needs of individuals requiring treatment. (*Joint charge with Committee on Corrections*).

## **CHARGE I: Legislative Review**

*Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 87th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:*

- *House Bill 1545, relating to the continuation and functions of the Commission on Jail Standards;*
- *House Bill 1906, relating to grants awarded to reimburse counties for the cost of monitoring defendants and victims in cases involving family violence; and*
- *House Bill 2073, relating to quarantine leave for firefighters, peace officers, detention officers, and emergency medical technicians employed by, appointed by, or elected for a political subdivision.*

### **BACKGROUND**

#### *House Bill 1545*

HB 1545 was passed by the 87<sup>th</sup> Legislature as part of the annual Texas Sunset Advisory Commission recommendation for changes to the Texas Commission on Jail Standards.

#### *House Bill 1906*

HB 1906 was passed by the 87<sup>th</sup> Legislature to provide grant funding for the implementation of a program to monitor individuals accused of domestic violence or assault. The funding would allow the program to alert victims of domestic violence or assault to be notified if their attacker is in proximity to their current location, or a location from which the individual being monitored under court order is currently prohibited from accessing.

#### *House Bill 2703*

HB 2703 was passed by the 87<sup>th</sup> Legislature to create uniform standards for managing the mandatory quarantining of a first responder during a pandemic. The goal of the legislation is to create uniform standards for when a police officer, firefighter, or emergency medical technician must receive pay for quarantining after contracting a virus while working in their official capacity as a first responder.

### **SUMMARY OF COMMITTEE ACTION**

#### Committee Hearing:

- June 14, 2022, Capitol Room E2.014, Austin, Texas

#### Witnesses:

- Hawthorne, Brian (Self; Sheriffs Association of Texas)
- Haynes, Adam (Conference of Urban Counties)
- Wood, Brandon (Texas Commission on Jail Standards)
- Haynes, Adam (Conference of Urban Counties)
- Klein, Inna (Self; Nueces County Judge)
- Friedrichs, Andrew (Office of the Governor, Trusteed Programs)

- Jones, Chris (Combined Law Enforcement Associations of Texas (CLEAT))
- McCutcheon, Brad (Self; Texas State Association of Firefighters)
- Wilkerson, John (Texas Municipal Police Association (TMPA))
- Martinez, Mario A. (Texas State Troopers Assn.)

## **FINDINGS**

### **HB 1545**

As part of its annual Texas Sunset Advisory Commission process, the Texas Commission on Jail Standards<sup>1</sup> underwent a review and statutory update of responsibilities via House Bill 1545<sup>2</sup>. This Sunset review<sup>3</sup> came at a time when Texas is experiencing a growth in county jail populations due to two major factors: general population increases and the standing up of Operation Lone Star along the Texas-Mexico border.

This charge specifically looks to review the implementation status by the commission, as well as receive feedback from stakeholders on the success of that implementation. While growth and workforce issues continue to be a struggle (Appendix A), the overall response from stakeholders points to an ongoing successful implementation of HB 1545.

Continued implementations in June 2022 included:

- Encourage jails to adopt operational plans that exceed minimum jail standards.
- The inspectors' procedure manual will lay out the entire inspection process. Includes a revision of the inspection process to a national standard. Will be a more formalized process once implemented.
- Address non-jurisdictional complaints in a different matter. This is still under review because of a question on authority. Will continue to track these complaints. The follow-up process is still being worked on.
- Expand the website and publish additional information collected for ease of access. Data tracking and data sharing has been addressed.
- Staffing analysis to repurpose FTEs. Have done this and have repurposed FTEs for inspection and complaint resolution operations.
- Annual report to have additional recommendations that would be presented to the legislature.

A highlight of the disparity between the Commission and the 239 facilities under its purview includes a conflict of opinion on the new risk-based inspection schedule. Proponents of the new schedule highlight 13 risk factors included in Government Code Sec. 511.0085 to prioritize jails with a greater need for oversight<sup>4</sup>:

*(a) The commission shall develop a comprehensive set of risk factors to use in assessing the overall risk level of each jail under the commission's jurisdiction. The set of risk factors must include:*

*(1) a history of the jail's compliance with state law and commission rules, standards, and procedures;*

- (2) *the population of the jail;*
- (3) *the number and nature of complaints regarding the jail, including complaints regarding a violation of any required ratio of correctional officers to inmates;*
- (4) *problems with the jail's internal grievance procedures;*
- (5) *available mental and medical health reports relating to inmates in the jail, including reports relating to infectious disease or pregnant inmates;*
- (6) *recent turnover among sheriffs and jail staff;*
- (7) *inmate escapes from the jail;*
- (8) *the number and nature of inmate deaths at the jail, including the results of the investigations of those deaths; and*
- (9) *whether the jail is in compliance with commission rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments, and the requirements of Article 16.22, Code of Criminal Procedure, regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness or an intellectual disability.*

*(b) The set of risk factors developed under this section may include the number of months since the commission's last inspection of the jail.*

*(c) The commission shall use the set of risk factors developed under this section to guide the inspections process for all jails under the commission's jurisdiction by:*

- (1) establishing a risk assessment plan to use in assessing the overall risk level of each jail; and*
- (2) regularly monitoring the overall risk level of each jail.*

Once the system is fully implemented it is expected to reduce the burden on jail inspectors who divide the workload evenly. Opponents of the system say annual inspections under the previous statutory authority serve as a motivator for staff to continue to adhere to the state's jail standards and as serve as a point of pride. Others are concerned the change in annual inspections will put staff and inmates in danger.

A highlighted portion from the Texas Jail Project (TJP) testimony points directly to concerns over the change from annual inspections to a risk-based ranking system:

*The Sunset process and HB 1545 correctly identify some of the weaknesses of the inspection process and requires new rules and policies with the goal of creating a more responsive and comprehensive inspections system. According to TCJS, the only way the*

*agency can follow Sunset's directives is by shifting its mandatory annual cycle to one every 24 months. However, by removing the requirement for annual inspections and directing TCJS to conduct more comprehensive re-inspections, the Sunset Commission has created more hazardous conditions for the approximately 65,000 people who are incarcerated monthly in our 239 county jails. TJP strongly objects and warns that if TCJS is forced to reduce inspections to once every two years, the consequences will be dire, with an increase in the number of psychiatric emergencies and infectious disease outbreaks as well as a greater likelihood of risk and hazards for both jail staff and incarcerated folks. In no way will more stringent requirements for analysis and follow-up on failed inspections negate the necessity for annual inspections. Issues concerning changes in staffing levels and especially with privatized medical providers, insufficiencies within the command structure, and the physical wear and tear of a facility, are just a few of the areas that can deteriorate considerably over the course of 2 years. On-site annual inspection is absolutely necessary for serious problems to be observed and corrected.*

Additional workforce challenges highlighted in TCJS revolve around the complaint management system and fulfilling public information requests (Appendix A). TCJS officials say through the restructuring, they have been able to reassign responsibilities to cover the new operational protocols. Those employees are being stretched to capacity under current conditions. TCJS officials foresee the need to request additional funding to expand the existing workforce to adequately serve inmates, jail staff and the public.

TCJS officials noted the original budget analysis of HB 1545 found no fiscal impact<sup>5</sup>. As implementation has taken place, it has become a balancing act to maintain the budget while still carrying out these mandates as efficiently as possible. Funding availability remains uncertain as the program scales larger. Specific areas of funding need include for the new complaint response program and the staff necessary to manage those investigations.

## **HB 1906**

House Bill 1906<sup>6</sup> sought to provide grants to reduce the additional costs of funding a monitoring program for defendants and victims of domestic violence. Because of the complexity of funding, the bail system, and other factors, there are some hurdles yet to be addressed in HB 1906 to ensure effective implementation.

Federal funding is authorized for these projects under the Violence Against Women Act of 2013 Pub. L. No. 113-4 (VAWA 2013).<sup>7</sup> VAWA funds are made available through a Congressional appropriation to the U.S. Department of Justice, Office on Violence Against Women. All awards are subject to the availability of appropriated federal funds and any modifications or additional requirements that may be imposed by law.

Applications may be submitted by state agencies, public and private non-profit institutions of higher education, independent school districts, Native American tribes, councils of governments, non-profit corporations (including hospitals and faith-based organizations) and units of local government, which are defined as a non-statewide governmental body with the authority to

establish a budget and impose taxes (includes hospital districts). Other local governmental agencies should apply through an associated unit of local government.

Applicants seeking to provide direct services to victims of crime are not eligible under this solicitation and should apply under the General Victim Assistance Program Funding Announcement.

### **Eligible Activities and Costs**

The following list of eligible and ineligible activities and costs apply generally to all projects under this announcement:

1. Training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault, domestic violence, dating violence, and stalking;
2. Developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault, domestic violence, dating violence, and stalking;
3. Developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault, domestic violence, dating violence, and stalking, as well as the appropriate treatment of victims;
4. Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying, classifying, and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault, domestic violence, dating violence, and stalking;
5. Supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by state funds, to coordinate the response of state law enforcement agencies, prosecutors, courts, victim services agencies, and other state agencies and departments, to violent crimes against women, including the crimes of sexual assault, domestic violence, dating violence, and stalking;
6. Training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault;
7. Developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of sexual assault, domestic violence, dating violence, or stalking, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals; 8. Developing and promoting state or local policies that enhance best practices for responding to sexual assault, domestic violence, dating

violence, and stalking;

9. Developing, implementing, or enhancing Sexual Assault Response Teams, or other similar coordinated community responses to sexual assault;

10. Developing and strengthening policies, protocols, best practices, and training for law enforcement agencies and prosecutors relating to the investigation and prosecution of sexual assault cases and the appropriate treatment of victims.;

11. Identifying and conducting inventories of backlogs of sexual assault evidence collection kits and developing protocols and policies for responding to and addressing such backlogs, including protocols and policies for notifying and involving victims.

Entities receiving funds from PSO must be located in a county that has an average of 90% or above on both adult and juvenile dispositions entered into the computerized criminal history database maintained by the Texas Department of Public Safety (DPS) as directed in the Texas Code of Criminal Procedure, Chapter 66. The disposition completeness percentage is defined as the percentage of arrest charges a county reports to DPS for which a disposition has been subsequently reported and entered into the computerized criminal history system.

Beginning January 1, 2021, counties applying for grant awards from the Office of the Governor must commit that the county will report at least 90 percent of convictions and other dispositions within five business days to the Criminal Justice Information System at the Department of Public Safety.

The goal of HB 1906 was to provide additional layers of protection for victims of domestic violence by having a monitoring system that tracks alleged or convicted abusers' activity when not being housed in a jail or prison. The cost of the monitoring is billed either directly to the defendant, or to the county in the case of a defendant who is eligible to claim indigency. This has created a cause of concern for program managers who do not believe they can count on grant funds to offset the costs of supplying monitoring to indigent defendants.

Data from Nueces, Harris, and Brazoria County grant awards show a breakdown of potential costs for HB 1906 authorized programs:

<b>NUECES COUNTY</b>	
Monitoring Offenders Against Women	
<b>Current Award Amount:</b> \$21,651.14	<b>Budget Category:</b> Contractual and Professional Services
Security and Monitoring Services	
<p>Contractual services for GPS monitoring; \$75.00 initial Set-up Fee; The County will contract with Recovery Healthcare Services to provide GPS monitoring services for domestic violence offenders in an effort to improve victim safety. The contractor will provide equipment installation and monitoring services at a daily rate of \$7.00 per day. All equipment/accessories will be provided at no charge to the County. The County expects to serve approximately 145 total offenders within the project's one-year period. On average, an offender is monitored for approximately 60-65 days.</p> <p>Budget calculated at 145 offenders X \$7.00 per day X 65 days = \$65,975.</p>	
AMOUNT BUDGETED	
\$21,651.14	
MATCH BUDGETED	
\$19,778.57	

*Harris County table on the next page ...*



HARRIS COUNTY		
Special Victims Prosecution and Protective Order Project		
Current Award Amount: \$180,000		Budget Category: Personnel
<p>Domestic Violence Prosecutor. Review and evaluate felony domestic violence charges and prepare cases for trials to prosecute and screen felony domestic violence charges to ensure consistently enhanced offender accountability, present victims' cases in court, and work with judges to advocate for a tailored safety plan for the victim, which includes preventive measures such as protective orders and GPS during the pretrial stage.</p> <p>Salary \$128,000 + 45,060 Fringe = \$173,060</p>	<p>Domestic Violence Prosecutor. This prosecutor will support our high-risk domestic violence prosecution team and are responsible for preparing cases for trials, prosecuting and screening domestic violence charges to ensure consistently enhanced offender accountability, presenting victims' cases in court, and working with judges to advocate for a tailored safety plan for high-risk victims of domestic violence, which includes preventive measures such as protective orders and GPS during the intake and pretrial stages.</p> <p>Total annual salary \$87,000 + 33,928 fringe benefits = \$120,928</p>	<p>Domestic Violence Prosecutor. This prosecutor will support our high-risk domestic violence prosecution team and are responsible for preparing cases for trials, prosecuting and screening domestic violence charges to ensure consistently enhanced offender accountability, presenting victims' cases in court, and working with judges to advocate for a tailored safety plan for high-risk victims of domestic violence, which includes preventive measures such as protective orders and GPS during the intake and pretrial stages.</p> <p>Total annual salary \$87,000 + 33,928 fringe benefits = \$120,928</p>
<b>AMOUNT BUDGETED</b>		
\$60,000.00	\$36,261.30	\$23,738.70
<b>MATCH BUDGETED</b>		
\$0	\$0	\$0

*Brazoria County table on the next page ...*

**BRAZORIA COUNTY**

Brazoria County Domestic Violence Court Program

<b>Current Award Amount:</b> \$189,865.28	<b>Budget Category:</b> Contractual and Professional Services
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Security and Monitoring Services	Court Personnel (e.g., Advocate, Coordinator, Officer, Reporter)
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<p>The Domestic Violence Court Program will utilize these funds to pay for location monitoring services for perpetrators of violence: GPS monitoring. Funds will be utilized for Domestic Violence offenders who are supervised under the Domestic Violence Court Community Supervision Officer/Case Manager and are unable to pay for the GPS. GPS devices are utilized to verify that the offender is in compliance with a no contact order and/or curfew. A GPS device is ordered for a minimum of 6 months on all offenders placed in the program who have been court ordered to have no contact with the victim in the case. Utilizing these funds will help to avoid any excuses as to why the GPS could not be obtained, or had to be cut off/deactivated due to non-payment. With permission from the victim, the GPS company is notified of the victims contact information, so the victim is notified immediately by the company if the offender goes within 500 or 1,000 feet (depending on court order) of the victim’s residence, school, or work.</p> <p>There are multiple available vendors for GPS, however typically, The Brazoria County Domestic Violence Court Program utilizes Gulf Coast Monitoring Services for GPS devices. The average monthly fee for GPS device is \$280.00 per month, plus a \$75.00 installation fee.</p>	<p>Duties of the Case Manager/Supervision Officer:</p> <ol style="list-style-type: none"> <li>1. Case management;</li> <li>2. Conducts weekly office visits with participants;</li> <li>3. Attends weekly staffing and court sessions;</li> <li>4. Monitors drug test results;</li> <li>5. Corresponds and interfaces, as required, with Courts, CSCD, Sheriff’s Office, District Attorney’s Office, attorneys, treatment providers, and other county departments and community;</li> <li>6. Administers TRAS Assessment;</li> <li>7. Provides employment and life skills referrals to participants;</li> <li>8. Monitors treatment progress reports.</li> <li>9. Attends conferences and training to increase and maintain a professional knowledge of domestic violence, sexual assault, and specialty court operations;</li> <li>10. Conducts field visits with the Program Coordinator;</li> <li>11. Monitors GPS reports. The case manager will supervise all offenders placed in the DV Court program and will also supervise high-risk Domestic Violence offenders, who will be screened by the Program Manager upon any probation violations for potential placement in the Domestic Violence Court Program.</li> </ol> <p>The Community Supervision Officer/Case Manager's full salary and fringe benefits are estimated at \$62,508.04 (Salary of \$51,000.00/year + TCDRS-Retirement - \$7,051.76; AUL-Alt Retirement - \$3,459.41; Medicare Taxes - \$812.79; Worker's Compensation - \$100.00; and Unemployment Taxes - \$84.08).</p>
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<b>AMOUNT BUDGETED</b>	
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\$30,000.00	\$62,508.04
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<b>MATCH BUDGETED</b>	
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\$0	\$0
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## HB 2073

House Bill 2073 offered political subdivisions (namely, cities and counties) a codified response to quarantine measures for first responders in the wake of the COVID pandemic<sup>8</sup>. Proponents say the bill effectively targeted those police, firefighters, and EMTs for relief when contracting the virus while on-duty.

However, stakeholders point out that the bill also leaves out a significant portion of personnel, both those covered by political subdivisions and state employees not included in the bill's definition. And because of a conflict with the language in SB 22, which was also signed into law, there remains a gap for covering certain employees not included under the definition of first responders.

Dallas County officials offered the following example of costs to the county under HB 2073:

*As of May 1, 2022, Dallas County paid \$251,709 for 5,570 hours of quarantine leave with no assistance from the State to offset those costs to taxpayers. We are currently able to use federal COVID-19 funding to cover the costs associated with this new mandate. However, the eligibility period for those funds ends on December 31, 2024. Should the 88th Legislature determine this benefit is still warranted, we recommend the State provide funding to cover the cost of this new mandate by the State on local jurisdictions or allow it to expire by or before December 31, 2024. Otherwise, local property taxpayers will pick up the expense of this new benefit mandated by the State of Texas.*

The Texas Municipal Police Association offered the following analysis of HB 2073, with a request for clarification on its interaction with Senate Bill 22:

*The passage of HB 2073 has protected the small segment of society willing to make the ultimate sacrifice for their fellow Texans. Protections like this remind this profession the Texas Legislature is the best in the County. While Texas is sharing the same recruitment and retention difficulties other states are facing, your commitment to protecting the protectors is a beacon in which all other states should strive to follow. ...*

*Removal of the phrase "by a political subdivision" under the changes made in Sec. 180.008(a)(5). There are "Peace officers" employed by entities not covered under the definition of "political subdivision." For example, a campus police officer for the University of Texas at Arlington does not fall under this definition. Nor do your State Troopers, agents of the Texas Alcoholic Beverage Commission, Game Wardens, and various other state agencies. ...*

*Public safety employees diagnosed with COVID-19 have been caught in limbo. This has led to mandatory quarantine periods, yet most governing bodies have utilized the "catch-22" by saying this is a workers compensation issue, while workers compensation has denied the claim, and the public safety employee is forced to take all of their personal time off simply to survive or go unpaid during their time taken off.*

## RECOMMENDATIONS

By June 2022, the Commission had successfully implemented several components of HB 1545. Among the areas of focus are the new inmate complaint system and the fulfillment of open records requests. The Commission highlighted an increased workload from the new processing standards for inmate complaints. Based on the input from stakeholders, the committee makes the following recommendations:

- Review the implementation status of the Commission's recommended changes under HB 1545, with a particular interest in the budgetary forecast related to inmate complaint resolution and inspector workload.
- Study the potential for sheriffs to request an inspection no earlier than 12-months following a previous inspection. This would allow Sheriffs to maintain ongoing protocols and incentivize staff to adhere to standards, while also limiting the strain on resources as the commission continues implementation of the risked-based inspection schedule.
- Study ongoing workforce struggles at the commission and in local jails with an interest in recruitment and retention protocols.
- Study the impacts of Operation Lone Star on the counties where law enforcement and military operations are taking place with an interest in the fiscal impact on county jails. This study may include a review of operations at the temporary processing facilities converted from TDCJ facilities into county jail facilities.

The implementation of HB 1906 has been less successful as there have been additional changes by the legislature to the state's bail system. A main point of contention with HB 1906 surrounds the funding of its implementation and whether the costs of indigent-covered monitoring should be covered by counties, TDCJ, or the state. The contention surrounds tying this program to grant funds as opposed to a direct appropriation.

Based on input from stakeholders, the committee offers the following recommendations:

- Study the specific costs related to implementation for a small, medium, and large county. The study should include a look at court cost allocation by county and whether the fees collected from those court costs could be used as a source to offset indigent defendant monitoring. The study should also include an updated audit of indigent defense in the state for a greater understanding of the burdens facing counties under current law for indigent defense.
- Study the efficacy of GPS-monitors and the cost difference notifications for a probation officer vs notifications for a victim and a probation officer. The study should examine ease of use and timeliness of notifications sent to victims and probation officers. It should also include a look at competitive pricing among vendors for these services.

HB 2073 was effective in covering a large portion of first responders. To ensure all-affected employees are covered, the committee offers the following recommendations:

- Review the guidelines surrounding communal living as it relates to firefighters, who often share habitation areas while on duty.
- Review expanding the language to include state-employed first responders not covered by a political subdivision, as well as broaden the inclusion of other county employees who do not fit the initial definition of first responders.
- Review the conflicts between SB 22, which may presume a first responder contracted a virus on duty, and HB 2073, which stipulates that an employee must use available sick leave and paid time off if a virus is contracted outside of official duties.
- Review and clarify protocols for determining when and how a defined first responder contracted a virus that would qualify for the quarantine protocols under HB 2073.

## **CHARGE II: Border County Operations**

*Complete a study of assigned charges related to the Texas-Mexico border issued in June 2021.*

- *Review the existing and anticipated populations in state prisons and city and county jails located near the Texas-Mexico border.*
- *Make recommendations for alleviating or addressing any increase or over-crowding that may result as well as any other particularized needs or circumstances that have arisen or could arise as a result of an increase in population in correctional facilities, including, but not limited to, intake capacity, adequacy of facilities and other health and safety considerations.*
- *Make recommendations to mitigate any associated costs borne by border counties and municipalities. (Joint charge with Committee on Corrections)*

### **BACKGROUND**

Governor Abbott launched Operation Lone Star in March 2021 to respond to a rise in illegal immigration<sup>9</sup>. In May, Governor Abbott issued a disaster declaration that now covers 48 counties, mostly counties along or near the border.

The declaration directed the Department of Public Safety to “use available resources to enforce all applicable federal and state laws to prevent the criminal activity along the border, including criminal trespassing, smuggling, and human trafficking, and to assist Texas counties in their efforts to address those criminal activities.”

The following month, the Governor opened Texas Department of Criminal Justice (TDCJ) facilities for detaining arrested persons under Operation Lone Star.

### **FINDINGS**

As part of Operation Lone Star, TDCJ was allocated \$21.3 million to convert or retrofit three TDCJ facilities into county jails to assist with processing individuals encountered on the border. The fund were used to bring the TDCJ facilities into compliance with minimum standards for county jails under the TCJS regulatory authority.

In August 2022, the Governor’s Office reported “Since the launch of Operation Lone Star, the multi-agency effort has led to more than 296,000 migrant apprehensions and more than 18,700 criminal arrests, with more than 16,000 felony charges reported. In the fight against fentanyl, DPS has seized over 326 million lethal doses during this border mission.”<sup>10</sup>

TCJS is a supporting agency for Operation Lone Star. The Commission reports all county jails along the border have seen an increase in population since Operation Lone Star took effect. These operations include processing individuals through the temporary processing facilities. Most individuals processed are being charged with criminal trespassing. These increases in population are putting additional pressure on local operations. Individuals detained for criminal trespassing are being connected with legal representation through the courts. That representation is assigned during the magistrate process.

The result is a complicated system that includes input from local, state, and federal law enforcement agencies, as well as nonprofits assisting the individuals who are detained for criminal trespass or other offenses.

## **RECOMMENDATIONS**

Continue to monitor the impact on county jails and ensure that communities within the Operation Lone Star area of engagement have adequate resources for supporting border security and law enforcement needs.

## **CHARGE III: Transfer Fees**

*Study statutorily mandated services provided by sheriffs and constables and determine whether fee schedules are set at sufficient levels to allow for cost recovery without placing undue burdens on recipients of those services.*

### **BACKGROUND**

The Texas Constitution guarantees a right to habeas corpus to individuals accused of a crime. This charge examines the current costs associated with local officials executing this right and inquires whether the current fee structure authorized by the legislature is adequate to cover those costs.

### **SUMMARY OF COMMITTEE ACTION**

#### Committee Hearing:

- June 14, 2022, Capitol Room E2.014, Austin, Texas

#### Witnesses:

June 14, 2022, Capitol Room E2.014, Austin, Texas:

- Lopez, Carlos (Justices of the Peace and Constables Association of Texas)

### **FINDINGS**

In 1999, the Texas Legislature established that counties would receive a \$50 recovery fee for executing the right to habeas corpus. Since then, the costs associated with this program have increased beyond that fee. Based on testimony, current costs to counties are between \$75 and \$150 per defendant.

According to witness testimony, there is an average of 3 million arrest warrants and capias pro fines issued by court each year. The estimated costs of bringing defendants before the court are about \$13.7 million each year supplemented to the counties. At the same time, it is estimated that Texas courts bring in \$335 million in court fees that are deposited to a county's general fund.

For defendants that can afford it, they carry the costs via court fees. For indigent defendants, the county carries the cost, which is being subsidized by local property taxpayers.

### **RECOMMENDATIONS**

- Study the fiscal impact to the state and localities of increasing the recovery fee from \$50 to \$90. The study should include a review of court fee collections by county and whether these costs could be covered locally or will be maintained by state funding. The study should also highlight the disparity between the cost paid by defendants and the cost to the county for indigent defendants.



## **CHARGE IV: Mental Health Services in Texas Criminal Justice**

*For individuals in county jails and Texas Department of Criminal Justice facilities, or on community supervision or parole, examine:*

- *The availability of behavioral health services; and*
- *The current treatment and recovery options available for those who are experiencing withdrawal from drug or alcohol use.*
- *Make recommendations for best practices to address the needs of individuals requiring treatment. (Joint charge with Committee on Corrections).*

### **BACKGROUND**

This charge seeks to examine the current state of mental health services provided to Texas inmates, current collaborations, and specific reviews of substance abuse treatment programs. The result is a culmination of best practices and recommended changes to improve existing services and expand the creation of new programs throughout the state. This is a joint charge with the Committee on Corrections, which separately seeks to identify specific solutions within Texas Department of Criminal Justice. Because of the integral relationship between county jails and state prisons, these charges are viewed as a collaborative effort to assess the efficacy of current mental health services within the state's larger criminal justice system.

In June 2022, the inmate population across 239 facilities is about 70,000 individuals. Of those, approximately 3,200 inmates were in Texas county jails awaiting transfer to a TDCJ facility.

### **SUMMARY OF COMMITTEE ACTION**

#### Committee Hearing:

- June 15, 2022, Capitol Room E1.030, Austin, Texas

#### Witnesses:

- Anderson, Jarvis (Bexar CSCD)
- Arredondo, Eduardo (Burnet County Attorney Office)
- Collier, Bryan (Texas Department of Criminal Justice)
- Davis, Colleen (Self; Burnet County Attorneys Office)
- Gaines, Sonja (HHSC)
- Hawthorne, Brian (Self; Sheriffs Association of Texas)
- Penn, Joseph (UTMB CMC)
- Wood, Brandon (Texas Commission on Jail Standards)
- Carter, Chris (TDCJ)
- Zamora, April (Texas Department of Criminal Justice)

### **FINDINGS**

During the pandemic, it was widely reported that there was a noticeable increase in individuals experiencing mental health crises across the nation<sup>11</sup>. Similarly, the populations of Texas's prisons and county jails saw a dramatic increase over the course of the pandemic, with Travis

County identifying 42% of inmates receiving mental health care<sup>12</sup>. One witness cited a report from Fort Bend County that found at least 54% of inmates had experienced mental health issues and were receiving medication or other treatment services. These increases in mental health events are putting treatment programs at capacity, where the counties can fund those resources. In rural counties, there continue to be areas that struggle with providing 24/7 mental health services to inmates in county jails.

Currently, Texas has 39 Local Mental Health Authorities (LMHAs) that provide regional services and outreach<sup>13</sup>. Witnesses testified that there are 22 LMHAs with working partnerships with local county jails. One struggle that was highlighted was a lack of uniformity across LMHAs, due in part to a funding disparity between rural and urban LMHA coverage areas.

- Professionals in County Jail Administration identify that their deputies and jailers are de facto mental health treatment specialists prior to an inmate's conviction and transfer to a TDCJ facility.
- Intake is where an inmate is first screened and any mental health issues are initially identified. County jails have 72 hours to provide a competency assessment to magistrates. If an additional assessment is required, it will be performed within 14 days.

The Texas Commission on Jail Standards (TCJS) reports that through these partnerships, jails are seeing better success in delivering assessments within statutory guidelines. Addressing mental health services is a discussion that specifically breaks down into separate categories: identification/assessment of need, delivery of services and/or medication, and continuity of care throughout an inmate's time in the justice system and through their transition back into society. Witnesses point out that diversion programs should also be a component of the review to create pathways to early intervention before an inmate gets to a felony conviction offense.

Workforce issues continue to be a critical hurdle in providing comprehensive services, especially in rural areas where recruitment and retention are the greatest challenges. One program that has shown success is the Mental Health Deputy program, which was created in the 85th Texas Legislature. The program funds full-time deputies within a Sheriff's Office to specifically address mental health services and crises, including training of other deputies. Funding for the program has not been reviewed since the 85th and witnesses believe the success of the program warrants further review.

From a statewide perspective, the Health and Human Services Commission (HHSC) currently works with 25 different state agencies carrying about \$4 billion in funding specifically for mental health services. This collaboration of agencies includes programs geared toward county jail and TDCJ's mental health services and programs. HHSC specifically allocates about \$1 billion in delivery of services through LMHAs, contractors, and nonprofits. They specifically work with LMHAs to navigate partnerships with jails, noting that many of these LMHAs are co-located within county jails.

As part of this greater effort across Texas, the Statewide Behavioral Health Coordinating Council brings together stakeholders representing dozens of entities that touch on mental health<sup>14</sup>. These include representatives from the Department of Family and Protective Services, the Texas Education Agency, the Texas Commission on Law Enforcement, the Texas Department of State Health Services, the Texas Department of Housing, institutions of higher education and health

science centers, the Texas Child Mental Health Consortium, the Texas Veterans Commission, the Texas Military Department, TCJS, TDCJ, the Texas Juvenile Justice Department, the Governor's Office, the Supreme Court, and other interested parties.

Through these partnerships, the coordinating council is reviewing data and programs to evaluate best practices. Currently, there is no single entity that has the authority to enforce implementation on local jails. The TCJS could be one possible delivery mechanism for these resources.

## **RECOMMENDATIONS**

Urban areas are finding the greatest success in building and standing up these programs, specifically when it comes to recruiting mental health professionals. Based on the input from stakeholders, the committee makes the following recommendations:

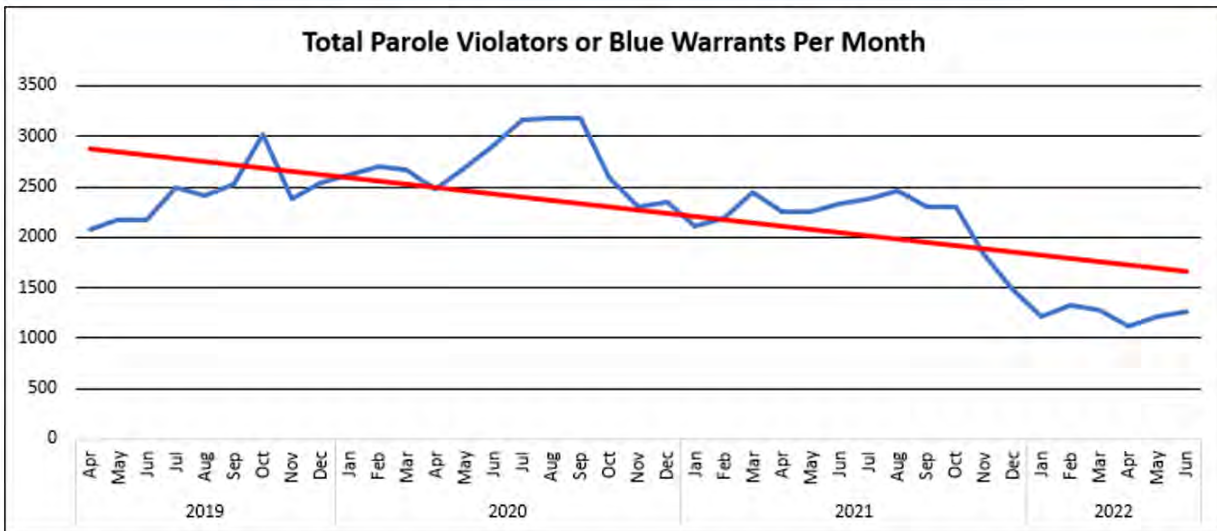
- There exists a current network that is available to create partnerships within LMHA regions to ensure the delivery of mental health services to county jails. One major hurdle is a lack of uniform standards and practices for LMHA operations. Direct the Statewide Behavioral Health Coordinating Council, or other appropriate entity, to evaluate existing partnerships between county jails and LMHAs and make recommendations to expand these partnerships. Many programs address funding challenges by co-locating the LMHAs within county jails.
- LMHAs are required to respond whenever there is a suicide crisis. It is unclear what the response times are for each county, or what a uniform standard should be for those regional response times. Some county jails have the facilities to treat these individuals, while others rely on LMHAs to provide services. A review of response times across TCJS-regulated facilities will provide clarity on current industry standards.
- Additionally, there is an existing Mental Health Deputy program that has found success in the initial implementation. The limited number of Mental Health Deputies within each jail – rural jails lack the funding or ability to create a full-time position within its operations – presents a challenge to make the program cover 24/7 crisis care. Lawmakers should study and consider options for expanding the Mental Health Deputies program.
- Information about prescriptions and treatment services provided by a county jail are provided to TDCJ when an inmate is transferred to a state prison. TDCJ has resources capable of providing continuity of care. Evaluate the transition process from county jails to TDCJ and from TDCJ to release and review any potential improvements to close gaps in continuity of care.
- Telemedicine has been a critical tool in improving delivery and access to care for inmates at the county level. These services, though not comprehensive, do provide a resource to rural counties that experience challenges in accessing available professionals. On-site services and treatment remain a challenge for rural counties. About 190 counties do not currently have the capacity to provide 24/7 mental health services to county inmates. Policymakers should study the barriers limiting access to telemedicine services in counties that do not have access to 24/7 mental health services to county inmates.

# Appendix A

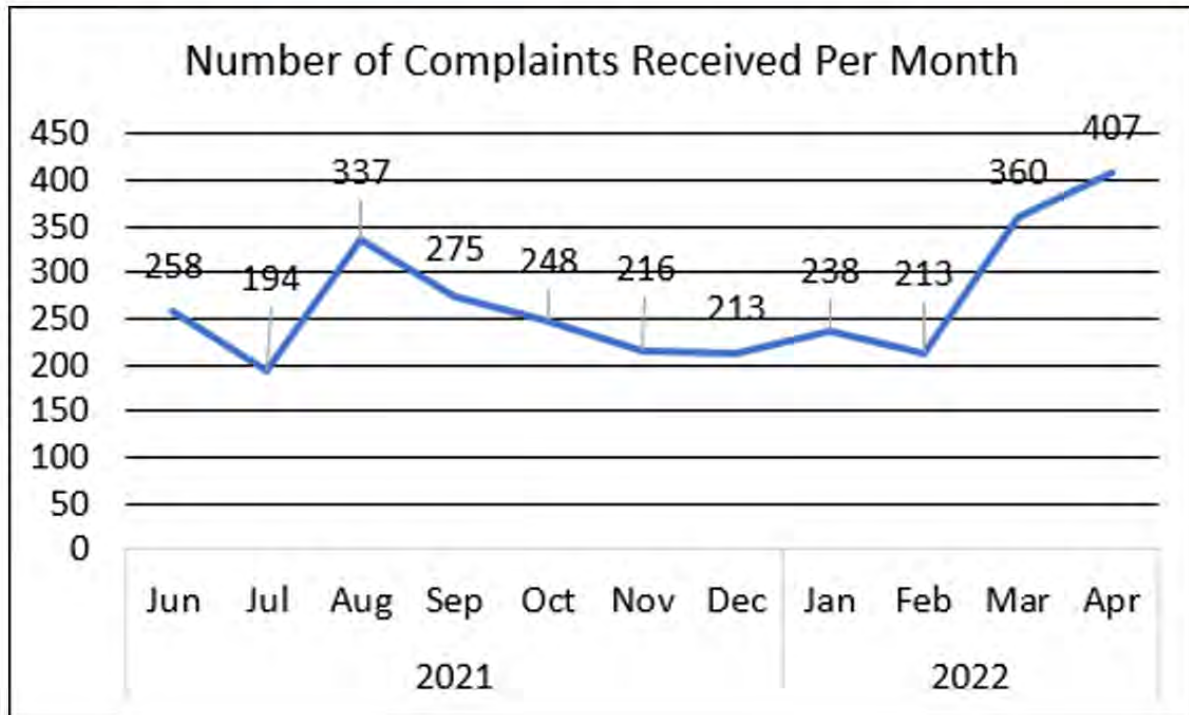
## Texas Commission on Jail Standards



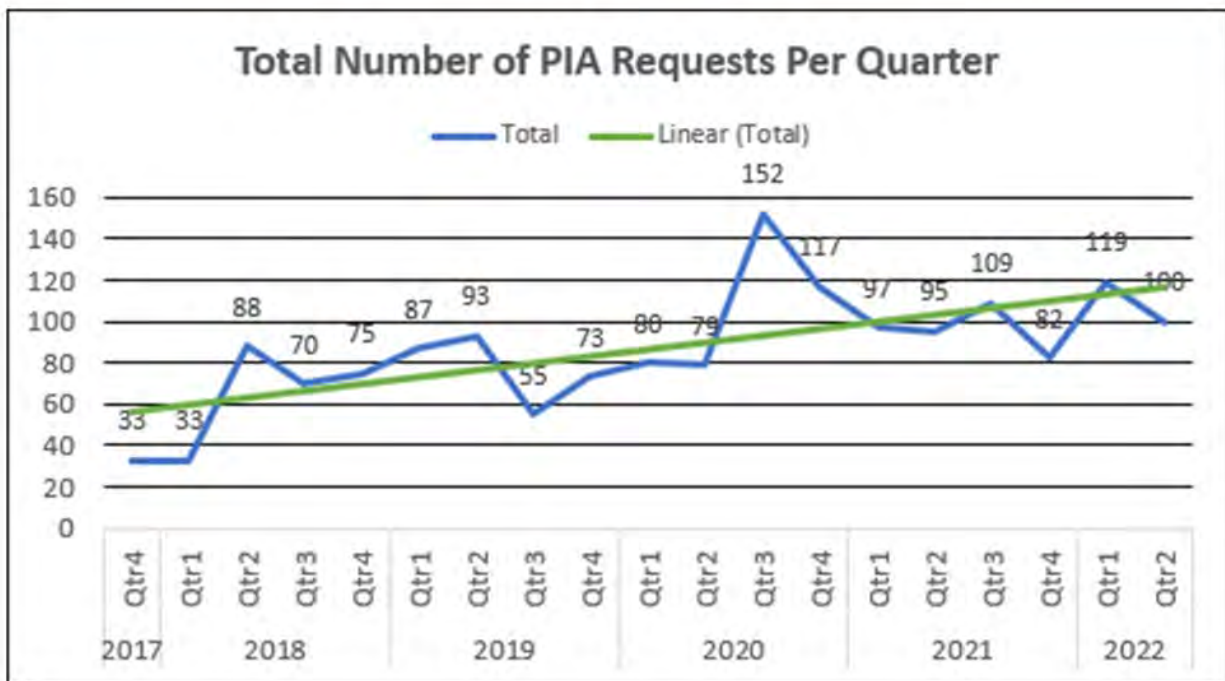
## Texas Commission on Jail Standards



## Texas Commission on Jail Standards



## Texas Commission on Jail Standards



## ENDNOTES

- <sup>1</sup> Texas Commission on Jail Standards website: <https://www.tcjs.state.tx.us/>
- <sup>2</sup> Texas Legislature Online, H.B. 1545 history: <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB1545>
- <sup>3</sup> Texas Sunset Advisory Commission review on Texas Commission on Jail Standards (2021-2022): <https://www.sunset.texas.gov/reviews-and-reports/agencies/texas-commission-jail-standards>
- <sup>4</sup> Texas Government Code 511: <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.511.htm>
- <sup>5</sup> Legislative Budget Board Fiscal Note, H.B. 1545: <https://capitol.texas.gov/tlodocs/87R/fiscalnotes/pdf/HB01545E.pdf#navpanes=0>
- <sup>6</sup> Texas Legislature Online, H.B. 1906: <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB1906>
- <sup>7</sup> [https://www.capcog.org/wp-content/uploads/2021/01/WF-VAWA\\_Announce\\_amend-com\\_PY22.pdf](https://www.capcog.org/wp-content/uploads/2021/01/WF-VAWA_Announce_amend-com_PY22.pdf)
- <sup>8</sup> Texas Legislature Online, H.B. 2073: <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB2073>
- <sup>9</sup> Office of the Texas Governor, “Operation Lone Star Mission Expands As Biden Ends Title 42 Expulsions,” April 8, 2022: <https://gov.texas.gov/news/post/operation-lone-star-mission-expands-as-biden-ends-title-42-expulsions>
- <sup>10</sup> Office of the Texas Governor, “Operation Lone Star Provides Vital Relief To Overrun Border Communities,” August 19, 2022: <https://gov.texas.gov/news/post/operation-lone-star-provides-vital-relief-to-overrun-border-communities>
- <sup>11</sup> World Health Organization report, March 2, 2022: <https://www.who.int/news/item/02-03-2022-covid-19-pandemic-triggers-25-increase-in-prevalence-of-anxiety-and-depression-worldwide>
- <sup>12</sup> “Keeping Mental Health Crises Out of the Criminal Justice System”: <https://dellmed.utexas.edu/news/keeping-mental-health-crises-out-of-the-criminal-justice-system>
- <sup>13</sup> Texas Health and Human Services website: <https://www.hhs.texas.gov/providers/behavioral-health-services-providers/local-mental-health-authorities>
- <sup>14</sup> Statewide Behavioral Health Coordinating Council website: <https://mentalhealthtx.org/the-statewide-behavioral-health-coordinating-council/>

