



Policy *Perspective*

Five Technological Solutions for Texas' Correctional and Law Enforcement Challenges

by Marc A. Levin, Esq.
Director, Center for Effective Justice

INTRODUCTION

Technological advances have played a major role in U.S. and global increases in productivity. Indeed, productivity has grown about 1.1 percent per year for sectors that have invested heavily in computers and approximately 0.35 percent for sectors that have invested less heavily.¹ Yet, the criminal justice system remains mired in paperwork from police reports to probation offices to prisons. For example, every month thousands of Texas parolees' paper files are hauled across the state to various parole board offices for review, though after many delays 500 of these files have now been computerized. Better utilization of technology in the criminal justice system can help control costs and maximize the productivity of personnel, and in some cases it can also improve outcomes such as recidivism, the crime rate, and the percentage of crimes solved.

ELECTRONIC MONITORING OF PROBATIONERS AND PAROLEES

Background

Electronic monitoring of offenders began in 1984 when Judge Jack Love of New Mexico was inspired by a Spiderman comic to couple radio frequency with a landline telephone to keep track of offenders on probation and parole.² With radio frequency monitoring, which remains widely used today, an offender wears a bracelet or anklet that emits a radio signal detected by a receiver connected to a home telephone. This is commonly referred to as home detention or house arrest because the system verifies whether the offender is at home but does not indicate where the offender is when he is not at home.

The next major advance in electronic monitoring was passive GPS. In a passive GPS

system, the GPS receiver collects data on the offender's location throughout the day, and once the offender returns home, that data is transmitted through the charging unit and landline to the supervising authority. Thus, unlike radio frequency, data is collected on an offender's whereabouts outside the home, although it is not transmitted in real-time.

The latest technology is active GPS monitoring. With this system, an offender's movements outside the home are monitored via cellular communications that transmit the collected GPS data points. Though the transmissions can occur on a real-time basis, for purposes of managing correctional staff workload, active GPS systems are often programmed to send updates somewhat less frequently, such as every five minutes or even every hour. Curfews can be set and zones are frequently designated where an offender is prohibited, such as restricting sex offenders from coming near schools.

All states at least use radio frequency in conjunction with house arrest, and at least 36 states currently use GPS to monitor offenders.³ The Texas Department of Criminal Justice's Parole Division has long used radio frequency but added passive GPS as a result of legislation passed in 1997 that established the Super Intensive Supervision Program (SISP). SISP is one of the conditions that the Board of Pardons and Paroles can attach to an inmate's parole terms. More than 1,400 parolees on SISP are now monitored through passive GPS.⁴ These are the highest-risk parolees, including sex offenders, prison gang leaders, as well as offenders with histories of violent assaults and extensive prison disciplinary records. In fact, most were not technically paroled but were automatically released

900 Congress Avenue
Suite 400
Austin, TX 78701
(512) 472-2700 Phone
(512) 472-2728 Fax
www.TexasPolicy.com

under the mandatory supervision law that has since been repealed and replaced with discretionary mandatory supervision, which gives the Parole Board the same discretion as formal parole.*

Tracking information from the passive system can be downloaded by the supervising Texas parole officer every six to twelve hours. Using a laptop, the officer sees green dots for those offenders who at the last interval were within their zones and red dots for those that have exceeded their boundaries. Generally, parolees on SISP must either be at work, in treatment, or at home and must schedule appointments to run errands, such as going to the grocery store. Parole Division Region I Director Jay Patzke said this stringent monitoring regiment gives the offenders structure and “basically forces them to lead normal lives.”⁵ Offenders can earn their way off of SISP through a solid record of compliance, and sometimes employers play a role by putting in a good word for the parolee with the Division. The efficiency of the parole system has been enhanced, as parole officers no longer have to drive as much as 70 miles to make sure an offender is at home, and contacts between SISP offenders and parole officers have been reduced from 15 to 9 a week. By contrast, parolees under minimum supervision need only have one contact with their parole officer per month.

A review of parole data also indicates that the SISP program appears to be reasonably effective given the circumstances. In 2006, 10.7 percent of all 77,000 parolees were revoked for a new conviction or a pending charge.⁶ However, only 8.7 percent of SISP offenders were revoked for this reason, even though they are the highest-risk group, including many violent offenders who would not have been released under the current discretionary system. SISP offenders had a much higher technical revocation rate of 16.8 percent compared to 2.6 percent for all parolees, but that is not surprising since they are on a much shorter leash and must comply with many more conditions.

Only 30 of the very highest-risk Texas parolees are currently on active GPS, whereas Florida has more than 700 offenders on active GPS.⁷ Active GPS offers the most intensive supervision because an offender's location is instantly reported. The primary downside of active GPS is that the equipment is more costly. For example, Tennessee reports costs in 2006 for active GPS of \$8.40 a day compared to \$4.50 a day for passive GPS.⁸ However, the

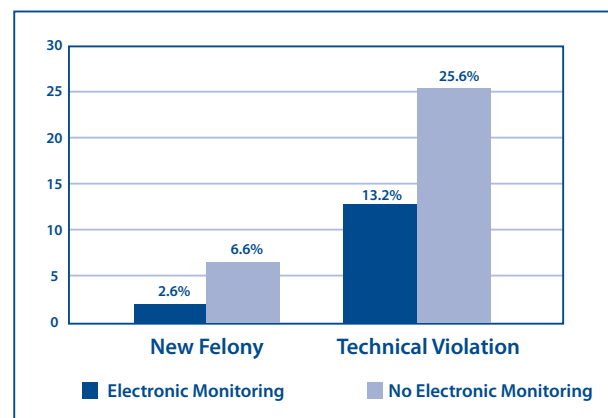
average per day cost of prison in Texas is \$49.40, including health care.

Studies indicate that all forms of electronic monitoring can be effective in reducing the number of offenders who re-offend or abscond. A landmark 2006 study of 75,661 Florida offenders placed on radio frequency and GPS monitoring concluded:

In relation to public safety effectiveness, electronic monitoring was found effective in reducing the likelihood of reoffending and absconding while on home confinement. Both radio frequency and GPS significantly reduced the likelihood of revocation for a new offense and absconding from supervision, even when controlling for sociodemographic characteristics of the offender, current offense, prior record, and term of supervision factors and conditions. The use of GPS monitoring compared with the use of radio frequency monitoring was found to be no more likely to reduce revocations or incidents of absconding.⁹

Indeed, the study found GPS has a “prohibitive” effect on absconding, which is significant given that 18 percent of Texas probationers abscond.¹⁰ In all, offenders were 89 to 95 percent less likely to be revoked for a new offense if they were on electronic monitoring.¹¹ Finally, the study concluded that electronic monitoring did not have a net widening effect because it more often served as an alternative to incarceration than as an addition to existing supervision practices that would have succeeded in keeping the offender out of prison even without the monitoring.

Florida One Year Probation Revocation Rate Comparison



Source: Florida Department of Corrections

* Although the repeal occurred in 1995, inmates sentenced prior to that time are grandfathered because the U.S. and Texas constitutions prohibit retroactive application of laws.

These results parallel a 2003 study by the Florida Department of Corrections of probationers on GPS, which concluded that probationers “supervised with electronic monitoring had fewer revocations than community control offenders who were not.”¹² This study also examined the costs and benefits of radio frequency, passive GPS, and active GPS. On this score, it concluded:

Based on the surveillance value, active GPS is best suited for the high-risk habitual and sex offenders. Radio frequency may be appropriate for the lower risk community control offenders as a means to enforce a house arrest curfew. Given the relatively high cost of passive GPS once officer costs are considered and its limited surveillance value, it is questionable whether this form of electronic monitoring should be continued; Active GPS has a lower total cost and provides much greater real time surveillance.

One reason for this finding is that passive GPS was found to produce nearly three times as many false alarms as active GPS, many of which result from the offender inadvertently going too far away from the receiver. False alarms increase the cost of monitoring because they tie up the time of probation and parole officers.

A study by the University of California at Irvine Center for Evidence-Based Corrections found that a one-piece active system avoids one of the main sources of false alarms—an offender being too far away from the modem box—because the cellular device is part of the anklet itself. The study surveyed California probation and parole officers, who cited false alarms as a “major weakness” of two-piece systems because they result in overtime costs incurred by officers who respond to them. Overall, supervising officers preferred the active one-piece systems. The study notes:

Parole agents and staff consistently raised the possibility that a parolee monitored with a two-piece unit could leave his home without the tracking unit, assert that he had forgotten it, and commit a crime before he returned to collect the tracking unit. They felt more confident with a one-piece unit on a parolee because the tracking unit is attached to the parolee’s ankle, particularly for parolees they regard as high-risk to re-offend.¹³

At the cutting edge of electronic monitoring is a new feature called crime scene correlation. Utilized as part of Cal-

ifornia’s statewide active GPS program, this functionality enables law enforcement to immediately see on their crime reports every morning whether any offender on GPS was at the location of a reported crime. Not only does this facilitate the solving of crimes committed by monitored probationers and parolees, it also excludes those not in the area from being questioned unnecessarily, which often occurs at work and creates disruption and embarrassment. Last year, the use of crime scene correlation coupled with active GPS monitoring of paroled gang members enabled California law enforcement to nab a fleeing murderer in Los Angeles County and a robber on the run in San Bernardino County.¹⁴

Recommendations

- **Allow Board of Pardons and Paroles to make a specific type of monitoring a condition of parole and link budget allocation for parolees on GPS to recent parole rate**

The primary barrier to greater use of GPS, particularly active GPS that provides the greatest public safety benefits, has been the cost involved. Even though active GPS is a quarter to a fifth of the cost of prison, not including the construction of new prisons, it is more than twice the Texas parole system’s daily cost of \$3.51 per offender per day. By creating a budget provision that enables the Board of Pardons and Paroles to tap into a dedicated account to place offenders on parole with GPS, particularly active GPS, commensurate with the recent parole rate for nonviolent offenders, part of the savings on prison costs can be immediately redirected into more effective supervision of parolees. The Board would in no way be compelled to parole additional inmates, which would likely be unconstitutional. However, as the Board continues to make progress towards meeting its own guidelines for releasing nonviolent categories of inmates, additional slots for GPS and the corresponding funding would become available to the Board. This would also ensure that active GPS does not become an automatic condition for every offender, even those that are low-risk, as such a widening of the net could result in unnecessary costs.

- **Implement performance-based probation funding that incentivizes fewer technical revocations and less re-offending**

HB 3200 in the 2007 session would have linked a share of probation funding to technical revocations and early terminations. This concept should be broadened to include weights for risk levels of the department’s casel-

oad, new offenses and their seriousness,* employment rate, educational and vocational degrees and certificates earned, and restitution and child support paid. The most successful probation departments would have low rates of re-offending, with violent crimes weighted more heavily, and low technical revocation rates. Such a performance-based funding system would encourage wider use of GPS as an intermediate sanction for technical violations prior to revocation.

Currently, there is a perverse incentive because a probation department may incur a cost by using GPS and other intermediate sanctions whereas revoking the offender to prison shifts a much larger cost on the state. By incorporating recidivism, this revised approach would ensure the incentive doesn't shift too far in the opposite direction, as probation departments promote public safety when they revoke a technical violator who has not complied with probation terms following intermediate sanctions and may be on the verge of a crime spree. Indeed, a department that has a slightly higher technical revocation rate than would be predicted based on the state average and the risk profile of their caseload but has a substantially lower recidivism rate, particularly for the most serious crimes, should come out ahead with such a formula if a sufficient emphasis is placed on the re-offense rate.

- **Tailor type of GPS system to criminal history and risk assessment of the offender**

Research indicates that active GPS is ideal for the highest-risk offenders, because it allows the monitoring entity to respond immediately to violations. It also permits crime scene correlation and instant verification as to whether an offender is attending mandatory work and treatment programs, which are correlated with successful completion of probation or parole, provided of course that the offender actually attends. Although known, active gang connections are justifiably a factor mitigating against parole in the first place, GPS can be particularly useful for parolees suspected of gang involvement because, to the extent they stray from work and home zones at inappropriate

times, their location information can be shared with law enforcement units seeking to identify hotbeds of gang activity. However, radio frequency is the least costly technology and is often adequate for the lowest-risk probationers and parolees. Also, some smaller counties may not have the resources to take advantage of active GPS, particularly a probation or parole officer who can be on call around the clock to respond to alerts from the device.

In either active or passive configurations, research indicates that one-piece devices are superior for three reasons. First, they are more difficult for the offender to disengage. Second, they produce fewer false alerts. As with two-piece units these can result when an offender, often inadvertently, walks too far away from the receiver. Finally, the one piece device can be obscured beneath a pair of pants or shirt, enabling an offender to go to a job interview without setting a receiver on the table.

ALCOHOL DETECTION DEVICES

The ignition interlock device has long been used both in Texas and around the nation, and it is a mandatory in Texas after the second DWI conviction.† The \$44.95 per month cost is charged to the offender. It is a device installed in the offender's car that contains small handheld alcohol sensor attached to a vehicle's dashboard. The offender must blow into the sensor below a preset blood alcohol content (BAC) level, which is usually .02 percent or .04 percent, in order for the car to start. After several instances of failed breath tests, the interlock permanently disables the ignition, forcing the offender to bring the car into a DPS-authorized inspector, which alerts the probation or parole officer. If the person is not revoked for technical violations and is allowed to continue driving, the interlock is recalibrated.

Mothers Against Drunk Driving (MADD) has recommended that interlocks be required after the first DWI conviction. Currently in Texas, the interlock is at the option of the judge and not usually ordered upon a first DWI conviction, unless the offender had a BAC level of .15 percent

*To guide its parole decisions, the Board of Pardons and Paroles maintains a list developed with the help of the National Crime Information Center (NCIC) that ranks the seriousness of each of the 2,375 felonies it has identified in state law as low, medium, high, or very high severity (See http://www.tdcj.state.tx.us/bpp/new_parole_guidelines/OffSevRankingsLis2003-2008.doc). For example, murder of a police officer is rated very high while night dredging of oysters is rated low. These rankings could also be used in measuring the severity of new crimes committed by probationers.

†A person's first DWI conviction in Texas is a Class B misdemeanor punishable by up to six months in county jail. A second DWI is a Class A misdemeanor punishable by to a year in county jail. The third DWI is a third degree felony, punishable by up to ten years in state prison. Consequently, counties bear the brunt of the cost of dealing with DWI offenders up until the third offense.

or more and is sentenced to probation, in which case the interlock is mandatory under HB 51 enacted in 2005.¹⁵

While the legal BAC threshold is .08 percent, those who drive with significantly more alcohol than that are much more dangerous. For example, according to MADD and the National Safety Council, though a driver with a .10 percent level is six times as likely as a sober driver of being involved in a crash, a driver with a .15 percent level is 25 times more likely and a driver with a .20 percent level is 100 times more likely to be in a crash.¹⁶

A review of studies by the International Council on Alcohol, Drugs and Traffic Safety found that interlock devices reduce recidivism by 40 to 95 percent while they are used.¹⁷ A December 2007 report to Congress by the National Highway Traffic Safety Administration (NHTSA) found that interlock use cuts a driver's DWI recidivism by about 65 percent, but that only 10 percent of the nation's approximately 1 million convicted drunk drivers are using the interlock.¹⁸ In Texas, there are 16,000 interlock devices in use, but there were some 129,474 DWI/DUI* cases in the 2006-07 fiscal year that did not result in an acquittal or dismissal.¹⁹

The main drawbacks of ignition interlock devices have traditionally been that an offender may drive another car or have a passenger breathe in the device for him. However, new, more advanced interlock devices address the latter problem by requiring a "rolling test" in which the driver subsequently blows into the sensor intermittently after beginning to drive, thereby addressing situations in which an offender consumes alcohol that causes intoxication after having started the car or has a companion breathe into the device to start the car but then takes over the wheel. Also, an interlock device by definition does not provide an indication of whether the offender is continuing to drink excessively in violation of the terms of supervision at times other than when they are driving, which reduces its value for supervising offenders whose alcoholism is associated with other types of criminal activity in addition to drunk driving.

Other technologies have surfaced in recent years to fill this void. First, there is the Sobriotor, which is essentially a breathalyzer device hooked up to a landline telephone that enables the officer on the other end to both evaluate

the offender's blood alcohol level and enforce a curfew. Then there is the Secure Continuous Remote Alcohol Monitoring (SCRAM), an alcohol-monitoring device that goes around the ankle, detects alcohol in the offender's perspiration, and at a preset time at the end of the day uploads that information via radio frequency to a modem connected to a landline. SCRAM measures the ethanol that is secreted through the skin in perspiration upon consuming alcohol, which is referred to as transdermal alcohol content (TAC). The SCRAM device also measures body temperature as a means of determining whether the bracelet has been removed or tampered with so as to block perspiration from being detected.

Currently, SCRAM is used in 24 states and received considerable publicity last year when celebrity Lindsey Lohan was required to use it.²⁰ Some Texas district courts and probation departments are using SCRAM for DWI offenders, including Dallas and Tarrant counties. Steve Bock, Director of Electronic Monitoring for the Michigan Department of Corrections—one of the early adopters of SCRAM—stated, "Random testing with home arrest and remote breath testing missed 90% of the drinking events compared to continuous testing."²¹ Research indicates that compliance of offenders on SCRAM increases progressively from 70 percent in the first 60 days to 95 percent after 180 days on the system.²²

There are two main drawbacks to SCRAM. First, there are several sources of imprecision that reduce its effectiveness, particularly for monitoring an offender's driving. The National Highway Traffic Safety Administration report notes:

Transdermal alcohol measurement appears less promising than tissue spectroscopy for vehicle-based alcohol detection. Transdermal BAC estimates from perspiration are less accurate than tissue spectroscopy measurements. Because alcohol does not appear in perspiration for at least 30 minutes after drinking, transdermal BAC measurements underestimate the true BAC when the user is drinking and BAC is rising and may overestimate true BAC when it is falling. Perspiration measurement may be difficult in very cold temperatures (due to reduced transdermal release of alcohol and the use of protective clothing).²³

*A small share of these cases are DUI (driving under the influence) as opposed to DWI (driving while intoxicated) cases. DUI cases are those involving minor drivers for whom it is illegal to drive with any detectable amount of alcohol or controlled substances.

The second drawback of SCRAM is cost. It costs approximately \$1,500 for a corrections agency to purchase one SCRAM bracelet and modem set. However, Marion County, Indiana (Indianapolis) opted to lease the units at a daily rate of \$1.70 per unit over a three-year period. The County also pays a contractor \$5 per day to cover monitoring costs. Marion County in turn charges its SCRAM clients \$12 per day in supervision fees, which, based on an average 50 percent collection rate, covers the costs of SCRAM. Still, that's eight times as much as the interlock's cost of \$1.50 a day. While this cost difference would be borne by offenders, offender fees are not a bottomless pit and those fees may come at the expense of restitution or lead to more offenders and their dependents relying on welfare and other government programs. It is also widely acknowledged that Texas probationers who are not current on their fees are more likely to be revoked so increases in fees may lead to more delinquent probationers and more revocations.

Currently, the final frontier in alcohol detection is tissue spectroscopy. This technique, which has been used in the laboratory but is in the final stages of commercial development, measures a person's BAC through a sensor pad that detects light reflected from capillaries in the middle layers of the skin.²⁴ The amount of infrared light wavelengths reflected through the skin is affected by alcohol consumption. The testing process takes 30 seconds or less. A key in making this technology practical, particularly for use in vehicles, will be developing a device that uses a driver's finger or hand rather than forearm.

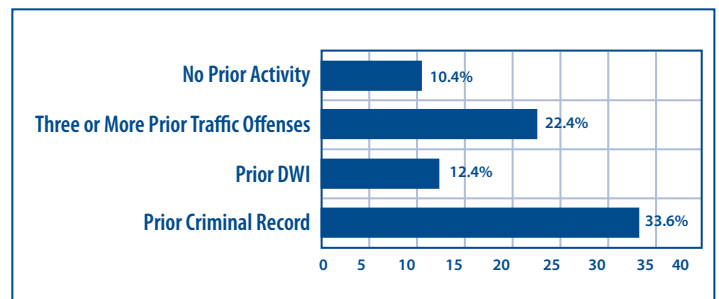
Recommendations

- **Require interlock for first-time DWI offenders with a prior felony or two prior misdemeanors in the past 10 years and those with three or more traffic offenses in the last 12 months**

Research surprisingly indicates that a prior DWI is less correlated with a subsequent DWI than an extensive prior criminal record and/or traffic citation record. A longitudinal study of Vermont DWI offenders found that 33.6 percent of DWI offenders who had at least one prior criminal charge of another type on their record were convicted of another DWI within a five-year period.²⁵ Those DWI offenders who had three or more traffic convictions other than a previous DWI had a 22.1 percent five-year recidivism rate. On the other hand, those offenders who had a previous DWI had only a 12.1 percent recidivism rate and those with no prior record had a 10.4 percent recidivism

rate. The authors concluded that the conventional wisdom that DWI offenders are a discrete group is incorrect and that particularly DWI re-offending is highly correlated with a prior record of other criminal and traffic violations. Similarly, a 1992 study of repeat DWI offenders in Louisiana reported that 72 percent had a criminal record beyond DWI arrests.²⁶

5-Year DWI Recidivism Rate



Source: Clements, William, "How Many Come Back? DUI Offender Recidivism in Vermont"

Accordingly, while Texas already requires the interlock upon the second DWI conviction, the evidence would support requiring it upon the first conviction for those offenders with a prior felony or two prior misdemeanors within the last 10 years. Current Texas law precludes consideration of criminal offenses beyond a 10-year period for purposes of DWI enhancements, and research has shown that a criminal record with the last conviction being seven years or older is not predictive of future criminal activity.²⁷ Also, first-time DWI offenders who have three or more traffic violations in the last 12 months, such as speeding and reckless driving, should be required to use the interlock because they are also at a higher risk of re-offending.

The Legislative Budget Board determined in their fiscal note for HB 51 in 2005 that the expanded use of the interlock device for first-time offenders with a .15 percent BAC or higher would have no cost to the state because an offender pays the installation cost and monthly fee and Department of Public Safety (DPS) oversight of the installation and servicing of the additional devices could be absorbed within existing resources.²⁸

While there is sufficient research to support wider use of the ignition interlock, it would be premature for Texas lawmakers to embrace one of the other technologies on a statewide basis, due to the initial acquisition and ongoing monitoring costs involved and rapid developments that could make one of them obsolete. A better approach is to

let judges and probation departments continue to experiment with various technologies to augment state interlock laws. Smaller counties, absent a regional arrangement, may lack the staffing to respond to alerts from SCRAM and other devices that provide continuous monitoring. To the extent technologies other than the interlock are contemplated, they are best prioritized for felony drunk drivers with three or more convictions who are already being paroled from state prisons and probationers with two convictions and sufficient resources to pay for the device themselves. As nearly all parolees are indigent because they are just leaving prison, the use of such technologies for them would need to be subsidized by the state, ideally based on a formula described in the previous section that is tied to parole rates and therefore would result in no additional spending and the possibility of savings.

- **Replace license suspension for prior alcohol or drug-related contacts with interlock requirement**

Current Texas law requires that, upon an initial DWI conviction, a person's license be suspended for one year if they have one or more alcohol or drug related "enforcement contacts" on their driving record within 10 years prior to the date of the offense. Unfortunately, license suspension does not, in most cases, actually stop the offender from driving. A California survey found that 65 percent of suspended drivers and 71 percent of revoked drivers in California admitted to driving while their license was suspended even though it is a jailable offense in California.²⁹ Similarly, in Texas, it is a Class B misdemeanor punishable by up to 180 days in county jail and/or a fine of \$2,000. However, with most counties facing jail crowding pressures, the 6,000 Texans arrested every year for driving without a license are not likely to receive substantial jail time, even assuming that it would be a deterrent. In fact, only 6 percent of the approximately 80,000 Texas county jail inmates at any given time are serving a misdemeanor sentence of any kind.³⁰ Accordingly, an interlock requirement would be a more realistic approach than a one-year license suspension for first-time DWI offenders who have these prior contacts.

However, drunk drivers who do not pay their surcharges under the Driver Responsibility Program enacted in 2003 would still be driving below the radar. The interlock is already required as a condition of an occupational license, but DWI offenders who have not paid the \$1,000 to \$2,000 per year for three years to keep their licenses under the Driver Responsibility Program are ineligible for

an occupational license. There are approximately 25,000 DWI offenders covered under the Program, and only 39 percent have paid or are making payments, leaving 15,000 offenders who prior to 2003 might have had an occupational license and interlock but now are probably driving on a suspended license without the occupational license and interlock.³¹

Thus, the Program's benefits—raising money for trauma centers and general revenues—must be balanced against the potential detriment to public safety as well as costs that county jails incur, particularly in incarcerating individuals arrested for driving without a license who cannot post bond. Policymakers should explore a community service option that would allow local courts and probation departments to create a program whereby those offenders who a court finds are indigent and unable to pay the Program's surcharges could perform community service projects such as trash pick-up at events and receive credit at a minimum wage rate towards the surcharges. This would chip away at what can only be described as rampant lawlessness, given that more than 750,000 Texans are delinquent on fines under the Program, which also covers three or more speeding tickets, driving with an invalid license, and other traffic offenses.

- **Require interlock after license suspension for drivers who refuse BAC test**

In the 2007 session, SB 1061 by Senator Tommy Williams would have required an interlock for at least 90 days following the automatic 90-day driver's license suspension period for drivers suspected of intoxication who refuse to take a breathalyzer test. Effectively, this would simply presume that someone who refuses the test has a .15 percent BAC level or higher. Currently, suspected drunk drivers can continue refusing to take the test on one occasion after another and, if there is not sufficient other evidence to gain a conviction, suffer no penalty other than license suspension. That means they will probably continue driving but without an interlock, probation supervision, or treatment. The interlock following that period would increase public safety and could have a secondary benefit of reducing the 42 percent of Texans pulled over for drunk driving who refuse the breathalyzer test.

More broadly, policymakers should consider changing the law so that offenders convicted of a second DWI serve a certain period on probation with interlock and treatment. While statistics are not available, Todd Jermstad,

Staff Attorney for the Bell County Probation Department and the legislative affairs liaison for the Texas Probation Association, says that many second-time DWI offenders are either sentenced to 30 days or less in jail and no probation or, if there is a probation sentence in addition to the mandatory three days in jail, often choose to discharge that probation sentence through jail time. Since most sheriffs offer several days of credit towards the sentence for each day of jail time served, a three month probation sentence can be discharged with 30 days in jail. Jermstad says many DWI offenders find that easier than complying with probation terms over a longer period, including probation and interlock fees.

Yet, from a public safety standpoint, after serving a very brief time in county jail with no treatment, these offenders are likely to continue driving even without a license—perhaps while drunk. This in turn contributes to the 6,500 felons in state prison for three or more DWI offenses. Even assuming the offender failed to pay any probation and interlock fees, which would be the exception, probation for a year with the interlock costs the same as 30 days in county jail. Additional longitudinal research on outcomes among DWI offenders is needed to determine whether a short jail sentence or a longer probation term with the interlock device, or both, is more effective for each dollar spent on two-time DWI offenders. One approach would be to follow whatever jail time is imposed with probation and the interlock (and disallow offenders from discharging probation with more jail time), given that the offender is likely to drive anyway.

PRISON COMMUNICATIONS & AUTOMATION

Background

In 2007, the Legislature approved, and the Governor signed into law, HB 1888, that will allow inmates to make phone calls using a new, monitored telephone system that will be installed later this year by a private vendor at no cost to taxpayers. Texas was the last state to adopt this approach, and most major Texas counties already had such inmate-paid phone kiosks in their county jails. Prior to this legislation, at state prisons inmates could only talk for five minutes every three months. Also, the time for calling had to be prescheduled so, if the recipient was not home or didn't pick up, the inmate might have to wait another few months to make a call.

Under the new system that is coming online, inmates will pay for the calls from the 4,000 new phones out

of their own accounts. The Legislative Budget Board projects that the phones will raise \$25 to \$30 million for the state, with the first \$10 million being dedicated to the Crime Victims' Compensation Fund, which had been approaching insolvency.³² Inmates must obtain pre-approval for recipients of their calls, and the calls will be monitored to deter any planning of illegal activity. To the extent that occurs, the monitoring will actually provide information to law enforcement to apprehend anyone on the outside who is coordinating criminal activity with inmates. One impetus for the legislation is that many studies have found that inmates who maintain closer contact with family members while behind bars are less likely to recidivate.³³

Recommendations

- **Allow inmates to call employers and transitional housing providers in addition to relatives**

With the new phone system, TDCJ will approve a list of callers for each inmate to ensure security is maintained. However, this list should not be limited to family members. Inmates, particularly those who have been paroled or who are being considered for parole, and who do not have any disciplinary violations, should be permitted to make calls to arrange employment and housing upon their release.

At any given time, there are between 400 and 500 inmates who have been granted parole but are not released because they do not have an acceptable home plan. In other words, they have no verifiable address at which they will live upon release. The Legislature sought to address this in 2007 by authorizing TDCJ to add 1,200 halfway house beds, but procedural requirements in state law for establishing such facilities, including a public hearing, notice, and the ability of local governments to ultimately block a facility, have limited the roll out of halfway beds so far to several hundred in El Paso. Therefore, the ability to make phone inquiries will likely remain important for offenders awaiting release in establishing a valid home plan, which in turn will help control prison capacity.

- **Explore other uses of the new phone system to improve efficiency**

The same high-speed lines that will undergird the new phone system can also be used to increase automation within prison units. For example, inmates could place commissary orders on a screen at a phone kiosk. Cur-

rently, once every week or two prison guards escort each inmate to the commissary, and inmates submit a written form containing their order. Family members of inmates describe the process as a “shark attack” that frequently leads to fights.³⁴ Just as importantly, prison guards must devote substantial time to taking inmates to and from the commissary at a time the state is 3,749 prison guards short and being forced to shutter wings of units due to insufficient staffing.³⁵ It is axiomatic that, the fewer times inmates are moving around in a facility, the greater the degree of security and the lower the workload on prison staff.

With the kiosk, inmates could submit the orders electronically to the commissary and the items could be picked up at a designated time, such as meals, when inmates are already out of their cells or delivered along with the mail. Virginia has automated their prison commissary, and in 2007 an Idaho jail implemented kiosks for ordering, citing the time that it saves staff in processing orders and escorting inmates to the commissary.³⁶ Since all inmate purchases are from their own accounts and the proceeds from commissary sales support prison operations, to the extent electronic ordering increased sales, it could slightly reduce TDCJ’s reliance on general fund revenue.

ENHANCING COMMUNICATIONS: PUBLIC SAFETY AGENCIES & PRIVATE SECURITY

Background

While traditional policing should continue to be the province of local governments, criminals do not respect jurisdictional boundaries. Moreover, major crime sprees, natural disasters such as hurricanes, and the risk of terrorist attacks create a need for collaboration among city, county, state, and even federal public safety agencies. A May 2007 U.S. Department of Justice report concluded “Public safety agencies cannot communicate seamlessly for three major reasons: incompatible frequencies, incompatible equipment, and lack of common language.”³⁷ The four primary bands recognized by the Federal Communications Commission for law enforcement are: VHF Low or Low Band (30–40 MHz), VHF High (152–162 MHz), UHF (406–512 MHz), and 700 or 800 MHz. The reports notes, “Many agencies now use numbered, coded language, such as “10-4,” which in

one jurisdiction can mean “I understand” and in another jurisdiction can mean “Man down! Send backup!”

Number of Texas Jurisdictions & Public Safety Agencies

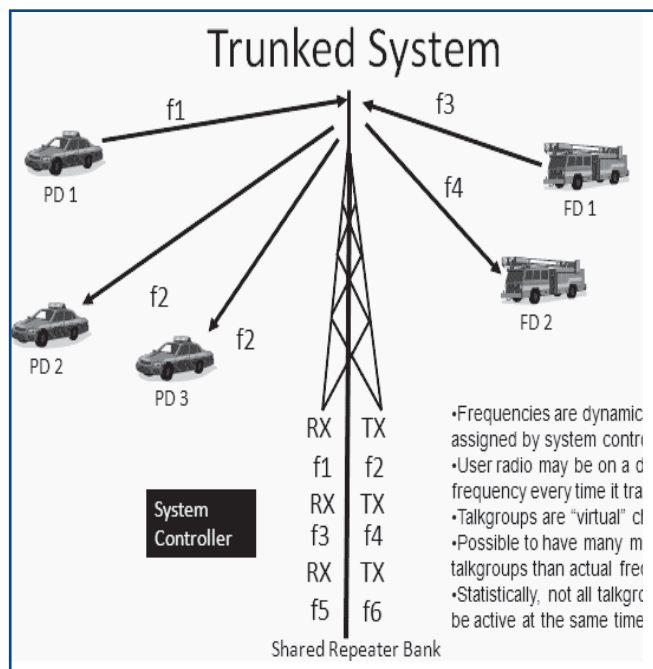
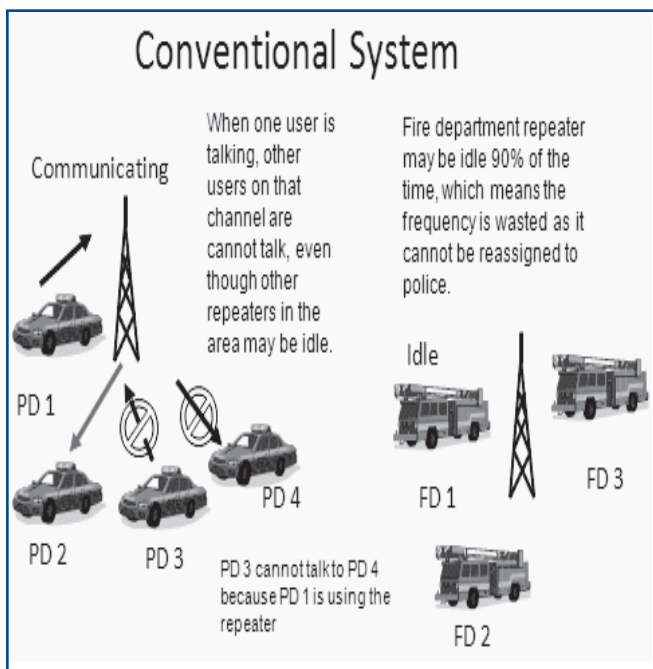
254	Texas Counties
1,206	Incorporated Cities
254	Sheriffs’ Offices
254	County Emergency Management Directors of Coordinators
464	Municipal Police Departments
823	Special Law Enforcement Agencies (Tribal Law Enforcement, Constables, Airports, ISD’s, Colleges/Universities, Fire Marshals)
2,058	Career and Volunteer Fire Departments
850	EMS Provider Organizations
125	Designated Trauma Facilities
34	State Public Safety Agencies

Following September 11, 2001, the federal government required each state to designate a task force for interoperability, and federal homeland security grants became available for interoperability projects. Robert Pletcher, a DPS official who coordinates interoperability for Texas, has undertaken efforts to connect state public safety agencies with one another, as well as with local law enforcement, that have yielded considerable progress in the last several years. Now, all state agencies with law enforcement components, which include DPS troopers, Texas Parks & Wildlife game wardens, and TDCJ security personnel, can communicate with one another through the state interoperability channels. The statewide interoperability channels are typically used in emergencies, such as a homeland security threat, natural disaster, large fire, or manhunt for an escaped inmate.

Additionally, Pletcher says 90 percent of local law enforcement now has access to the state interoperability channels. There are currently eight state interoperability VHF channels (3 law enforcement, 3 fire, and 3 EMS) and 13 800 MHz interoperability channels, both of which are wideband networks, and then another approximately 50 narrowband channels, which include VHF 150 MHz, UHF 450 MHz, and 700 MHz digital frequencies. Most major metropolitan areas use narrowband systems because they need the additional local channels it affords for more talk groups* to communicate at once, whereas rural areas are largely still on wideband systems.

*For example, typical police talk groups include SWAT, K-9, Jail, School Officers, Administration, Events, and Crime Scene. In a non-trunked system, each talk group corresponds to a single, fixed channel frequency. In a trunked system, a new frequency not being used at the time is automatically assigned to a talk group when it is active so there is access to a potentially unlimited number of talk groups, assuming there are sufficient repeater antenna sites to enable those frequencies to be picked up throughout the jurisdiction. Because there is little or no unused spectrum left in highly populated areas, the ability of trunked systems to reallocate unused channels is valuable in this context. For example, the Dallas Police Department has maxed out its 12 channels on their analog system so, when they recently established a new south central patrol unit, they had to move their investigators to 800 mhz digital radios to free up the former investigators channel for the new patrol unit.

Hurricane Katrina tragically revealed interoperability shortcomings. New Orleans Police could not talk to the Louisiana State Police because they were on different radio systems. Rescuers in helicopters couldn't talk to crews patrolling in boats and national guard commanders in Mississippi had to use runners to relay orders. This was despite the fact that the federal government had given \$8.6 billion to states from 2001 to 2005 to spend on equipment, first responder training and disaster exercises. (Communication Breakdown: From 9/11 to Katrina, Associated Press, September 13, 2005, http://www.livescience.com/technology/ap_050913_comm_breakdown.html)



Pletcher ordered local law enforcement to install the interoperability channels but lacks authority to force them to do so. The installation costs \$60 per radio, and with 150,000 local law enforcement radios statewide, that amounts to \$9 million. Also, some federal law enforcement agents have tapped into the state interoperability channels, including 600 FBI agents in Houston and 700 in the Metroplex.

DPS would ideally like a statewide trunked* system linking together all local and federal law enforcement in Texas. The problem is that the cost of such a trunked statewide system, which is similar to a mobile phone network, would be at least \$800 million dollars, and could run as high as \$1.3 billion, due partly to the cost of laying fiber optic lines.³⁸ Such a trunked system would reduce the need for dispatchers since conversations could be directly estab-

lished without an instruction to switch to a specific channel. It would also allow for more statewide talk groups, but nearly all major events that would trigger the need for a talk group would be limited to a particular region, and the populated areas of the state that are already on narrowband currently have access to 25 conventional and 70 digital state interoperability channels. Thus, for example, if a policeman from Lubbock, where the city has a trunked system, is in Amarillo to assist with a manhunt or natural disaster and therefore can't communicate with his tower in Lubbock, he can participate in the conversation by tuning to a state interoperability channel. Additionally, Harris County's trunked system that incorporates radios from public safety agencies in 13 counties and the 18 Metroplex-area trunked systems that the North Texas Council of Governments seeks to coordinate with a regional overlay, can provide even greater interoperabil-

*The concept of trunking was originally developed by the telephone industry to allow the sharing of long distance telephone circuits. Trunking means the sharing of small number of talk paths (circuits or channels) by a large number of users.

ity among all personnel involved in an event from the same region.

Therefore, the current state interoperability channels, combined with regional trunked systems provide significant, if not seamless, capacity for handling major statewide emergencies, and regional interconnectivity will increase as regional trunked systems in Houston, Dallas, and other major metropolitan areas increasingly unify various municipal and county trunked systems. As such expansion proceeds, it could reduce the cost if a statewide trunked system is ever implemented. In the interim, there are some cost effective steps that can be taken to promote additional interoperability.

Recommendations

- **Require remaining 10 percent of jurisdictions to install state interoperability channels through use of seized funds**

The areas of the state in which local law enforcement have not programmed their radios with the state interoperability channels are less populated and have relatively few radios. Consequently, the additional expense associated with making the current non-trunked system truly statewide is relatively small. This can be paid for by requiring these counties to set aside a small percentage of the funds and assets seized from criminals for this purpose. Currently, these funds are divided between law enforcement and prosecutors, but there have been numerous examples of these funds being used by district attorneys for parties, pet causes, and other inappropriate items.³⁹ It is logical that funds seized from criminals be used for enhancing law enforcement communications that can facilitate the apprehending of other criminals.

- **Emphasize regional approaches that vary based on population density**

Most major emergencies, whether occasioned by a prison riot or a natural disaster, affect certain regions so many councils of governments have logically adopted programs to remote interoperability among law enforcement and other first responders in their jurisdictions. In addition to maximizing the effectiveness of the response to a major event in the area by ensuring various agencies can commu-

nicate, savings can also result for taxpayers by eliminating duplicative antennas and other infrastructure that requires staff and parts to maintain. A model for this approach is the Panhandle Regional Interoperable Communications System (PANCOM) adopted by the Panhandle Regional Planning Commission, which has replaced 26 separate county radio systems with one regional system anchored by a central command with one antenna and repeater sites throughout the area. By using existing radios and eliminating the need to maintain antennas in every county, significant efficiencies have been achieved, since each county no longer must maintain their own antenna. Moreover, the county antennas were by the courthouse, usually near the river at a low elevation, so the new higher, more powerful antenna coupled with repeaters has resulted in improved reception. The \$9 million cost of the project was paid for through federal homeland security grants.

David Cann, who designed and runs the PANCOM system, researched the various options and determined that upgrading to trunking and narrowband radios was not needed because there are only 4,500 radios in the 26 counties, meaning that a conventional system can enable enough talk groups at once to accommodate the limited demand for multi-agency conversations. He said PANCOM was implemented with only 42 repeater sites, as opposed to the 150 that would be needed for a digital or trunked system, which would have substantially increased the cost. Cann notes that the PANCOM system can communicate with trunked systems in nearby areas, such as those used by the cities of Lubbock and Wichita Falls and that, if radios were upgraded to the digital Project 25 (P25) standard, which would cost \$9 million for the 4,500 radios, PANCOM could transmit data as well as voice, such as photos of suspects, text messages, and the locations of radio users.* While Cann believes more densely populated regions of the state can benefit from regional trunked systems such as Harris County or at least regional overlays that link their various municipal and county systems together, he does not think a statewide trunked system would be the best use of resources, because there are areas like the Panhandle with relatively few people and radios but a lot of land that would need to be covered with fiber optic cable and switches.

Meanwhile, the North Texas Council of Governments (NTCOG), which encompasses the counties in the

*The federal Department of Homeland Security is requiring that future grantees incorporate the P25 standard. An important feature of P25 equipment and systems is that, like roaming on a mobile phone, equipment on different bands can communicate. Accordingly, users of radios that are on UHF, VHF, 700mhz, and 800mhz systems can all speak on the same channel if all of their equipment meets the P25 standard.

Metroplex, issued a request for proposal in May to generate a plan for a regional overlay that would make the various systems on four different bands in their 500 cities and counties significantly interoperable.⁴⁰ The Harris County/Houston-Galveston Area Council's (HGAC) Regional Radio System is a 700 MHz trunked digital system that incorporates 33,000 users over 10,000 square miles. However, the Houston Police Department (HPD) and Houston Fire Department are still on an old analog radio system and must use a patch on their console radios to communicate with Harris County personnel. That will soon change, as in August 2007 the City of Houston released a Request for Proposal to purchase a new 700 MHz radio system, using federal grants and local funds to cover the estimated cost of more than \$100 million.⁴¹

In Dallas, many of the Dallas Police Department (DPD) police radios do not even have patches, which means their analog UHF radios cannot communicate with the Dallas County Sheriff's deputies who are on a VHF system and neighboring cities like University Park which are on digital 700 and 800 MHz systems. Also, unlike in Houston, since there is no central regional overlay, a radio would need a specific patch for each of the many other systems on different bands—thus a Dallas Police officer would need one patch to communicate with a county sheriff's deputy and a separate patch to communicate with a University Park police officer. Additionally, a patch is not an optimal solution because most public safety agencies lack sufficient engineering staff to recalibrate the patches and the officer on the non-digital, non-trunked system, in this case the HPD officer, does not hear a beep signaling him to talk so his first word will often be missed, which can be the difference between “shoot” and “don't shoot.”⁴²

Harris County and Houston have received \$14.5 million of the \$65 million in federal interoperability grant funds distributed to Texas in 2008, which is a one-time distribution from the federal sale of bandwidth. While the Houston area is ahead of the Metroplex, meshing the various trunked systems remains a challenge. For example Harris County has not allowed Montgomery County to

link their trunked radio system into the Harris County trunked system, out of concern that Montgomery County's radios made by a different manufacturer will disrupt the system, even though there are technologies available to manage this. Pletcher says too often the barrier is not technology but traditional territorial attitudes on the part of various jurisdictions and agencies.

At this juncture, the most bang for the buck is likely to come from investments by major Texas cities in upgrading their own equipment, such as transitioning from the UHF radio systems used by city police and fire agencies in Houston and Dallas to P25 digital systems that allow for exchanging data; a regional interoperability overlay such as that being planned in North Texas for various systems in major metropolitan areas where there is not a single trunked system such as the Harris County/HGAC system;* and conventional approaches such as PANCOM in regions with lower population densities. Since each of these systems can utilize the state interoperability channels and plug into a statewide trunked system should one ever materialize, encouraging each region to innovate with ongoing coordination from DPS should continue to enhance interoperability.

- **Incorporate private security and other private stakeholders into local and interoperable communications**

In addition to shared communications among various public law enforcement agencies, such as local police, county sheriffs, and state troopers, linking in licensed private security personnel offers tremendous potential for preventing and solving crime. There are nearly 2 million security guards in the U.S.—compared with 677,000 police officers—and they protect 85 percent of critical infrastructure assets that have been identified as potential targets for terrorists.⁴³

The Minneapolis Downtown Security Collaborative has become a national model for bridging public law enforcement and private security, and one of its centerpieces is a

*DPS estimates that various Councils of Governments (COGs) have \$361.98 million in interoperability needs for 2008-2010. As COGs are not taxing entities, their initiatives on radio interoperability, and emergency preparedness in general, have historically been paid for through federal funds and contributions from local governments, rather than state funds. However, there may be a request for state funds in the upcoming session. Additionally, DPS estimates that upgrading the municipal public safety communications systems in Texas' major urban areas will cost \$365 million of which \$174 million has already been identified in local and federal funds. No state funds have been allocated for these municipal initiatives. The City of Dallas has not identified a funding source for the \$70 million DPS says is needed to convert its police and fire departments to a digital trunked system. This illustrates the importance of the Dallas City Council prioritizing budget items to emphasize legitimate, core functions like public safety at a time when they are preparing to spend \$500 million on a government-run convention center hotel.

common radio channel launched in June 2005 that connects security officers at downtown buildings with police. This provides substantial strength in numbers, as there are 13 times more private security officers, most of who work for large companies like Target, than there are police in downtown Minneapolis. Lucy Gerold, Deputy Chief of the Minneapolis Police Department, explains, "Using these radios, building security officers can communicate with one another as well as the police when they see a suspect, for instance, and it helps the two groups work together to detain the suspect."⁴⁴

The *Washington Post* noted in regard to Minneapolis Downtown Security Collaborative, "So far, the department has trained 600 security officers on elements of an arrest, how to write incident reports and how to testify in court. When a bank was robbed in the fall, a police dispatcher broadcast the suspect's description over the radio. Within five minutes, a security officer spotted the man, bag of cash in hand, and helped arrest him."⁴⁵ Minneapolis has realized a 17 percent decrease in downtown crime since the Collaborative, which includes radio sharing, training, a web portal and security cameras, was launched, including a 44 percent reduction in robbery and a 14 percent reduction in auto theft.

There is only limited sharing of radio communications in Texas between public and private entities. Pletcher and DPS have begun innovative radio sharing arrangements with private EMS first responders, though not yet private security. Recently signed agreements allow for-profit air helicopter EMS units, the Texas Baptist Men's Association and Red Cross to use the state interoperability channels in emergencies. Pletcher says DPS is open to entering into memorandums of understanding that would allow

licensed private security personnel to connect with law enforcement and other first responders in emergencies. At the local level, major police departments should actively pursue radio frequency sharing and other information exchange arrangements with private security similar to those in Minneapolis that would allow for the rapid exchange of information, such as the electronic distribution of descriptions and depictions of suspects on the loose for serious crimes.

DATA-DRIVEN POLICING

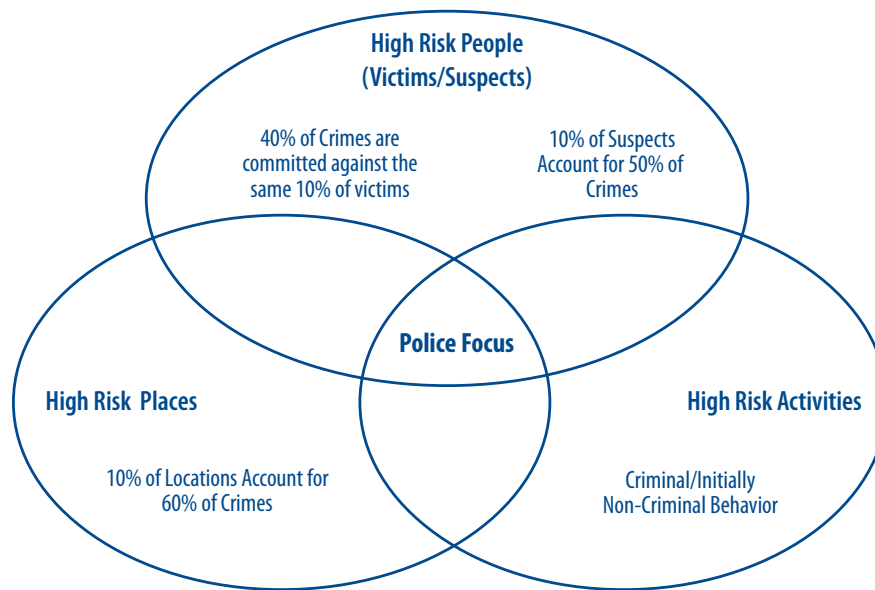
CompSTAT, which stands for Computer Statistics or Comparative Statistics, has achieved many accolades since its 1994 launch by then New York City Police Commissioner William Bratton, who is now the Chief of Police in Los Angeles. Former New York City Mayor Rudy Giuliani credits CompSTAT along with broken windows policing for much of the historic decline in crime rates[†] during his tenure—a 62 percent drop from 1993 to 2001.⁴⁶ The two strategies were complementary because, in order to respond to broken windows and other "minor" quality of life crimes, officers had to be where the windows were being broken, and CompSTAT provided the technology to accomplish that. Although it is not merely a software package, a central component of CompSTAT involves using real-time crime data to allocate police resources to various parts of the city. A key managerial aspect of CompSTAT involves decentralizing authority to commanders and then holding them accountable for the crime rate, and particularly changes in the crime rate, in their sector.

Under the CompSTAT program, the New York Police Department (NYPD) utilizes computer-aided geographic

*Private security guards did not legally arrest and bring the robber to jail, but detained him prior to police arriving minutes later. That is all that Minnesota law allows. Similarly, in Texas, anyone can make a "citizen's arrest" for breach of the peace, but only police can book a person into jail, so the citizen would detain the arrestee while calling the police. In reality, citizen's arrests are very rare for many reasons, including possible criminal liability for unlawful restraint and civil liability for false arrest. Licensed private security guards in Texas have no additional powers in this regard beyond the citizen's arrest, except that licensed private investigators can arrest and book into jail individuals who jump bail and are on a bond issued by a bail bondsman.

†This sharp falloff in crime, which also included a 70 percent drop in homicides from 1993 to 2006, occurred while the number of New York City prisoners declined from 21,449 in 1993 to 14,129 in 2006. (Powell, Michael, Despite Fewer Lockups, NYC Has Seen Big Drop in Crime, *Washington Post*, November 24, 2006, <http://www.sentencing.nj.gov/downloads/pdf/articles/2006/Nov2006/nationalnewsstory02.pdf>). While economic and sociological factors unrelated to policing explain part of the drop in Big Apple crime rates, crime in Texas from 1992 to 2002 only declined 11 percent while the prison population grew by 168 percent. Thus, it is persuasively argued that the combination of CompSTAT and broken windows policing deterred crime and largely replaced an atmosphere of lawlessness with one of civility. For example, though graffiti may be a relatively minor crime in and of itself and generally does not lead to incarceration, if it is left unaddressed, the offender is likely to move on to more serious crimes and the cumulative presence of graffiti sends a visible message that anything goes and can be gotten away with. Hence, a strategy of vigorous, data-driven law enforcement that results in more crimes being deterred and solved coupled with effective probation strategies that emphasize restitution, work, and treatment (New York City has also been an innovator in probation) can result in both less crime and less need for prisons.

COMPSTAT



Source: George Gascon, Chief of Police, Mesa, Arizona

mapping to identify hot-spots of crime. NYPD leaders meet with local precinct commanders every week to discuss the data and use it to plan patrol activity. On the NYPD website, the public can examine weekly crime statistics for each of the approximately 50 precincts, showing crimes by category over the past week and how that compared to the same week during the previous year⁴⁷. Rapidly deploying police resources to hotspots not only contributes to a greater percent of criminals apprehended and cases cleared, it can also deter crime. A study by Florida State University Professor Jonathan Klick and George Mason University Professor Alexander Tabarok that examined periods when Washington D.C. Police had announced more deployments in various neighborhoods concluded that a strong and visible police presence reduces street crime by 15 percent.⁴⁸

While the focus of DPS troopers on patrolling highways makes their work somewhat different than that of urban police departments, DPS does keep track of accident rates and major drug busts and can reposition troopers accordingly. However, their antiquated system for reporting criminal activity, involving manual inputs of incidents

and arrests, means that the data on locations of incidents is only current as of the previous month. Accordingly, by the time resources could be positioned in response to a pattern that is observed, the criminal activity might have shifted. However, a \$15 million appropriation was made in 2007 for adding in-car computer systems, which will provide DPS troopers with GPS and facilitate the electronic transmission of incident reports. DPS says that the new system, which will be fully deployed by January 2009, will enable the identification of hotspots and repositioning of assets to be based on much more current data. Also, in October 2007 DPS launched a fusion center and Bureau of Information Analysis where 168 analysts advance intelligence-led law enforcement. This includes sending actionable information to local law enforcement such as concealment locations and types of vehicles being used in trafficking, as well as exchanging information on trafficking corridors with law enforcement in other states that share highways with Texas. For the first time, DPS analysts through these initiatives are examining data that TDCJ gathers from inmates, which up until now, was not systematically analyzed and used for detecting and apprehending other criminals.*

*Major Texas prison gangs such as the Texas Syndicate, Mexikanemi (Mexican Mafia), and Aryan Brotherhood of Texas also have members, and in some instances more members, outside of prison.

The Dallas Police Department (DPD) has one of the most well developed CompSTAT programs in Texas, which has continued to expand under current Chief David Kunkle, who was among the first to implement CompSTAT in Texas in 1997 as chief of the Arlington Police Department. DPD commanders now meet weekly, and sometimes daily, to examine data and pinpoint crime hotspots and some officers are assigned to a unit called “Operation Disruption” that rotates between sectors in response to outbreaks of criminal activity. As part of DPD’s CompSTAT program, citizens can use the DPD website to map crimes in the last month ranging from burglaries to murder and then click on each dot to find details about that crime.⁴⁹ For example, a resident can learn that a home burglarized in their neighborhood was entered through the rear door.

Under Chief Al Philippus, the San Antonio Police Department established crime-tracking and accountability program called “MAP” (Management Accountability Program), modeled after CompSTAT, which includes weekly meetings of police managers to discuss crime trends and crime reduction strategies. In April 2008, the Austin Police Department announced that it will begin a CompSTAT initiative that is now being planned.⁵⁰

The Houston Police Department’s (HPD) decision in 2007 not to implement a system similar to CompSTAT had been a source of contention. HPD Chief Harold Hurtt said at the time, “I have given division commanders the discretion to direct policing efforts by utilizing crime analysis data, pin-pointing crime and targeting the hot spots of their particular communities.”⁵¹ However, critics like businessmen Jay Wall, Alan Helfman, and William Wolff and the editorial board of the HPD officers’ union magazine *Badge & Gun* suggested that random policing is producing random results and called for a department-wide statistical program for allocating resources among different command regions.⁵² In 2007, HPD added GPS devices to its patrol cars so officers would no longer have to find a call address by using a paper map, an advance that a national expert had called on HPD to implement in 2006.⁵³

Also, in November 2007, HPD launched its “Crime Reduction Unit” to respond to hotspots. The Unit first focused on the Club Creek area in Southwest Houston after reviewing statistics showing a major crime spike there. Indeed, the area had been so riddled with crime that pizza delivery companies wouldn’t provide service after 6pm. Over three weeks, HPD utilized the 60 officers in the Unit to arrest 269 fugitives and criminals in this area.⁵⁴

In January 2008, Chief Hurtt announced that a “Real-Time Crime Center”—which he described as “CompSTAT on steroids”—would be fully operational by the summer.⁵⁵ He said the software will connect with the databases of federal, state and county law enforcement agencies and allow for the dispatch of a “crime reduction” unit to hotspots of criminal activity. Hurtt promises the software, combined with regular meetings with captains of each geographic area, will mimic CompSTAT, but with greater capabilities for mobile real-time data access, sharing with other law enforcement agencies, and eventually a functionality for apartment complex owners to electronically track criminal activity at their complexes. The majority of homicides in Houston occur at apartment complexes.⁵⁶

Chief Hurtt provided the following example of how he envisions the real-time crime center will work:

An officer stops a blue, four-door sedan in a high-crime area at 2 a.m. A driver and three passengers are in the vehicle. After reporting the stop, the officer learns the car had been reported stolen earlier that night, and the driver was recently paroled after serving time on an aggravated assault conviction.

The officer then calls for backup and contacts the crime center for more information, quickly learning that a woman a few blocks away had been fatally shot in a drive-by shooting involving a blue four-door car. The officer also learns the driver is a known gang leader. The drive-by suspects match the description of the driver and passengers involved in the traffic stop. New software and access to numerous databases at the same time will allow us to access the information faster, because the databases will be communicating in real time.⁵⁷

Hurtt adds, “The data also can be used in less time-sensitive investigations to “freeze” all the activity that was going on within a mile of that homicide at the time of the crime, such as reports of speeding vehicles and other suspicious activity.” He has instituted biweekly crime prevention and control meetings attended by command staff to assess trends, and has pledged to deploy resources accordingly and hold commanders accountable for the results. However, Wall has visited the new HPD real-time crime center, and says its capabilities—and the degree to which the data is utilized by commanders and officers—do not yet match that of CompSTAT, as it has been implemented in New York and Los Angeles.

Perhaps it is overdue for a program similar to CompSTAT to be launched in Houston, as the Houston's crime statistics are lagging behind other cities. Although, comparing crime rates from city to city as one method of evaluating law enforcement effectiveness can be problematic since demographic variables vary widely. Fortunately, the Improve Crime Data project undertaken by Georgia State University researchers with a federal grant from the National Institute of Justice has produced adjusted homicide rates by city taking into account demographic factors that are highly correlated with crime.* The results for Texas cities indicated below show that, while Dallas certainly has a crime problem, it has achieved a substantial reduction in its murder rate, adjusted for demographics, relative to other cities from 2002 to 2006, which could be due to more effective law enforcement.⁵⁸

In contrast, Houston's homicide standing, particularly its demographic-adjusted rate, relative to other large cities dramatically deteriorated from 2002 to 2006, the most recent year for which this analysis has been performed. Consistent with its new reputation as the safest U.S. large city, New York City had an actual ranking of 46 and an adjusted ranking of 63 for 2006. Houston has also lagged in other areas. For example, of the 29,044 Houston burglaries in 2007, only 1,985 were solved, a clearance rate of less than 7 percent, well below the national average for burglary of 12 percent.⁵⁹ Low clearance rates can be an in-

dications of officers not being in the right place at the right time, mishandling of evidence as recently seen at HPD's crime lab, and insufficient detective manpower.

A major national development since CompSTAT has been Citizen Law Enforcement Analysis and Reporting (CLEAR), a Chicago Police Department program that blends data-driven and community policing. The CLEAR database component, which was funded and built by Oracle, contains millions of incident reports and other information dating back 12 years that CPD officers can query from any of the 2,000 wireless, touchscreen notebooks in their cars. With more than 300 federal, state, and local law enforcement agencies in and around Chicago exchanging information through CLEAR, the system casts a wide net.

Through the back-end database, pictures of suspects can be instantly transmitted and viewed by officers in their cars and an officer can instantly check someone being detained against the database of fugitives, parolees, and offenders wanted on warrants using their fingerprint and physical features. Thus, even if the detainee lies about their name, the officer can determine their identity. Brian Tierney, a Chicago cop, said "You get lied to a lot out there," and "it's very deflating" to those suspected of wrongdoing when the officer can use the CLEAR system to instantly unravel the truth about their identity, status, and history.⁶⁰

Homicide Rate Rankings of Texas Cities Among Nation's Largest Cities (higher number=fewer homicides)
(65 cities total in 2006 and 67 in 2002)

City	2006 Actual Ranking	2006 Adjusted Ranking	2002 Actual Ranking	2002 Adjusted Ranking
Houston	14	17	25	47
Dallas	22	36	18	23
San Antonio	38	30	42	50
Fort Worth	44	49	36	33
Austin	64	56	63	62
El Paso	65	64	65	66
Arlington	59	43	60	55
Corpus Christi	47	46	51	46

Source: Statistical Analysis Bureau, Department of Criminal Justice, Georgia State University

*The adjustment is based on socioeconomic disadvantage factors highly correlated with crime consisting of the following variables (factor loadings in parentheses): the poverty rate (.934), male unemployment rate (.888), % black (.839), % female-headed families w/own children under 18 (.928), and median family income (-.862).

Chicago's anti-gang units use CLEAR's crime mapping function, in which green guns on the maps represent locations of recent gang-related crime, to pro-actively intervene in key hotspots. Accessing mug shots to generate a virtual lineup of likely suspects takes seconds whereas it previously took four days, and rap sheets can be pulled and evidence logged using the mobile computers in seconds instead of the hours involved when done by paper.⁶¹

One of the latest innovations in the CLEAR system is the integration of probation and parole data. For example, a police officer who pulls over a probationer or parolee for a traffic violation could also ascertain whether they are violating a curfew or other condition of probation or parole.⁶² Of course, an officer simply knowing before approaching the vehicle that the driver is on parole for a violent offense is highly useful in preparing for and managing the encounter, but seeing the conditions of the probation or parole on his computer is another step forward.

However, perhaps the most exciting features of CLEAR are those that empower communities to help law enforcement fight crime. For example, citizens can use a website to find out who is policing their neighborhood, including assigned foot patrols and beat commanders, and provide leads to them on criminal activity. Also, 20,000 citizens and local businesses subscribe to an email service that offers regular updates on developments in 280 specific beats, including alerts if police observe or forecast a spike in crime in a particular area or need assistance in a manhunt.⁶³

Chicago's murder rate dropped from 22.1 per 100,000 people in 2002 to 15.5 in 2004, following the implementation of CLEAR.⁶⁴ The number of robberies in Chicago has declined nearly 30 percent from 2000 to 2007.⁶⁵ Wesley Skogan, a criminologist at Northwestern University, attributes the improvement to increased law enforcement effectiveness, particularly the crime deterrence that results from more rapid allocation of police manpower to hotspots, as technological advances coupled with policies that capitalize on them enable police to be one step ahead of criminals. Skogan notes the decline cannot be due to increased incarceration since fewer Chicagoans are behind bars today than in 1999.⁶⁶

Recommendations

- **Increase Texas police departments' and DPS' utilization of data-driven policing and related performance measures**

With Houston coming online, most Texas urban police departments are already utilizing some form of CompSTAT. However, the next generation of its utilization should incorporate other types of data in addition to reported crimes, including reports of suspicious activity, such as those made to "311" and reports of a surge in gang presence at public schools. Such incidents may be harbingers of criminal activity in that neighborhood. DPD even monitors changes in city bus routes, as these have proven predictive of the location of burglaries perpetrated by offenders who take the bus to their destination.

Additionally, major Texas police departments should consider adopting some of the CLEAR initiatives, such as the integration of probation and parole data and an online system that enables every citizen to learn who is patrolling their area and provides targeted alerts to citizens and businesses. A good example of the latter strategy is "E-policing," a Los Angeles Police Department initiative similar to Chicago's that cross-references the address of citizen who sign up for their crime data and mapping programs with the officer who patrols their neighborhood, which is followed by periodic emails with safety tips and crime alerts.⁶⁷

Also, while DPS is implementing more rapid collection of its own arrests through new in-car computers, a key next step is incorporating real-time data from local and federal law enforcement agencies on a daily basis and then using that data to allocate resources. For example, if a county sheriff's deputies have recently been busting large drug shipments from Mexico on a highway in the wee hours of Sunday morning, DPS could rapidly position its troopers on these routes at the appropriate times to increase the odds of interdiction. Commander J. Patrick O'Burke, who is heading up the new fusion center and Bureau of Information Analysis, recounted a recent incident where he matched data on hydrocodone smuggling coming out of Houston with data from HPD showing a 300 percent increase in pharmacy burglaries in Houston, which ultimately led to DPS disrupting and dismantling the responsible trafficking organization. While this example illustrates the benefits of information sharing, it required DPS to seek out the data to make the connection, as there is not a system in place whereby local enforcement agencies provide real-time data to DPS that can be matched up with DPS data to identify key trends and risks.

To complement and incentivize data-driven enforcement that focuses on the most serious threats to public

safety, DPS performance measures in the budget should be broadened to include other criteria in addition to the number of arrests. For example, in the 2008-09 budget, the sole performance measure for items such as narcotics enforcement, Texas Rangers, and special crimes is the number of arrests. However, an arrest could be of a major drug kingpin or a motorist with a joint.

Though the budget performance measures need to be updated for the next biennium, DPS' Narcotics Service began moving in this direction in 2006 by instituting a "Threat Model." Commander O'Burke testified before Congress in 2007 that this involved adding outcome measures so that instead of just looking at the number of arrests, the Service considered the percentage of arrests involving drug traffickers, the number of drug trafficking organizations dismantled, and the percentage of arrests involving end users, with the goal being to maximize the impact on traffickers.⁶⁸ In particular, a key outcome O'Burke seeks to measure is the percent of cases in which DPS seizures are the beginning, rather than the end of investigation, because the carrier of the drugs is almost always not the kingpin and is part of a much larger criminal enterprise. In 2006, this new approach resulted in a doubling of the amount of illegal drugs seized but 40 percent fewer drug arrests. Similarly, local police departments should institute performance measures for sectors, commanders, and officers that incentivize deterring and solving the most serious offenses and rooting out entire gangs, not simply the aggregate number of citations issued or arrests made. While O'Burke is a nationally recognized leader in law enforcement, his initiative to retool narcotics performance measures reflects his keen vision of the bigger picture. He is not afraid to say that, while better utilization of technology and data by DPS can meaningfully reduce the supply of illegal drugs by interdicting ever greater volumes of contraband, other approaches like prevention and drug courts must play a vital role in addressing the demand side.

- **Involve private security in data-driven policing to expand knowledge base and expedite response**

The Arizona Counter-Terrorism Intelligence Center, a division of the Arizona Department of Public Safety, recently created a training and information-sharing program for about 19,000 security officers who are employed by 201 private companies statewide. Detective Todd Parentau, who oversees the program, said, "We started looking at our state and how we could protect it.

Wow, what a resource! They are the eyes and ears. We'll train them on what to look for and how to report it."⁶⁹

Although private security guards who work for security companies are already licensed in Texas through DPS' Private Security Board, Texas, like most states, does not license guards who only protect their own employer. DPS is studying how to better integrate its law enforcement and private security regulatory functions, which could involve offering additional training to private security designed to significantly enhance their ability to identify and respond to threats. Depending on the nature of the data to be shared and whether it would be accompanied by any additional powers or immunities, privileges could be limited to those private security guards who voluntarily obtain a higher class of license involving a greater degree of scrutiny and additional training, or in the case of unlicensed guards who protect only their employer, voluntarily agree to some screening.

In addition to radio frequency sharing, the Minneapolis Police Department's partnership with downtown private security personnel also features several other innovative technological components that go hand in hand with data-driven policing. For example, an internal website, the City WorkSite, allows private security in the downtown collaborative to share tips, submit incident reports to the police and the city attorney for immediate review, and post suspect depictions and other documents.

Just as the rapid flow of information from private security to law enforcement can enhance response, greater access by private security to law enforcement information can make private security more effective. In the last year, DPS has briefed several major private companies upon seeing data indicating there is a threat to their facilities. An area that might be controversial but merits further research is allowing private security, if not all citizens, to run warrant checks. Currently, only law enforcement officers can run warrant checks through DPS even though warrant information is considered public. In fact, the city of El Paso published a list in May 2007 in the *El Paso Times* of 80,000 of the 182,000 individuals for whom it had issued warrants.⁷⁰ The Illinois Supreme Court noted earlier this year, "A warrant is a matter of public record. An individual has no reasonable expectation of privacy in the fact that a court has entered a written order commanding his arrest."⁷¹

Licensed private security, particularly those guarding power plants and other possible terrorist targets, might have a legitimate need to run warrant checks on those seeking access to the property. The public/private divide is not dispositive, as law enforcement officers that work for private departments, such as the Baylor University Police Department, can run a warrant check through DPS.

In Florida, anyone can run a warrant check by looking up the person's name or other identifying information on a state website,⁷² which then produces information about that person, including their age, race, the offense for which they are wanted, and even a description of their tattoos and other body marks. Visitors are encouraged to submit tips on the person's whereabouts through an online form or by phone. In Texas, Harris County allows online warrant searches for warrants issued within that county but non-governmental users, such as bail bondsmen, must subscribe and pay for each search.⁷³ The Florida system, particularly if photos were added, could be remarkably effective in mobilizing the eyes and ears of the community to round up individuals with outstanding warrants. The Texas Data Exchange (TDEx), which is a shared DPS database with a web portal accessible only by law enforcement has, as of September 2007, over 22 million incident records, 26 million booking records, and 6.3 million photos, even though most rural counties are not yet participating.⁷⁴

There are approximately 2 million Texans with outstanding warrants,⁷⁵ but most of them are for unpaid speeding tickets or other Class C misdemeanors, and it is doubtful that the public safety benefits of warrant checks by non-law enforcement and a publicly accessible database in this context outweigh privacy concerns, even if they don't rise to the level of a constitutional right. In fact, the sheer number of individuals wanted for traffic warrants would tend to obscure those wanted for more serious offenses, producing unmanageably long lists of results for many searches. A better approach would be to focus private security and/or public access to warrant checks and

any online database solely on those individuals wanted for warrants involving offenses that are of a certain level, such as felonies or Class B misdemeanors or higher. This would likely reduce the law enforcement work in following up on tips that are generated, allowing them to focus on those wanted individuals who pose the greatest risk. Such targeting would also reduce the cost of assembling an online warrant database similar to that in Florida. If licensed private security personnel simply paid a subscription fee to access the existing the DPS warrant check system, there could be no cost, and perhaps a net gain, to taxpayers.

CONCLUSION

Utilizing technology in corrections and law enforcement is a means to an end—achieving the maximum crime reduction for every dollar spent. However, there are also principles at stake that go beyond efficiency, as important as that is. For example, technology can be empowering. Perhaps GPS gives a judge enough confidence to enable a first-time nonviolent offender to maintain his job, participate in a probation clean-up crew on the weekends, pay restitution to the victim, take care of his family, and become law-abiding rather than a career criminal and burden on taxpayers. Similarly, interactive technology can empower citizens to play a greater role in law enforcement, replacing the “thin blue line”^{*} with a free flow of information that gives police the intelligence necessary to deter more crimes and apprehend more criminals. Even the interaction itself may—when that citizen receives a message back thanking him for the tip—give citizens a greater sense of safety that is hard to quantify.

A key underpinning of Friedrich Hayek's economic philosophy is that knowledge is radically decentralized across numerous individuals at different times and places, limiting the effectiveness of central planning. Conversely, Hayek theorized that a free market works because consumers, by making their purchasing decisions every day, provide real-time feedback on which products are demanded and at what prices. Even in the public sec-

^{*}George Kelling, a Northeastern University professor who helped design the policing reforms implemented in New York City, notes that the thin blue line metaphor was coined in the 1950s by Los Angeles Police Chief William Parker, and that its origin is the thin red line, which was used by *London Times* journalist Walter Russell to depict British infantrymen in the battle of Balaclava. (See *Crime and Metaphor: Toward a New Concept of Policing* by George L. Kelling, *City Journal*, Autumn 1991, <http://www.city-journal.org/article01.php?aid=1577>). While the military model was useful in transforming police agencies “from sloppy, patronage-ridden, often corrupt municipal agencies” into “highly disciplined, professional anticrime forces,” the role of the great majority of law-abiding citizens in fighting crime is obscured or even perverted by this model, which instead emphasizes complete dependency on government professionals. For example, Kelling notes police captains once admonished residents not to hang around outdoors after dark. Today, initiatives like National Night Out where police join with neighborhoods to take back their streets are increasingly held up as models. For a prospective home buyer, it is the neighborhood where no one is walking around at dusk that should be worrisome.

tor, while resource allocation will likely be less efficient than in the market, a city can calculate how many people use a service and survey its citizens to gain knowledge as to the relative demand for various services. In the criminal justice context, however, criminals don't want to be caught—their relationship with law enforcement, unlike a consumer's relationship with a seller, is adversarial rather than based on mutually agreed and beneficial exchange. Thus, there is a knowledge gap because information does not flow naturally as in a market, but central planning fails for the same reasons as in the economy—a police chief can no more patrol a neighborhood from his office than a bureaucrat can determine how many products of each type a supermarket should stock.

Technology can bridge part of this knowledge gap, giving a probation officer up-to-the-minute information as to the whereabouts, and in some instances the sobriety, of the 100 offenders he supervises and giving the police commander real-time data with which to determine the

best allocation of his force. Just as Google has democratized knowledge, initiatives like CLEAR can stimulate the timely flow of vital intelligence from citizens to law enforcement. Deterrence can result from police and correctional officers having the upper informational and technological hand, as the prospective criminal or supervised offender realizes his odds of getting away with illegal activity are diminished.

Each application of technology in the criminal justice system should of course be subject to cost-benefit analysis, and there must be limits on the extension of government snooping and individualized data collection beyond offenders, who have by definition chosen to give up some of their privacy by committing a crime. However, even while government must be limited in its scope, public safety agencies should harness the benefits of many of the same technological advances that have driven greater productivity in the private sector. ★

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About the Author

Marc A. Levin, Esq., is the director of the Center for Effective Justice at the Texas Public Policy Foundation. Levin is an Austin attorney and an accomplished author on legal and public policy issues.

Levin has served as a law clerk to Judge Will Garwood on the U.S. Court of Appeals for the Fifth Circuit and Staff Attorney at the Texas Supreme Court.

In 1999, he graduated with honors from the University of Texas with a B.A. in Plan II Honors and Government. In 2002, Levin received his J.D. with honors from the University of Texas School of Law.

Levin's articles on law and public policy have been featured in publications such as *The Wall Street Journal*, *USA Today*, *Texas Review of Law & Politics*, *National Law Journal*, *New York Daily News*, *Jerusalem Post*, *Toronto Star*, *Atlanta Journal-Constitution*, *Philadelphia Inquirer*, *San Francisco Chronicle*, *Washington Times*, *Los Angeles Daily Journal*, *Charlotte Observer*, *Dallas Morning News*, *Houston Chronicle*, *Austin American-Statesman*, *San Antonio Express-News* and *Reason Magazine*.

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