

# Overincarceration of People with Mental Illness

*Pretrial Diversion Across the Country and  
the Next Steps for Texas to Improve its Efforts  
and Increase Utilization*



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# Overincarceration of People with Mental Illness:

## *Pretrial Diversion Across the Country and the Next Steps for Texas to Improve its Efforts and Increase Utilization*

by Kate Murphy and Christi Barr

### Introduction

Paton Blough, who has bipolar disorder, describes mania as feelings of nirvana and ultimate power alternating with feelings of extreme fear and paranoia.<sup>1</sup> Ten years ago, Bough experienced a manic episode that made him believe a police officer was trying to pull him over to murder him.<sup>2</sup> This belief led to a high speed chase and Bough's first arrest.<sup>3</sup> In jail, Bough believed he was waging nuclear war with China by sending signals to President Bush from his jail cell.<sup>4</sup> He was eventually moved to a mental health hospital.<sup>5</sup> During the three years following his initial release, he experienced alternating episodes of mania and depression.<sup>6</sup> He was arrested six times and received several misdemeanor convictions and two felony convictions.<sup>7</sup> Although ashamed of his criminal record, Bough has since used his experiences to help train more than 250 police officers in crisis intervention.<sup>8</sup>

Bough is not alone in his interactions with the criminal justice system. Texas county jails house around 60,000 to 70,000 inmates per day. On March 1, 2015, the Texas Commission on Jail Standards reports that 63,159 people were in county jail.<sup>9</sup> Of the 63,159 people in jail on March 1, 2015, 60 percent (37,893) were awaiting trial.<sup>10</sup> A 2012 study of five U.S. jails by Fred Osher et al. found that 17 percent of adults entering jails met the criteria for serious mental illness (SMI).<sup>11</sup> If this holds true in Texas, county jails held about 6,400 pretrial detainees with serious mental health issues every day. With counties in Texas spending an average of \$59 per inmate per day,<sup>12</sup> this suggests an annual cost of about \$138.7 million for pretrial detainees with mental health issues.

But cost is not the only problem facing Texas communities. The criminal justice system is not designed to treat people with mental illness. People with mental illness also have higher recidivism rates.<sup>13</sup> Additionally, some pretrial diversion programs appear to reduce recidivism and lead to positive outcomes for participants, including less time incarcerated, avoidance of criminal convictions, and improved substance use and mental health outcomes.<sup>14</sup> Pretrial diversion and treatment appear to be better than incarceration at addressing the problems often associated with people with mental illness who have committed crimes.

Of course, this shouldn't be a surprise. Prisons and jails are not mental health treatment facilities—they are detention facilities intended to deter crime, punish criminal activity, or encourage personal reform. Further, law enforce-

### Key Points

- The state should delegate its responsibility to provide mental health services to local governments that are already making decisions about how to address people with mental illness in local jails.
- The lack of coordination between the state and local governments has impeded local governments' ability to resolve the problems associated with people with mental illness who cycle through local jails.
- Local governments should continue to reallocate funding to expand effective, efficient community-based mental health services that may prevent or could be an alternative to incarceration.

ment officers traditionally are not trained to counsel people with mental illness—they are trained to enhance public safety sometimes through arrest and incarceration. Following arrest, people are taken to jail intake where corrections officers gather information to inform decisions regarding the unit of assignment, the level of security supervision, housing and job assignments and time-earning status, and whether an assessment would be prudent to identify any treatment or special needs. Generally within 48 hours, the detainee will appear before a judge or magistrate who will determine whether that person can be released on bail or bond. If not, the individual will be held in jail until his or her case is adjudicated. The longer people with mental illness are in jail, the lesser their likelihood of success may be upon release particularly if they do not receive adequate treatment. Because of this concern, early mental health screening and assessment is an important part of any effective diversion strategy.



Many people with serious mental illness who have also committed serious crimes should be incarcerated. But for others, diversion may be more appropriate. The first challenge, then, is increasing the ability to identify those who might be safely diverted from the criminal justice system to reduce future repeat interactions with the system, which will be a significant focus of this paper.

The criminal justice system presents many opportunities to link offenders with serious mental illness to services that might prevent recidivism. This study will focus on diversion programs for people with mental illness.

However, increasing the effectiveness of various pretrial diversion programs will not fix all of Texas' problems. In Texas the state controls and funds most public mental health services, but local governments are better situated to address problems in their community surrounding people with mental illness. The lack of coordination between the local governments that provide criminal justice and law enforcement services and the state government that provides mental health services is a significant problem. As a result, local government does not always have the ability or resources to take actions to resolve the problems arising from the apparent lack of coordination. This study will also examine this problem.

### The Scope of the Challenge

Most people understand that these days, jails across our country serve as de facto mental institutions. In Texas, 30 percent of jail inmates have received mental health services from the state.<sup>15</sup> The Harris County jail, often cited as the largest mental health facility in the state, doses about 2,500 people with psychotropic medication every day.<sup>16</sup> In Bexar County, the former Commander of the Mental Health Division of the Sheriff's Office reported that mental health consumers spend twice as long in jails as non-consumers for the same offense and cost taxpayers two to three times more money.<sup>17</sup>

Beyond spending more time in jail and costing taxpayers more money, people with mental illness also have more repeat incarcerations. For example, in 2006-07 the Urban Institute studied patterns of mental illness in the criminal justice system and found that incarcerated Texans with psychiatric disorders were 2.4 times more likely to have four or more repeat incarcerations.<sup>18</sup> For those with bipolar this number rose to 3.3.<sup>19</sup>

Placing people with mental illness in local jails costs money, just as dealing with crime in general does, at both the state and local levels. The chart that follows shows the percentage of several county budgets that is spent on these large populations.

An average of 14.1 percent of the county budget for several large counties in Texas is spent on corrections. The following chart focuses on the cost of pretrial detainees in the largest county jail populations in Texas.

### PERCENTAGE OF COUNTY BUDGET SPENT ON CORRECTIONS

County	Total Population*	FY 2015 County Budget	FY 2015 Jail Budget	% of County Budget
Harris	8559	\$1,867,300,463†	\$180,000,000	9.6%
Dallas	5850	\$449,771,113‡	\$92,932,022	20.7%
Bexar	3816	\$385,393,460§	\$61,064,507	15.8%
Tarrant	3296	\$546,660,812¶	\$73,953,585**	13.5%
Travis	2340	\$910,988,941††	\$113,816,981	12.5%
El Paso	2108	\$311,757,136‡‡	\$38,680,036	12.4%
				<b>14.1% Average</b>

### ESTIMATED COST OF PRETRIAL DETAINEES

County	Total Population §§	Pretrial Detainees ¶¶	Percentage of Pretrial Detainees	Estimated Annual Cost of Pretrial Detainees (based on \$59 per inmate per day average)
Harris	8559	5655	66.1%	\$121,780,425
Dallas	5850	4302	73.5%	\$92,643,570
Bexar	3816	2234	58.5%	\$48,109,190
Tarrant	3296	1899	57.6%	\$40,894,965
Travis	2340	1679	71.8%	\$36,157,265
El Paso	2108	1046	49.6%	\$22,525,610

Many jails that feel overburdened by people with mental illness in their facilities are calling for greater state mental health hospital capacity, but the state's mental health hospitals are more expensive and are also overcrowded. The criminal justice system is putting enormous pressure on the state mental health hospitals. The Texas Sunset Advisory Commission, which examined the state hospital system, found that "resolving the current [capacity] crisis in the state mental health hospital system requires action, starting now."<sup>20</sup> Inpatient psychiatric beds do not meet the demand of the communities using them. This crisis has largely been driven by the growing forensic population. People who are committed to state hospitals because they were deemed incompetent to stand trial are part of the forensic population.<sup>21</sup> In 2014, for the first

time in Texas history, forensic commitments outnumber civil commitments. Forensic commitments include those held incompetent to stand trial and those found not guilty by reason of insanity; all other consumers are civil commitments. And in 2013, inpatient psychiatric beds were unavailable to communities for over one-third of the year, particularly hurting rural communities with less local options.<sup>22</sup> Forensic patients also stay in state hospitals longer. Civil and voluntary patients stay for on average 49 and 30 days respectively, while those found not guilty by reason of insanity and or incompetent to stand trial stay for an average of 370 and 135 days.<sup>23</sup> Increased forensic pressure strains the state hospitals by reducing the amount of beds available to all new patients seeking treatment and limiting access to care for civil and voluntarily commitments.

\* Texas Commission on Jail Standards, <http://www.tcjs.state.tx.us/docs/AbbreRptCurrent.pdf> (Mar. 1, 2015).

† Harris County, FY 2014-15 General Fund Budget - Approved February 11, 2014 (Feb. 11, 2014).

‡ Dallas County, Dallas County Approved Budget FY 2015 (Oct. 1, 2014-Sept. 30, 2015).

§ Bexar County, Proposed Annual Budget Fiscal Year 2014-15 (Oct. 1, 2014-Sept. 20, 2015).

¶ Tarrant County, Tarrant County, Texas FY2015 Adopted Budget (2015)

\*\* Tarrant County, General Fund Summary (2015)

†† Travis County Planning and Budget Office, Travis County Fiscal Year 2015 Budget Summary (Oct. 2014)

‡‡ El Paso County, [County of El Paso, Texas, Adopted Budget, Book 1 of 4](#), (Oct. 7, 2014)

§§ Texas Commission on Jail Standards, <http://www.tcjs.state.tx.us/docs/AbbreRptCurrent.pdf> (Mar. 1, 2015).

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Over the 2014-15 biennium the 83rd Legislature appropriated \$2.6 billion to the Department of State Health Services (DSHS) for mental health services: \$665 million for adult community mental health service,<sup>24</sup> \$201 million for children's community mental health services,<sup>25</sup> \$221.2 million for community mental health crisis services,<sup>26</sup> \$226.6 million for NorthSTAR,<sup>27</sup> \$315.6 million for substance abuse services,<sup>28</sup> \$837 million for state mental health hospitals,<sup>29</sup> and \$153.1 million for community mental health hospitals.<sup>30</sup> But state funding of behavioral health services actually amounts to \$3.2 billion across all state agencies.<sup>31</sup> And this \$3.2 billion does not include federal funding, Medicaid, or local funding.

Since its establishment in 2003, DSHS has failed to provide integrated, outcomes-focused community behavioral health services.<sup>32</sup> Not only are community-based behavioral health services generally more pragmatic and humane, but they are also typically more cost effective than services provided in state institutions and are better at improving outcomes.<sup>33</sup> Effective community behavioral health services go a long way to reduce pressure on jails and local communities.<sup>34</sup>

*The large number of arrests and the sizable county jail populations in the U.S. have made pretrial diversion programs very popular across the board, not just in addressing people with mental illness.*

Texas has been mismanaging mental health resources for at least the last 12 years, which has contributed to a pattern of over-criminalization or overincarceration of people with mental illness. But the truth is that Texas' public health and corrections systems likely have enough money to address this problem if the system was run more efficiently, which would be most easily accomplished by delegating the responsibility to local governments.

## Pretrial Diversion

Pretrial diversion programs provide an alternative to traditional criminal justice processing. These programs have arisen as a response to state failure to provide effective mental health services, as have other diversion

strategies on which law enforcement currently relies. As implemented most diversion programs target offenders who would be better served through community-based services rather than going through criminal processing.<sup>35</sup> The programs all involve several core elements, including a set of eligibility criteria, structured delivery of services and supervision, and dismissal of charges after successful completion of the program.<sup>36</sup> Community-based treatment programs can be effective at stabilizing individuals and making recommendations to address long-term behavioral health needs that will prevent people from cycling through various, expensive state institutions.<sup>37</sup>

A recent report by the Texas Public Policy Foundation documented that "in 2012, there were 12.2 million arrests in the U.S., according to the FBI. About 220,000 people are admitted to county jails every week whereas state prisons admit 10,000 per week. Nationally, 62 percent of jail inmates are pretrial detainees, with the remainder being those convicted and serving a sentences for misdemeanors, and others convicted of felonies who are waiting to be picked up by the state prison system."<sup>38</sup> The large number of arrests and the sizable county jail populations in the U.S. have made pretrial diversion programs very popular across the board, not just in addressing people with mental illness.

The Foundation goes on to describe the goals of pretrial diversions policies:

These goals typically fall into the following categories: 1) making sure the defendant shows up for hearings and trial so that justice can be dispensed, 2) ensuring that the public is protected from defendants committing crimes during the period prior to trial, 3) observing constitutional rights to reasonable bail and due process that apply to those arrested but not yet convicted, and 4) controlling jail costs, which are the largest expense in many county budgets. These considerations require balancing the cost of keeping the accused in jail against the risks that, if released, he will not appear for his trial and may even commit a new offense. Either entails the cost of finding and securing him and, in the case of a new offense, a possible cost to a victim.<sup>39</sup>

An additional challenge when addressing offenders with mental illness is finding the best treatment setting that

will help reduce recidivism. Another factor to be considered is that treatment alone is not always sufficient. Symptoms of mental illness only directly cause about 17 percent of crimes.<sup>40</sup> And many offenders with mental illness commit crimes that are not motivated by symptoms of mental illness.<sup>41</sup> The sometimes tenuous link between mental illness and crime demonstrates the importance of cognitive adaptive training that imparts new skills and knowledge to offenders who are diverted from jail and remain in society. Therefore, good pretrial diversion programs for people with mental illness should often include both treatment and other services that address criminogenic behavior.

## Pretrial Diversion Programs and Practices in Texas

The CMHS National GAINS Center describes the many points in which people with mental illness can be intercepted and diverted from incarceration to mental health treatment. Pretrial diversion can occur at two points of interception: at first contact with law enforcement and during initial detention or initial court hearings.<sup>42</sup> People first come into contact with the criminal justice system in the community through 911 or local law enforcement.<sup>43</sup> This contact is the first sequential intercept for developing a criminal justice-mental health partnership.<sup>44</sup> At this intercept various service-level changes can be made to improve public safety long term. Police can be trained to respond to calls where mental illness is a factor.<sup>45</sup> Police contacts with people with mental illness should be documented.<sup>46</sup> Communities can establish a police-friendly drop-off center, crisis unit, or triage center to stabilize emergencies or crises.<sup>47</sup> Those who are diverted at this intercept should be linked to follow-up services.<sup>48</sup> And services should be monitored and evaluated for quality improvement.<sup>49</sup>

The next intercept is after arrest but before trial.<sup>50</sup> At this stage, arrestees should be screened for mental illness at the earliest opportunity to determine whether they are eligible for diversion.<sup>51</sup> The state should maximize opportunities for pretrial release and link people who are eligible for pretrial release to comprehensive evidence-based services that are proven to help reduce recidivism.<sup>52</sup>

Lacking cross system coordination and limited resources are significant barriers to improving the present use

of pretrial diversion for people with mental illness who are cycling through the criminal justice system. But Texas counties are working to make meaningful changes that will link people with mental illness to treatment, use taxpayer dollars more efficiently, and ultimately improve public safety. This section will discuss what Texas is doing right and some areas that need improvement.

### Harris County

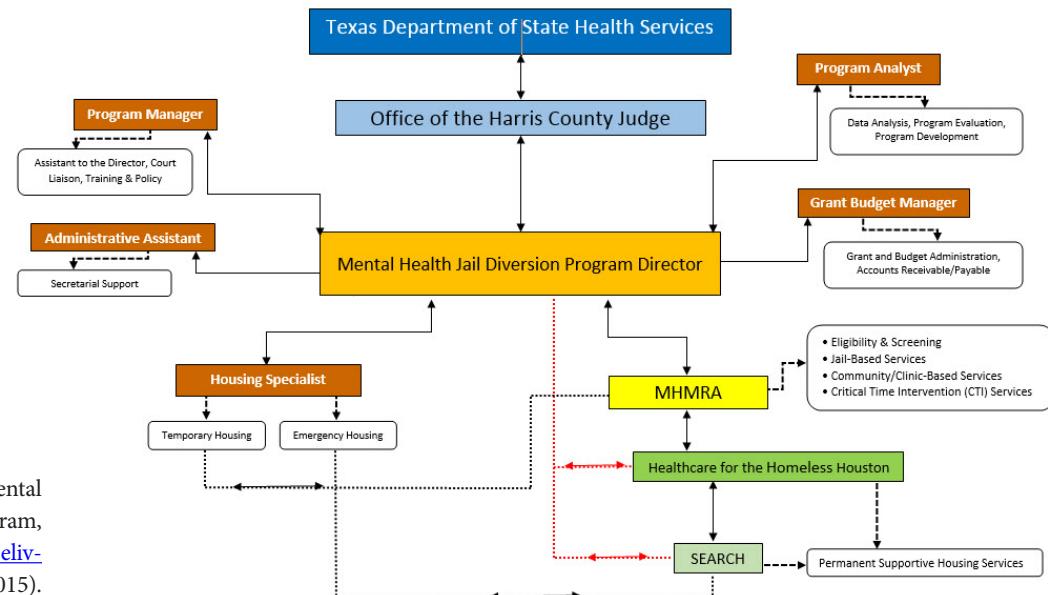
Harris County has been working hard to improve pretrial diversion efforts for people with mental illness. Harris County operates the largest county jail in Texas with approximately 9,000 inmates, with people with mental illness representing 25 percent of all inmates.<sup>53</sup> Because it holds a large population of people with mental illness, the Harris County jail is often referred to as the biggest psychiatric facility in Texas.<sup>54</sup> The annual cost for an inmate with mental illness in Harris County from 2004-2008 was \$7,017, compared to other inmates at \$2,599.<sup>55</sup> Every contact with the criminal justice system comes at a high costs, and many people with a mental illness re-offend and end up cycling through the jail system again and again.<sup>56</sup> Incarcerating people with mental illnesses has high costs that waste taxpayer dollars and ultimately fail to effectively meet the needs of individuals with mental illness.

To help this problem, the 83rd Legislature enacted Senate Bill 1185, creating a jail diversion pilot program in Harris County.<sup>57</sup> The goals of the program include reducing the frequency of arrests, number of days spent in jail, increasing access to different services, improving quality of life and reducing criminogenic risk.<sup>58</sup> The pilot program targets people with a serious mental illness, schizophrenia, bipolar, major depression, and PTSD, who have been booked at least three times in two years at Harris County jail.<sup>59</sup> People are referred to the program through community providers, MHMRA, courts, or law enforcement, creating many opportunities to divert eligible people away from jail.<sup>60</sup> Once referred, individuals will receive behavioral health services, healthcare, housing, rehabilitation services, case management services and peer support.<sup>61</sup> In December of 2014, there were 3,000 total individuals that met the criteria for enrollment into the program, with anywhere from 450 to 500 people in the jail at any given time.<sup>62</sup> As of May 1, 2015, a total of 154 people have been enrolled in the program.<sup>63</sup>

The Harris County Mental Health Jail Diversion Program's organization is shown in the chart below along with a chart of agencies that collaborate with the program.

### Harris County Mental Health Jail Diversion Program

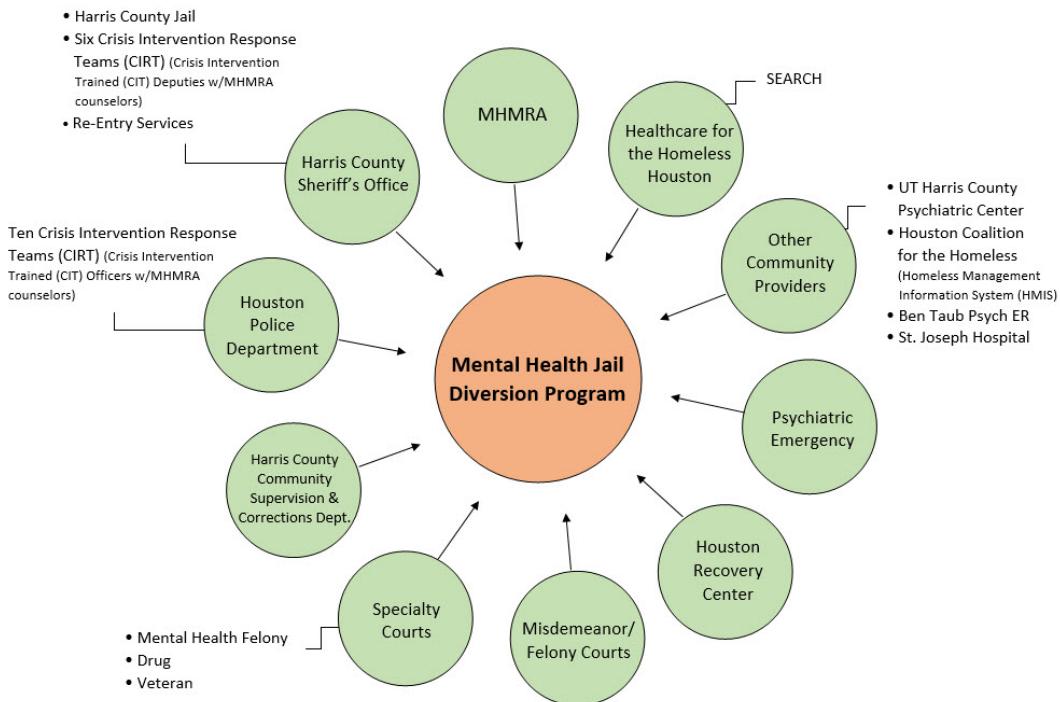
#### Organization and Service Delivery



Source: Harris County Mental Health Jail Diversion Program, [Organization and Service Delivery](#) (last visited May 28, 2015).

### Harris County Mental Health Jail Diversion Program

#### Referring Agencies and Organizations



Source: Harris County Mental Health Jail Diversion Program, [Referring Agencies and Organizations](#) (last visited May 28, 2015).

This program connects individuals with mental illness with community-based services to prevent cycling back into jail. Depending on preliminary results, this program has the potential to be replicated in other counties throughout Texas. Although more funding is likely necessary to replicate and expand this pilot program, the results and potential savings could outweigh the initial monetary cost. Because this program relies on many community-based services, the greater focus should be on the benefits resulting from improved collaborations between the mental health and criminal justice systems. Any diversion program based on this model should be sure the community has the mental health infrastructure in place to support the program. A diversion program without adequate community-based services would not be able to effectively treat people or accomplish its goals. Therefore, it may be more difficult to replicate this program in counties with limited mental health services. However in counties with established community-based services, the program should be replicable with emphasis on collaboration between the existing services.

### ***Bexar County***

Bexar County is regarded as a model for collaboration between the mental health and criminal justice systems. Bexar County has several examples of best practices in jail diversion. For example, in Bexar County the Commissioners Court approved the Mental Health Advocacy Initiative to identify and assist people with mental illness who repeatedly cycle through the criminal justice system.<sup>64</sup> This initiative focuses on nonviolent inmates with one or more previous incarceration in the last year.<sup>65</sup> Each individual in the program gets an individual treatment plan with the input of judges, attorneys, providers, and the participant.<sup>66</sup> Over the next year, the participant receives intensive case management to ensure long term stabilization.<sup>67</sup> Case management can include outpatient treatment to assist people with serious mental illness with treatment compliance and court orders, which has effectively reduced incidents of hospitalization, homelessness, arrests/incarcerations, victimizations, and violence.<sup>68</sup>

Additionally, Bexar County has partnered with the Crisis Care Center for its jail diversion program. Since 2003, over 17,000 people have been diverted from incarceration to treatment.<sup>69</sup> This program has saved taxpayers over \$50 million, trained over 2,600 law enforcement of-

ficers in crisis intervention, and reduced overcrowding in the Bexar County Jail from over-capacity to 500 empty beds.<sup>70</sup> The crisis care center has a Mobile Crisis Outreach Team (MCOT) that provides 24 hour mental health crisis screening and assessment, links people to community resources, and facilitates hospitalization if necessary.<sup>71</sup> The Crisis Care Center also has a drop-off destination for psychiatric emergencies where they screen and assess people with mental illness, link people to services, offer 48 hour crisis observation, and assist with mental health warrant applications.<sup>72</sup> This program allows officers to leave people experiencing a mental health crisis with trained professionals who can assist them.

One of Bexar County's newest initiatives is an attempt to screen and assess every single arrestee at magistration. Upon arrest in Bexar County, every detainee is sent to the Central Magistrate Facility for screening. The University Health System screens for physical health issues and the Judicial Pretrial Services screens for mental illness. If an individual might have a mental illness, they are referred to the Local Mental Health Authority (LMHA), where they will undergo a full mental health assessment. After the assessment, the LMHA can recommend the detainee receive treatment from the mental health system rather than be incarcerated.

Bexar County's effort to screen every arrestee for mental illness could help break the cycle of recidivism that many justice-involved individuals with mental illness are caught in. Other jail diversion programs focus solely on individuals with previously known mental illnesses, but Bexar County's new program is actively looking for these individuals, aiming to identify those who may otherwise be overlooked. Bexar County's proactive approach should reduce the number of people with mental illness who are inappropriately incarcerated. This reduction should further the goals of improving public safety and helping individuals in need at a lower cost to taxpayers.

***Bexar County is breaking new ground with its mental health screening procedures, which could help some of Texas' neediest people and create safer communities.***

Bexar County is breaking new ground with its mental health screening procedures, which could help some of Texas' neediest people and create safer communities. Texas should encourage other counties to follow Bexar County's example of developing cost-effective programs that promote public safety and improve the lives of people in crisis who are stuck in a revolving door of Texas' criminal justice system.

#### *Other Counties*

Williamson County has a strong mental health diversion program.<sup>73</sup> Its program includes an outreach team, a crisis intervention team, and resource coordination among mental health and corrections providers.<sup>74</sup> Williamson County's diversion program has saved \$3.2 million from costs associated with jail bookings to the administration of psychotropic medication and emergency room use.<sup>75</sup> The diversion program is also associated with reduced use of state hospital beds.<sup>76</sup>

Williamson County also has a Crisis Intervention Team program (CIT) that has created cost-savings.<sup>77</sup> Crisis Intervention Teams are part of the Sheriff's Office. CIT programs are designed to improve interactions between law enforcement officers and individuals with mental illnesses and increase safety of all people involved in mental health crises.<sup>78</sup> They receive specialized mental health training and learn about community alternatives to incarceration. The Williamson County CIT saved the county \$2.3 million over the course of two years by diverting 1,088 people with mental illness from jail to community-based treatment.<sup>79</sup>

*In addition to saving money, lowering recidivism, and freeing up jail space, participants who are working are able to pay restitution to victims and receive special services that can help them turn their lives around.*

Smaller communities like Smith County are also implementing innovative pretrial diversion programs. Smith County has many nonviolent arrestees, which led county leaders to open the Alternative Incarceration Center (AIC).<sup>80</sup> The AIC is geared toward reducing the Smith County jail population, protecting the public through

intensive supervision (i.e. day reporting), providing employment services, and rehabilitating offenders as they reenter society.<sup>81</sup> The AIC offers low-level offenders with mental illness assistance through screening, assessment, counseling, symptom management and skills training, and medication regimen compliance.<sup>82</sup> In the first year since the inception of AIC, the jail population decreased more than 120 inmates per day and Smith County saved nearly \$1 million.<sup>83</sup> AIC has an average of 289 participants each year.<sup>84</sup> 36 months of program data shows that 88 percent of participants remain successful on regular probation after six months, and 77 percent remain successful after one year.<sup>85</sup> The diversion program costs about \$1 million each year and saves \$4.4 million—a net savings of over \$3 million for Smith County.<sup>86</sup> In addition to saving money, lowering recidivism, and freeing up jail space, participants who are working are able to pay restitution to victims and receive specialized services that can help them turn their lives around.<sup>87</sup>

In Brazos County, the sheriff's office employs four full-time CIT officers who respond to calls involving a person with or suspected of having a mental illness.<sup>88</sup> Brazos County's CIT program provides follow up care to everybody they encounter. Each of the deputies have cases assigned to them and will follow up, weekly or monthly, to ensure that the person has and is taking their medications, to see how they are doing, and to prevent them from going into another crisis.<sup>89</sup>

In Palo Pinto County, law enforcement officers can simply take somebody straight to the LMHA for services rather than taking them to jail if they determine a person needs mental health services.<sup>90</sup>

Law enforcement officers in Burnet County are trained to do mental health assessments on people they come into contact with who present with mental health problems. From there, they will determine whether or not to contact the LMHA for a more formal evaluation and recommendation of services. Their policy is to try and never put somebody who has a mental illness into the jail, but rather get them into an in- or out-patient treatment program.<sup>91</sup>

Similarly, Wharton County employs mental health deputies that can issue emergency detention orders and temporarily house a person with mental illness in the sher-

iff's office. Then they contact the LMHA to come assess the individual and provide recommendations, usually ending with the deputy transporting the individual to a state hospital or other facility.<sup>92</sup>

Jefferson County has a special program, Assist, Stabilize and Prevent (ASAP), that works to identify people with mental illness in the community that have had contact with law enforcement. Officers then work with those individuals to prevent them from re-entering jail or hospitals. Their program has successfully diverted 400 individuals from being incarcerated.<sup>93</sup>

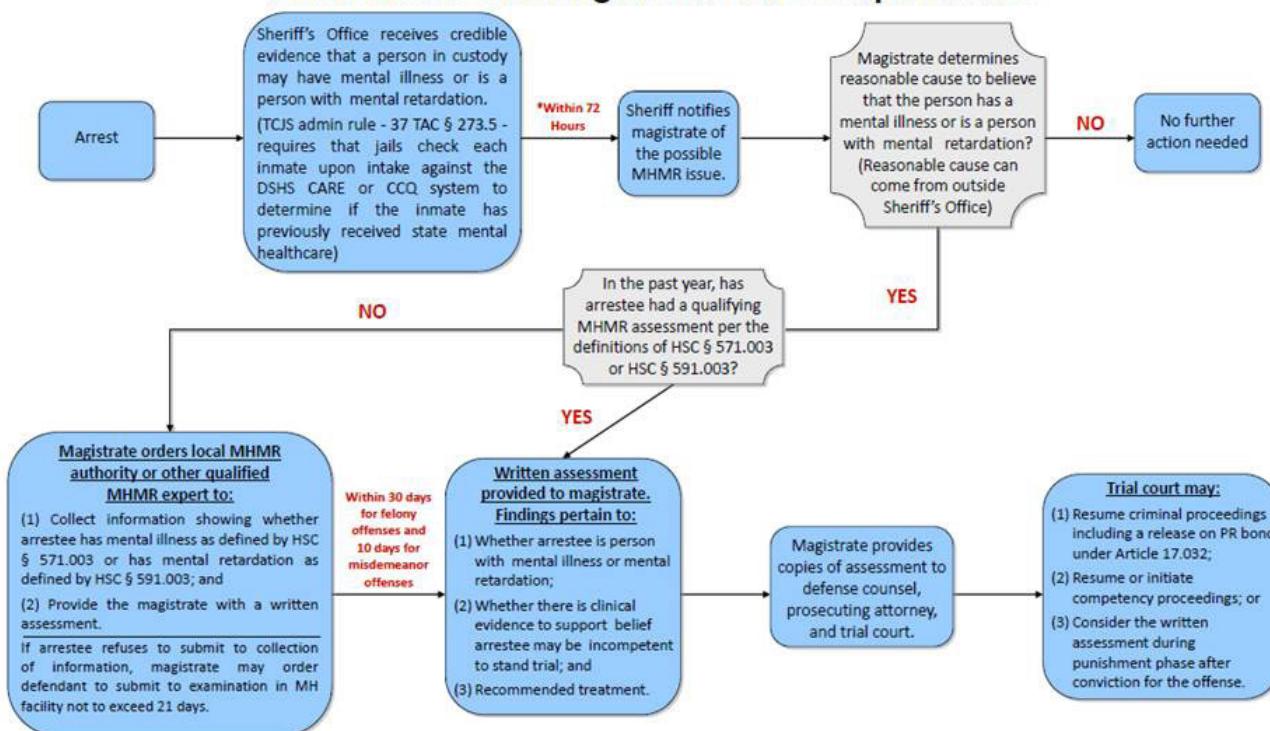
Ector County has three specially trained mental health officers that respond to calls involving somebody with a mental illness. The officers will do an assessment on the individual in the field and then transport them to a hospital to get care. Then the officers will transport the person to a treatment facility after a judge signs off on it. The program allows for personal relationships between the mental health officers and people in the community with mental illness to develop, resulting in better outcomes for situations that arise.<sup>94</sup>

## Survey: Early Identification of Defendant Suspected of Having Mental Illness

Article 16.22 of the Texas Code of Criminal Procedure, described in a flowchart below, sets out the requirements regarding early identification of defendant suspected of having mental illness or mental retardation. It requires the sheriff's office to notify the judge or magistrate within 72 hours if corrections reasonably believes a jailed suspect has a mental illness, which should happen at intake pursuant to the TCJS administrative rule that requires jails to run a check against the CCQ system to determine whether the detainee has a history of mental illness.<sup>95</sup> The flowchart below describes how Article 16.22 functions.

Some indication of how this system is working can be found in a 2008 survey of Texas judges that handle criminal cases. The survey received responses from 244 judges. The judges indicated that 36.6 percent of them learned of a defendant's mental illness as early as the time of magistration, setting of bond, and appointing counsel.<sup>96</sup> In about 30 percent of the cases was mental health screening done as early as this point in time.<sup>97</sup>

### Flow Chart Describing Article 16.22 Requirements



Source: Texas Commission on Jail Standards Flowchart Describing Article 16.22 Requirements (last visited May 28, 2015).

In an effort to provide more up to date information, the Foundation contacted 153 Texas counties on their specific policies and practices regarding these requirements, receiving responses from 98 counties with various intervention, assessment, and diversion programs for those with mental illness.

Almost all of the counties that responded reported that they contract with the Local Mental Health Authority (LMHA) to assess and provide treatment recommendations for people with mental illness who are booked into the jail. However, only 77 percent reported using standard screening forms to identify inmates with mental illness, 41 percent reported running names against the CCQ, and 34 percent reported notifying the magistrate or judge of an inmate's mental health problems.<sup>98</sup> Although many counties are using the LMHAs when encountered with inmates with mental health problems, many appear to be lagging behind in their screening process which could result in people falling through the cracks and not receiving proper treatment. By not properly identifying those with mental illness in a timely manner, the use of pretrial services and diversion programs decrease.

Many of the counties noted that after booking, a person could be sent to a state hospital for treatment rather than staying in jail. To accomplish this, several counties specified that they will either drop the charges, issue time served, release the inmate on a personal recognizance bond, or get a court order for commitment. Reliance on the state mental health hospital system is an inadequate response to the problems surrounding people with mental illness in the criminal justice system. As discussed earlier, the state hospitals presently are not capable of handling the large forensic population.<sup>99</sup>

### *Texas' Noncompliant County Jails*

Currently, the Texas Commission on Jail Standards cites 5 small counties across Texas for failing to meet the Article 16.22 requirements. This data conflicts with the Foundation's survey of current screening and assessment practices in Texas.

Bosque County is a small county in central Texas with about 17,780 people that the Texas Commission on Jail Standards has identified as noncompliant with Article 16.22.<sup>100</sup> The 2015 budget for the Bosque County jail is \$837,163, which is 11.1 percent of the entire county budget.<sup>101</sup> On March 1, 2015, almost the entire jail population consists of pretrial detainees.<sup>102</sup> Of the 25 people being held, only 3 had been convicted of a crime.<sup>103</sup> If Bosque County jail were to spend the statewide average of \$59 on the remaining 22 detainees, Bosque County taxpayers would be spending \$1,298 a day, which is nearly \$475,000 per year—over half of the Bosque County jail budget. If people in Bosque County are not properly screened or assessed they cannot be diverted. Bosque County Jail has not been notifying the magistrate of inmates known or observed to have a mental illness in writing.<sup>104</sup> And although jail staff claims that it verbally notifies the magistrate of these issues, seventy-five percent of files reviewed had no evidence that the county had run a CCQ to see whether the detainee had been treated by an LMHA.<sup>105</sup>



Hill County Jail is also failing to properly notify the magistrate about inmates' mental health challenges.<sup>106</sup> Hill County borders Bosque County, but has about twice as many people.<sup>107</sup> About 60 percent of the Hill County jail population consists of pretrial detainees (96 out of 168 inmates).<sup>108</sup> Hill County spends 10.5 percent of its budget on the county jail.<sup>109</sup> And the pretrial detainees are costing Hill County taxpayers \$5,664 per day, which could add up to over \$2 million per year, which is almost the entire Hill County jail budget for 2015 (\$2,390,000).<sup>110</sup>

Maverick County on the U.S.-Mexico border is home to 57,023 people.<sup>111</sup> The Maverick County budgets \$2,614,428 for its jail, which is nearly 20 percent of the county's entire budget.<sup>112</sup> 43 percent (48 out of 111) of the inmates in Maverick County Jail are waiting for trial costing the county over \$1 million each year,<sup>113</sup> and Maverick County Jail is not complying with state requirements for screening and assessing mental illness.<sup>114</sup>

About 7,300 people live near the Gulf of Mexico in Refugio County.<sup>115</sup> This sparsely populated county spends \$1,082,437 on its jail (14.4 percent of the Refugio County Budget).<sup>116</sup> Over half (12 out of 23) of the county jail population are pretrial detainees.<sup>117</sup> Pretrial detainees roughly cost Refugio County over \$250,000. Refugio County is also not complying with state mandated screening and assessment practices.<sup>118</sup>

Finally, Upton County is a small west Texas county with 3,454 people.<sup>119</sup> Upton County spends 8.8 percent of its \$13,651,399 budget on the county jail (\$1,204,900), which is not complying with the state's mental health screening requirements.<sup>120</sup> Seven out of the 23 inmates are pretrial detainees.<sup>121</sup>

## **Room for Improvement: Analysis and Recommendations**

The over-arching policy concern here is that the criminal justice system is not designed to be a mental health provider, but it is being forced to be one. The constitution properly puts limits on when government can take away a person's liberty. When looking at limitations on liberty in the criminal justice and mental health systems, law enforcement can only detain a person if there is probable cause that person has committed a crime or if the officer has reason to believe that person poses a substantial risk of harm to self or others. Outside of these two scenarios, the government lacks authority to force an unwilling people to change their conduct.

Law enforcement is traditionally trained to respond to a public safety threat and to end the threat by incarcerating the person posing that threat. After a person is arrested and incarcerated, he or she cannot be released without judicial approval. And prosecutors cannot require offenders to act in a certain way unless that requirement is connected to adjudication of a crime. Finally, conditions of release that only require that a person participate in mental health services, may be inadequate especially when considering the problem that demand for such services exceeds supply. These structured rules and procedures generally do not work well with a person that cannot follow rules because of a mental illness.

The most significant barrier to resolving the problems associated with coordinating criminal justice and mental health resources is that the state controls and funds most public mental health services, but local governments are where the individual decisions are made about how to address offenders with mental illness.

The problem is not simply that there are too many persons with mental illness in the criminal justice system. The larger, systemic problem is the lack of coordination between the local government that provides criminal justice and law enforcement services and the state government that provides mental health services. One result of the lack of coordination is that local governments are forced to create new mental health diversion programs.

Local governments are generally in a better position than the state to provide mental health services aimed at prevention. Efficient, effective provision of mental health services will reduce demand on the criminal justice system from people with mental illness. Ultimately, Texas should begin to transition to a new system that delegates the provision of mental health services to local governments that are better able to address their unique needs in both areas.

But until our system is improved, jails will continue to be required to pick up the slack where community-based treatment is lacking. So much of the analysis and many of the recommendations below are designed to deal with this as we work to fully address the more substantial problem.

*The state and local governments should work to keep people out of the criminal justice system when it serves the best interests of justice.*

Offenders with mental illness are often arrested for low-level offenses like trespass, loitering, disorderly conduct, or other quality of life or victimless crimes. Although disruptive, these types of offenses rarely pose a threat to public safety. Creating an alternative to jail for these crimes may create a more just result. The Legislature could make some of these offenses cite-and-summons offenses that

*Offenders with mental illness are often arrested for low-level offenses... these types of offenses rarely pose a threat to public safety.*

come with a treatment referral. At the court appearance, offenders could, with the victim's consent, have this type of case adjudicated through victim-offender mediation rather than incarceration or a fine. This would allow individuals to still be held accountable for their actions while reducing unnecessary incarceration.

The most common way police come into contact with a person with mental illness is by responding to a request for service from a call to the department. These calls are handled by 911 dispatchers. The dispatcher must gather information about the event that precipitated the call. Where resources are available, dispatchers should receive training on how to determine whether mental illness is a factor in a particular call and use that information to inform the appropriate responder.

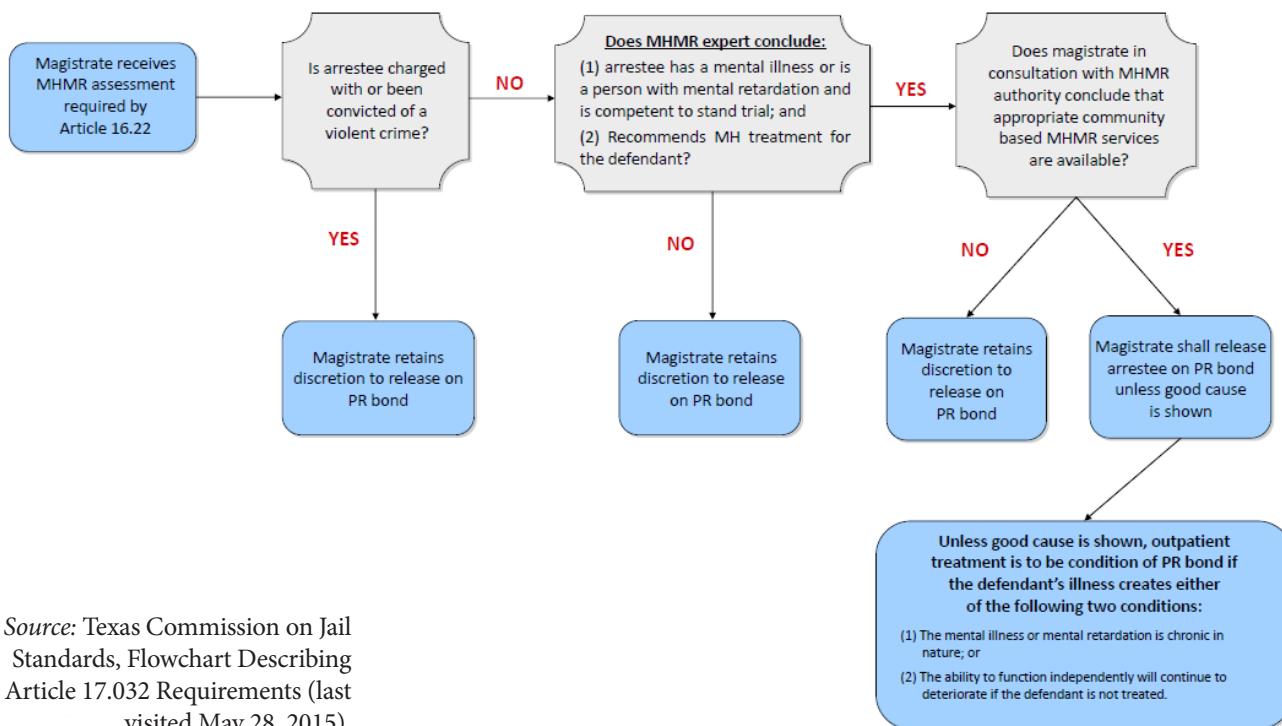
These responders might be Crisis Intervention Teams (CIT) or Mobile Crisis Units (MCU). Police might encounter people with mental illness who are victims of crime, a

witness to crime, subjects of a nuisance call, possible offenders, or a danger to themselves or others. Officers must be able to recognize the potential role of mental illness in an incident and know how to respond accordingly to keep themselves, the person with mental illness, and any nearby bystanders safe during their interaction. Communities can decide the best ways to accomplish this.

Crisis Intervention Teams are local law enforcement officers who receive specialized training on how to respond to calls where mental illness is a factor.<sup>122</sup> Officers with CIT training learn how to de-escalate crises and collaborate with local mental health providers who offer alternatives to incarceration.<sup>123</sup> Some CIT officers even preemptively visit cyclical offenders with mental illness to encourage continued stability.<sup>124</sup>

Mobile Crisis Units are comprised of civilians who are licensed mental health professionals who can respond to calls about low level offenses when it would not jeopardize

### Flow Chart Describing Article 17.032 Requirements



Source: Texas Commission on Jail Standards, Flowchart Describing Article 17.032 Requirements (last visited May 28, 2015).

their safety.<sup>125</sup> They usually work with law enforcement as secondary responders. These teams can be especially effective in rural communities with a low prevalence of mental health calls that have workforce shortages and limited providers because they can meet the person in crisis where they are and possibly treat that person on-scene. This prevents the need for transportation or creating a crisis center in an area where it cannot be sustained. This model would be most effective in remote areas of the state where several small counties can use one Mobile Crisis Unit. Another option that is more viable in remote, rural communities is telemedicine. Telemedicine is new technology that allows patients to seek services from providers who are too far away to easily access.

When CITs or MCUs assesses a situation, they have to decide the most appropriate disposition. A responder may choose to disengage with suspects who are not dangerous and have not committed a serious crime. If a responder chooses to disengage, the responder can still make referrals to appropriate mental health services. But if a responder decides a person needs more immediate assistance, the responder's next steps will often depend on what mental health resources are available in or near the community. To assist responders in navigating the ever-changing mental health care landscape, some communities establish drop-off or receiving centers who can quickly process, screen, and assess suspects with mental illness. These centers are more effective in urban areas with large populations that can justify the investment and sustain the necessary workforce.

If interaction with responders results in arrest, arrestees may be released on bail or bond within 48 hours when they have their first appearance before a judge or magistrate. Article 17.032 of the Texas Code of Criminal Procedures outlines the process for magistrates to determine whether an individual with mental illness must be released on a personal recognizance bond. When appropriate community-based services are available and treatment is recommended by a mental health expert, Texas requires nonviolent offenders with a mental illness to be released on a personal recognizance bond with treatment required as a condition of release—unless good cause is shown otherwise. Under other circumstances, the magistrate has the discretion about whether to allow release on personal recognizance.<sup>126</sup>

Although several counties in Texas are working hard to address the issues plaguing the criminal justice system that relate to mental illness, Article 16.22 and Article 17.032 are not operating as harmoniously as they could. The Texas Commission on Jail Standards should review jails, sheriffs, and magistrates to make sure they are complying with the requirements set out in Article 16.22 and Article 17.032. Local magistrates should ask whether a mental health screening was conducted at intake, and if the mental health screening required a full assessment. The magistrate should then seek counsel from the Local Mental Health Authority about whether the community has appropriate treatment services available.

*Increased training would improve service as offenders with mental illness enter the criminal justice system*

Correction officers lack mental health training and expertise, which would help them care for inmates with mental illness. The Texas Commission on Jail Standards (TCJS) conducted a mental health study in 2001 to analyze the process for determining the mental health status of inmates in county jail and screening methods that county jails use to determine mental health status.<sup>127</sup> This study identified six focus areas: (1) improvements to the mental health screening process, (2) collaboration and coordination between the criminal justice and mental health system, (3) access to medical and psychiatric information, (4) adherence to statutory mandates, (5) linkages to psychiatric treatment, and (6) best practices for timely identification and continuity of care.<sup>128</sup> During the last 10 years, the Texas Legislature has passed laws and the Texas Commission on Jail Standards has enacted rules to address these areas, but much improvement is still needed. Many of the problems related to mental illness in the criminal justice system relate to who has or should have responsibility for people with mental illness who have come into the state's custody. Below are recommendations that address each of these areas of concern.

*The state and local governments should coordinate better to build mental health treatment capacity where necessary to prevent public safety concerns arising from mental illness.*

The state could reallocate corrections funding or funding for state mental health hospitals to provide fund-

ing for pretrial diversion programs designed by local communities. In a pretrial diversion program, there are certain established criteria or risk assessment that determine whether or not a defendant is eligible to participate.<sup>129</sup> These criteria can include having a prior criminal history, a history of substance abuse or mental illness, victim approval, and others.<sup>130</sup> The goal of this is to be able to connect defendants to these programs as fast as possible in order to maximize positive results.<sup>131</sup>

Once somebody is determined to be eligible, they will receive supervision and services that can vary according to the individual's needs. Most commonly, programs will include urinalysis, restitutions, community service and counseling.<sup>132</sup> The programs will also include substance use and mental health services when needed to help reduce risk of future re-arrest.<sup>133</sup> If an individual successfully completes all program requirements, usually within a certain time frame, then the original criminal charges are dismissed.<sup>134</sup>

In cases of noncompliance, many programs institute sanctions that will modify the conditions of the program rather than kicking out the participant. These can include increasing service hours, drug testing, and counseling services, imposing short-term jail placements, or giving written or verbal warnings.<sup>135</sup>

Although some programs have shown decreased recidivism, some programs have failed to gather data regarding recidivism.<sup>136</sup> However, pretrial diversion programs appear to lead to positive outcomes for participants, including less time incarcerated, avoidance of criminal convictions, and improved substance use and mental health outcomes.<sup>137</sup> Counties that have implemented diversion program have decreased criminal justice costs as these programs keep people from being incarcerated, reducing overcrowding in jails and prisons.<sup>138</sup> The programs are also time-effective for courts as they improve processing because diverting offenders prevent court dockets from getting too large.<sup>139</sup>

The Department of State Health Services should also have a forensic director in place to ensure proper allocation and maximum utility of community resources. A person in this position would be able to coordinate existing state and local resources to expeditiously move people out of an institutional setting as appropriate.

Another way to ensure best use of community resources is to educate the judiciary and attorneys on alternatives to incarceration.<sup>140</sup> Judges and attorneys may be unaware or skeptical of community services that can appropriately treat some forensic cases, leading them to rely solely on jails and state hospitals. Coupled with a comprehensive record of available local alternatives, this education could encourage better use of community resources.

Additionally, the criminal justice system should coordinate follow-up services for offenders with mental illness who are known to be repeat offenders. Linking these people to follow up services should reduce the risk of recidivism and help break the cycle they are caught in.

*Relevant mental health information should be gathered early enough to inform judicial and prosecutorial decisions regarding release or diversion.*

Intake at the jail is an important piece of this puzzle. This part of the process is the easiest point to gather necessary information. Defendants who are not released at their initial court appearance are booked into jail until bail is posted or the case is adjudicated. For people with mental illness, incarceration increases the risk of decompensation. Decompensation is the failure to effectively cope with psychological challenges in response to stress, resulting in behavioral problems. To avoid decompensation and ensure the best possible administration of justice, local jail inmates with mental illness should be identified, receive mental health treatment, and have assistance planning for reentry all starting at intake.

Corrections should identify and divert people with mental illness before formal charges are brought. Ideally, this identification will occur before magistration. Screening, assessment, and a confidential records check on state mental health databases should be conducted at intake by a mental health professional when possible. This review should inform law enforcement and judicial decision-making about whether an offender could be more appropriately placed in an alternative treatment setting.

Early screening and assessment can help determine the most cost-effective and appropriate intervention for those who come in contact with the criminal justice system. Preemptive diversion from jail to treatment can increase the likelihood of positive changes in behavior, which will likely reduce recidivism. Further, men-

tal health diversion will alleviate the burden on court dockets, jail capacity, and state hospitals by eliminating wasteful use of those resources on people whose problems would be better addressed elsewhere.

As part of screening, it is important to facilitate information sharing, such as mental health history, between the mental health and criminal justice system.<sup>141</sup> In addition to access to mental health history, screening should use a standardized screening instrument and be conducted under the direction of a qualified mental health professional.<sup>142</sup> To expand capability for in-house assessments, policymakers have several options, including expanding the scope of practice to allow psychiatry students or nurse practitioners who specialize in psychiatry to conduct assessments.<sup>143</sup> Policymakers could also allow jails to employ telepsychiatry to access psychiatrists from a remote location. Following assessment, jails should work with mental health service providers to determine whether certain people with mental illness would be eligible for diversion from the criminal justice system.<sup>144</sup>

For those with mental illness who remain in jail, the jail should be capable of providing immediate crisis services and short term treatment.<sup>145</sup> Jail staff should be trained to recognize crisis situations.<sup>146</sup> To help prevent crises, detainees should be able to continue using the medication prescribed to them before entering jail.<sup>147</sup> Intake should ask about prescription information and get access to medical records that indicate the inmates' medication regimens, so they can try to accommodate this important need.

Continuous care is an important piece of keeping people from reoffending. Along with continuing medication, the state should allow counties to suspend rather than terminate Medicaid benefits for inmates.<sup>148</sup> Benefits may be terminated regardless of whether the person is actually convicted of a crime and sentenced to jail. People may be released from jail with very little notice, not leaving time to reinstate benefits. Reinstatement of Medicaid benefits is a time consuming and expensive process; reinstating Medicaid can take 14 to 45 days depending on the state.<sup>149</sup> The concern here is during this lapse, untreated individuals will be unable to maintain stability and will be treated in emergency rooms, end up on the streets, or wind up back in jail—each of these places a huge burden on local governments.

### *Recommendations for the State Legislature*

- Decriminalize behaviors commonly associated with symptoms of mental illness like criminal trespass and disorderly conduct by making them non-jailable requiring violators to seek treatment or prove some other appropriate remuneration such as victim-offender mediation.
- Reallocate corrections funding to assist with initial funding for community-designed mental health diversion programs
- Instead of funding more state mental health hospital beds, provide funding to communities in the form of a block grant giving them the flexibility to build capacity to serve those who perpetually cycle through state institutions like jails and mental health hospitals more effectively according each community's unique needs.
- Require DSHS to work with the Court of Criminal Appeals to develop training to inform the judiciary about alternatives to inpatient mental health treatment
- Create a forensic director position at DSHS to ensure proper allocation of existing community resources and coordination among the mental health and criminal justice systems. The forensic director can also help monitor local compliance with state law.

### *Recommendations for Local Governments and Communities*

- Encourage alternatives to jail when appropriate
- Encourage collaboration between community behavioral health service providers and local jails
- Be proactive about “frequent flyers” by implementing case management for repeat offenders with mental illness
- Reallocate funding to expand community-based alternatives to incarceration that are more effective including the following possibilities:
  - 911 Dispatcher Training
  - Crisis Intervention Teams
  - Mobile Crisis Units
  - Pre-booking diversion programs
  - Post-booking diversion programs

- Reallocate funding to improve processing and treatment as follows:
  - Use new technology like telepsychiatry to facilitate faster and more accurate screenings and assessments in corrections facilities
  - Implement more efficient data tracking systems to improve coordination and transparency regarding people with mental illness in local jails
  - Require mental health screening and assessment prior to magistrate to inform judicial decisions about release on low bail or personal bond and prosecutorial decisions about eligibility for pretrial diversion programs

## Conclusion

Texas needs to change its public mental health system. The state has been struggling to provide efficient, effective mental health services. The state should delegate its responsibility to provide mental health services to local governments that are already making decisions about how to address people with mental illness in the crimi-

nal justice system. This would facilitate better coordination between law enforcement and mental health providers because they would be working through the same level of government.

Although many local governments across Texas have found innovative solutions to problems the state has created for them, local governments have essentially become Sisyphus, trying to push the rock up the hill just to watch it roll down again. If local governments could design tailored community behavioral health services, the programs they have already instituted to deal with the problems the state has thrust upon them might be even more effective. Band-aid “fixes” will not solve the problems plaguing these two expansive state systems.

The mental health system in Texas is in need of true redesign, if the criminal justice system is going to see real improvement in this area. Over the last decade, Texas has been getting “Right on Crime;” it’s time for Texas to take that a step farther and start getting right on mental health care too. 

## Notes

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

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<sup>8</sup> Ibid.

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<sup>11</sup> Fred Osher, David A. D'Amora, Martha Plotkin, Nicole Jarrett & Alexa Eggleston, [Adults with Behavioral Health Needs Under Correctional Supervision: A Shared Framework for Reducing Recidivism and Promoting Recovery](#) (2012), p. 4.

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<sup>13</sup> KiDeuk Kim, Miriam Becker-Cohen, and Maria Serakos, [The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System](#) (Mar. 2015), p. 11.

<sup>14</sup> The Center for Health and Justice at TASC, [No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives](#), (2013), p. 17.

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid. at 203.

<sup>29</sup> Ibid. at 205.

<sup>30</sup> Ibid.

<sup>31</sup> Office of Mental Health Coordination, [Texas Health and Human Service Commission Cross-Agency Behavioral Health Initiatives](#) (Jan. 2015), p. i.

<sup>32</sup> Sunset Advisory Commission, [Department of State Health Services Staff Report with Commission Decisions](#), (2014), p. 27.

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<sup>34</sup> Ibid.

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<sup>39</sup> Ibid. at 1.

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<sup>47</sup> Ibid.

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<sup>85</sup> Ibid.

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<sup>88</sup> Phone interview with Sergeant Garret House, Sergeant of CIT Program at Brazos County Sheriff's Office, on 4/23/15.

<sup>89</sup> Phone interview with Sergeant Garret House, Sergeant of CIT Program at Brazos County Sheriff's Office, on 4/23/15.

<sup>90</sup> Phone interview with Captain Walt Rucker, Jail Administrator at Palo Pinto County Jail, on 4/1/15.

<sup>91</sup> Phone interview with Rebecca Mobley, Mental Health Deputy at Burnet County Sheriff's Office, on 4/23/15.

<sup>92</sup> Phone interview with Deputy Rodriguez, Mental Health Office at Wharton County Sheriff's Office, on 4/15/15.

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<sup>94</sup> Phone interview with Sergeant Busler, Mental Health Officer at Ector County Sheriff's Office, on 5/5/15.

<sup>95</sup> [Code of Criminal Procedure, Title 1. Code of Criminal Procedure, Chapter 16. The Commitment or Discharge of the Accused, Art. 16.22. Early Identification of Defendant Suspected of Having Mental Illness or Mental Retardation.](#)

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<sup>120</sup> Upton County, [2015 Budget](#) (Sept. 22, 2014), p. 24.

<sup>121</sup> Texas Commission on Jail Standards, [Abbreviated Population Report](#) (3/1/2015), p. 8.

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<sup>125</sup> Council of State Governments, [Criminal Justice / Mental Health Consensus Project](#) (Jun. 2002), p. 40.

<sup>126</sup> Texas Commission on Jail Standards, [Flowchart describing Article 17.032 Requirements](#) (last visited May 21, 2015).

<sup>127</sup> Texas Commission on Jail Standards, [Mental Health Study](#) (Jan. 2005), p. 1.

<sup>128</sup> Ibid.

<sup>129</sup> Catherine Camilletti, [Pretrial Diversion Programs: Research Summary](#), (2010), p. 1.

<sup>130</sup> Ibid.

<sup>131</sup> Spurgeon Kennedy, James Brown, Barbara Darbey, Anne Gatti, Tara Klute, Mary Pat Maher, & Daniel Peterca, *Promising Practices in Pretrial Diversion*, (2010), p. 12.

<sup>132</sup> Catherine Camilletti, *Pretrial Diversion Programs: Research Summary*, (2010), p. 2.

<sup>133</sup> Spurgeon Kennedy, James Brown, Barbara Darbey, Anne Gatti, Tara Klute, Mary Pat Maher, & Daniel Peterca, *Promising Practices in Pretrial Diversion*, (2010), p. 13.

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<sup>136</sup> The Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*, (2013), p. 17.

<sup>137</sup> Ibid.

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<sup>139</sup> Ibid.

<sup>140</sup> Sunset Advisory Commission, *Department of State Health Services Staff Report with Commission Decisions*, (2014), p. 22.

<sup>141</sup> Council of State Governments, *Criminal Justice / Mental Health Consensus Project* (Jun. 2002), p. 106.

<sup>142</sup> Ibid. at 102.

<sup>143</sup> Ibid. at 104.

<sup>144</sup> Ibid.

<sup>145</sup> Ibid. at 106.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid. at 107.

<sup>148</sup> Ibid. at 108.

<sup>149</sup> Ibid.



## About the Authors



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Kate interned for Justice Johnson at the Texas Supreme Court, and was also a Judge K.K. Legett Fellow. As part of the program, Kate interned at the Washington Legal Foundation where she drafted arguments that were included in amicus briefs submitted to the U.S. Supreme Court.

Before joining the Foundation, Kate worked as an attorney in Houston. Her practice focused primarily on oil and gas law and condemnation proceedings.

She graduated magna cum laude from Austin College with a B.A. in economics and political science, and earned her law degree from Texas Tech University School of Law where she was inducted into the National Order of Barristers for her achievements in oral advocacy and received awards for her accomplishments in constitutional law and property law.

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