



# INTERIM REPORT *to the 86<sup>th</sup> Texas Legislature*



**HOUSE COMMITTEE ON COUNTY AFFAIRS**

*January 2019*

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**HOUSE COMMITTEE ON COUNTY AFFAIRS  
TEXAS HOUSE OF REPRESENTATIVES  
INTERIM REPORT 2018**

**A REPORT TO THE  
HOUSE OF REPRESENTATIVES  
86TH TEXAS LEGISLATURE**

**GARNET F. COLEMAN  
CHAIRMAN**

**COMMITTEE CLERK  
NICOLAS KALLA**

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Committee On  
County Affairs

January 5, 2019

Garnet F. Coleman  
Chairman

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

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

Dear Mr. Speaker and Fellow Members:

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

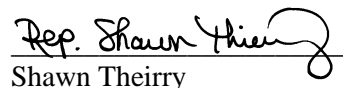
Respectfully submitted,

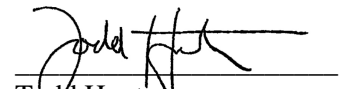
  
Garnet F. Coleman

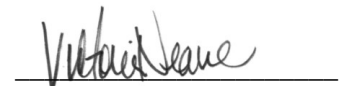
  
Vice- Chair Drew Springer

  
Jonathan Stickland


  
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Victoria Neave

  
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## **INTRODUCTION**

At the beginning of the 85th Legislative Session, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed nine members to the House Committee on County Affairs: Garnet F. Coleman, Chair; Drew Springer, Vice-Chair; Todd Hunter; Jonathan Stickland.; Victoria Neave; Kevin Roberts; Tomas Uresti; Shawn Thierry; and Kyle Biedermann

The House Rules adopted by the 85th Legislature gives the House Committee on County Affairs its jurisdiction. Rule 3, Section 6 reads as follows:

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

- (1) counties, including their organization, creation, boundaries, government, and finance and the compensation and duties of their officers and employees;
- (2) establishing districts for the election of governing bodies of counties;
- (3) regional councils of governments;
- (4) multicounty boards or commissions;
- (5) relationships or contracts between counties;
- (6) other units of local government not otherwise assigned by these rules to other standing committees; and
- (7) the following state agency: the Commission on Jail Standards.

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

The Committee on County Affairs held the following hearings:

- August 22, 2017, Capitol Room E2.026, Austin, Texas
- February 6, 2018, The University of Houston - Downtown Campus, Welcome Center Building, Houston, Texas
- May 10, 2018, Capitol Room E2.026, Austin, Texas
- June 6, 2018, Texas A&M University Corpus Christi, Harte Research Institute for Gulf of Mexico Studies, Corpus Christi, Texas
- August 23, 2018, Dallas County Commissioners Courtroom, Dallas, Texas
- September 25, 2018, Capitol Room E2.026, Austin, Texas
- September 26, 2018, Capitol Room E2.026, Austin, Texas
- October 17, 2018, Houston Community College, Coleman Tower, Houston, Texas

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## **ACKNOWLEDGMENTS**

The Chairman, the Vice-Chairman, and the Members of the House Committee on County Affairs would like to thank each of the agencies, associations, and individuals who contributed their time, testimony, and information to this report. Furthermore, the Committee appreciates the attentiveness to those issues most pressing to the State of Texas. The Chairman appreciates that each and every committee member opened their heart and mind when discussing challenging issues facing Texans.

The Committee would like to acknowledge and thank Ms. Kelsey Bernstein, Committee Director during the 85th Legislative Session, and most of the interim, for her dedication and hard work to this Committee.

Lastly, the Committee would like to thank each Member's office staff for their efforts.

The Committee on County Affairs has completed its hearings and has adopted the following report.

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## EXECUTIVE SUMMARY

The recommendations included in this report include recommendations committee members submitted based on the information obtained throughout the interim hearing process. To be clear, the fact that a recommendation is listed herein does not indicate that each committee member ratifies or supports each individual recommendation without modification. They are set forth in this report to provide a representative set of recommendations for potential study, analysis or future legislative consideration. Many of the recommendations included in this report could serve as a catalyst for future study or action, both during the 86th legislative session and beyond.

County governments serve as the crossroads for innumerable public policies. In the committee's 8 interim hearings across the state of Texas, it became clear that the needs and resources of each county are as diverse as the landscape. It is evident that within the variant populations and locations, each county needs both tools and resources to provide effective services to their constituents while pursuing the most efficient use of taxpayer dollars.

The Texas Constitution imbues counties with the responsibility of caring for indigent, ill, and poor residents, especially after disaster strikes. Counties also have the implicit responsibility to ensure that taxpayer dollars are spent in an efficient and accountable manner. As policy mandates from state and federal government intersect with real world applications and implementation, it is clear that the rubber meets the road at the county level.

Streamlining and strengthening county indigent care services and urban and rural delivery models provide better services for clients that are low-income, or have physical challenges or mental illness. Doing so diminishes the unfortunate pipeline that transports many individuals with mental illnesses along the path to prison and county jails. Effective and accountable pretrial release and diversion programs can ensure that certain nonviolent offenders are brought to justice while reducing their population in county jails. Both can reduce spending and ensure human success for Texans.

All of these issues ultimately guarantee that taxpayers receive more services for their money and achieve cost savings. While it is the government's duty to ensure that those dollars are used in the most efficient manner possible, it is also important to ensure that the government operates transparently with those dollars and manages local government debt effectively.



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## **CHARGES AND RECOMMENDATIONS**

**CHARGE I** - Examine how emergency response activities are organized, funded, and coordinated. Review the impact of natural disasters on county finances. Identify any deficiencies in authority for the most populous counties related to infrastructure planning, emergency response, and recovery. Explore ways to improve efficiencies and manage costs while protecting public safety. Additionally, study the relationship between the state, counties, non-governmental organizations, and churches in preparing for and responding to Hurricane Harvey and its aftermath, and determine if preparedness plans are adequate.

### **RECOMMENDATIONS:**

- 1. The Texas Legislature should study and consider using other taxation resources, such as the Economic Stabilization Fund, as collateral for general obligation bonds to prepare for and respond to emergencies and disasters.**
- 2. The Texas Legislature should work with its federal partners to share best practices learned during Hurricane Harvey response, relief, and recovery efforts, including recommendations that would update and streamline FEMA and HUD requirements that create duplicative and/or conflicting processes which result in increased costs and delays.**
- 3. The Texas Legislature should consider designating a single state agency to be responsible for training local officials and providing immediate response specialists to assist local officials in coordinating with the state and FEMA.**
- 4. The Texas Legislature should encourage extensive NIMS training for local, state and federal partners prior to disaster, as well as adherence to NIMS protocol.**
- 5. The Texas Legislature should look to provide state assistance in compiling a pre-approved vendor list for debris, if local governments need to expand beyond their contracts.**
- 6. The Texas Legislature should consider reviewing Section 23.02 of the Texas Property Tax Code and consider solutions to alleviate challenges for reappraisals after a disaster.**
- 7. The Texas Legislature should consider amending Chapter 775 and Section 121.006 of the Texas Health & Safety Code to authorize ESDs to provide MIH-CP services.**
- 8. The Committee agrees with recommendation from Eye of the Storm, Report of the Governor's Commission to Rebuild Texas, Chapter 6 number 10: The Texas Legislature should set up a response team at the state level to respond to questions and other inquiries from local emergency management officials.<sup>1</sup>**

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- 9. The Texas Legislature should ensure that current resources are adequately funded and maintained.**

**CHARGE II** - Evaluate whether counties have the necessary ordinance-making and enforcement authority to deal with flood risk in unincorporated rural and suburban areas of Texas. Additionally, examine whether counties have adequate resources and authority to ensure that new development in unincorporated areas is not susceptible to flooding.

**RECOMMENDATIONS:**

- 1. The Texas Legislature should explore solutions to create greater parity between the standards and regulations regarding new development and construction both inside a city's extraterritorial jurisdiction and unincorporated areas within counties. Review current county ordinance making authority to set minimum standards for emergency mitigation in both platted subdivisions and other unincorporated areas.**
- 2. The Texas Legislature should consider improvements to strengthen and accelerate the process of civil enforcement of flood plain violations.**
- 3. The Texas Legislature should explore a regional approach to flood plain regulation, allowing counties that share watersheds to adopt similar regulations.**
- 4. The Committee agrees with recommendation from Eye of the Storm, Report of the Governor's Commission to Rebuild Texas, Chapter 7 number 1: The Texas Legislature should establish a special study committee to evaluate and propose options for a state-local partnership to help future-proof Texas against flood events on watershed basis.**

**CHARGE IV**-Review the population limitations found in Local Government Code Section 154.041 and Local Government Code Section 113.047. Determine if counties with a population below 190,000 could benefit from the population limitations being removed.

**RECOMMENDATION:**

**The Texas Legislature should remove the population limitation brackets (190,000) found in Local Government Code Sections 154.051 and 113.047.**

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**CHARGE IV**-Review the population limitations found in Local Government Code Section 154.041 and Local Government Code Section 113.047. Determine if counties with a population below 190,000 could benefit from the population limitations being removed.

**Senate Bill 1849 "Sandra Bland Act" Implementation**

**RECOMMENDATIONS:**

- 1. The Texas Legislature should expand the limit on which County Jails can receive grants under the Prisoner Safety Fund created by the Sandra Bland Act.**
- 2. The Texas Legislature should continue to monitor the implementation of SB 1849 and consider ways to improve upon the Act.**

**Behavioral Health in School Settings**

**RECOMMENDATIONS:**

- 1. The Texas Legislature should study and consider providing grant funding for all behavioral health trainings for school personnel.**
- 2. The Texas Legislature should encourage school districts and/or schools to report completed behavioral health trainings by school personnel to the Texas Education Agency.**
- 3. The Texas Legislature should encourage schools to create policies to properly implement behavioral health trainings that school personnel receive.**
- 4. The Texas Legislature should consider consolidating statutory language of requirements of school personnel relating to behavioral health training.**
- 5. The Texas Legislature should consider ways to provide school districts and/or schools, who are in areas that have a behavioral health specialist shortage, with tele-mental health equipment in order to ensure students can receive equal services regardless of their zip code.**
- 6. The Committee agrees with the following recommendation from Governor Abbott's "School Safety Action Plan" The Texas Legislature Prioritize the importance of the mental and behavioral health needs of students by freeing up counselors to focus on those needs, encourage school district's to add more counselors at the campus level, and appropriate funds to fill in gaps.**

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**The Texas Commission on Jail Standards**

RECOMMENDATIONS :

- 1. The Texas Legislature should consider the request for two FTEs to fulfill open records requests and manage the new programs mandated by SB 1849.**
- 2. The Texas Legislature should consider continuing to fund and expand the Prisoner Safety Fund.**

**Specialty Family Drug Treatment Courts**

RECOMMENDATION:

- 1. The Texas Legislature should encourage counties to develop specialty courts, like the Travis County Family Drug Treatment Court, to intervene with families within the CPS Court system to assist parents with substance use disorders.**
- 2. The Texas Legislature should strongly consider recommendations made by the House Select Committee on Opioid and Substance Abuse addressing services and treatments for children and parents.**

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**CHARGE I - Examine how emergency response activities are organized, funded, and coordinated. Review the impact of natural disasters on county finances. Identify any deficiencies in authority for the most populous counties related to infrastructure planning, emergency response, and recovery. Explore ways to improve efficiencies and manage costs while protecting public safety. Additionally, study the relationship between the state, counties, non-governmental organizations, and churches in preparing for and responding to Hurricane Harvey and its aftermath, and determine if preparedness plans are adequate.**

### **SCOPE OF THE CHARGE**

Due to its immense size and geographical diversity, Texas is especially vulnerable to disaster situations. Texas leads the nation in natural disasters and has suffered damage from a variety of threats, including: hurricanes, flooding, drought, severe wind storms, tornadoes, and extreme temperatures to name a few. More and more, cities are growing into the less populated areas of the county; many of these areas are underequipped with adequate emergency services and disaster preparedness to accommodate the growing population. This charge examines county authority in dealing with natural disasters, as well as how all levels of government interact with local communities when disaster strikes. Additionally, the charge explores best practices on prevention and mitigation of natural disasters and provides recommendations on how to best address each circumstance.

### **SUMMARY OF COMMITTEE ACTION**

#### Committee Hearings

- February 6, 2018, The University of Houston - Downtown Campus, Welcome Center Building, Houston, Texas
- May 10, 2018, Capitol Room E2.026, Austin, Texas
- June 6, 2018, Texas A&M University Corpus Christi, Harte Research Institute for Gulf of Mexico Studies, Corpus Christi, Texas
- August 23, 2018, Dallas County Commissioners Courtroom, Dallas, Texas
- October 17, 2018, Houston Community College, Coleman Tower, Houston, Texas

#### Witnesses

February 6, 2018, The University of Houston - Downtown Campus, Welcome Center Building, Houston, Texas

- Babin, Anna (United Way of Greater Houston)
- Barone, Rosanne (Texas Campaign for the Environment)
- Bracken, John (Save the Children)
- Brunett, Brad (Brazos River Authority)
- Carrizal, Shain (Harris County Budget Management Department.)
- Champion, Bret (Klein Independent School District)
- Costello, Stephen (City of Houston)
- DeMasi, Michael (US Army Corp of Engineers- Galveston District)

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- Ellis, Rodney (Harris County Commissioners Court)
  - Emmett, Ed (Harris County Judge)
  - Granato, Jim (Hobby School of Public Affairs)
  - Haddock, Carol (Houston Public Works)
  - Hardway, Anna (Save the Children Federation)
  - Henry, Mark (Cypress-Fairbanks Independent School District)
  - Houston, Jace (San Jacinto River Authority)
  - Kidd, Nim (Texas Division of Emergency Management)
  - Lemelle, Daphne (Harris County Community Services Department)
  - Noriega, Melissa (Baker Ripley)
  - Poppe, Russ (Harris County Flood Control District)
  - Roberson, Matt (The Met Church)
  - Shah, Dr. Umair (Harris County Public Health)
  - Sloan, Mark (Harris County Office of Homeland Security and Emergency Management)
  - Spieler, Christof (Greater Houston Flood Mitigation Consortium)
  - Stuckey, Joshua (Harris County- County Engineer's Office)
  - Woods, Nyla (Catholic Charities of the Archdiocese of Galveston-Houston)

May 10, 2018, Capitol Room E2.026, Austin, Texas

- Abbott, Robert (Self; Travis County ESD No. 6)
- Adams, Chris (Health and Human Services Commission)
- Allison, Jim (County Judges and Commissioners Association of Texas)
- Commissioner Bush, George (Texas General Land Office)
- Carlton, John (Texas State Association of Fire and Emergency Districts)
- Carrizal, Shain (Harris County Budget Management Department)
- Gaines, Sonja (Health and Human Services Commission)
- Garza, Clint (Hays County)
- Jack, Mark (SAFE-D & Parker County ESD1)
- Janusaitis, Robert (SAFE-D)
- Kludt, Brandon (Self; Comal County ESD No. 2 & Comal County ESD No. 3)
- Kostroun, David (Health and Human Services Commission)
- Kroll, Carrie (Texas Hospital Association)
- Max, Alisa (Harris County Engineering Department)
- Morgan, Richard (South-central Partnership for Energy Efficiency as a Resource)
- Munoz, Ned (Texas Association of Builders)
- Nuckols, Tom (Travis County)
- Perez, Vincent (County of El Paso)
- Phillips, Pete (General Land Office)
- Poppe, Russell (Harris County Flood Control District)
- Reed, Cyrus (Lone star chapter sierra club)
- Salazar, Andres (American Society of Civil Engineers)
- Salter, Wayne (Health and Human Services Commission)
- Scheffel, Stacey (Travis County TNR)

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- Smith, Kharley (Hays County Emergency Management)
  - Taylor, Kyle (SAFE-D)
  - Tudor, Nathan (Texas Organization of Rural and Community Hospitals)
  - Turco, Michael (Harris-Galveston Subsidence District)
  - Vierling, Alan (Harris Health System)
  - Wemple, Charles (Houston-Galveston Area Council)
  - Registering, but not testifying:
    - Avery, Clay (Texas State Association of Fire and Emergency Districts (SAFE-D))
    - Avery, Cliff (SAFE-D)
    - Cook, Russell (Health and Human Services Commission)
    - Hays, Jet (Texas general land office)
    - Watson, Stephen (Self; Parker County esd1)
    - Wisko, Mike (Texas Fire Chiefs Association) Rick Flanagan (City of Houston)
    - Doug Bass (Self; Dallas County)

June 6, 2018, Texas A&M University Corpus Christi, Harte Research Institute for Gulf of Mexico Studies, Corpus Christi, Texas

- Allison, Jim (County Judges and Commissioners Association of Texas)
- Arnold, Mark (Texas Conference of Catholic Bishops)
- Boyce, Christopher (Nueces County Judge Loyd Neal)
- Davis, Mike (Behavioral Health Center of Nueces County)
- Durand, Mark (Coastal Plains Center)
- Hipp, Jonny (Nueces County Hospital District)
- Madrid, Rudy (Kleberg County)
- Metz, John (National Weather Service)
- Mills, Burt (Aransas County)
- Nicolau, Brien (Jim Wells County Emergency Service District #1)
- Phipps, Warren (Coastal Bend Disaster Recovery Group)
- Rivera, Connie (Self; Texas Society of Architects)
- Seaman, Eugene (Self)
- Tatum, Beth (Coastal Bend Disaster Recovery Group/ First United Methodist Church of Sinton)
- Van de Putte, Henry (American Red Cross)
- Voth, Desiree (San Patricio County)
- Registering, but not testifying:
  - Cottingham, Mary (Self)
  - Trejo, Leo (Self)

August 23, 2018, Dallas County Commissioners Courtroom, Dallas, Texas

- Bass, Charles Douglas (Dallas County)
- Honorable Brinkley, Jason (Cooke County)
- Earnest, Gary (Texas Association of Appraisal Districts)
- Gaines, Sonja (Health and Human Services commission)

- 
- Honorable Gossom, Woody (Wichita County)
  - Howie, Steve (Kaufman County)
  - Honorable Jenkins, Clay (Dallas County)
  - Martin, Edith (North Central Texas Council of Governments)
  - McCurdy, David (Tarrant County)
  - South, Brent (Texas Association of Appraisal Districts)
  - Honorable Wood, Bruce (Kaufman County Commissioners Court)

October 17, 2018, Houston Community College, Coleman Tower, Houston, Texas

- Bracken, John (Save the Children)
- Honorable Emmett, Ed (Harris County)
- Lemelle, Daphne (Harris County Community Services Dept.)
- Moorhead, Bee (Texas Interfaith Center/ TX Impact)
- Honorable Murphy, Sydney (County of Polk)
- Poppe, Russ (Harris County Flood Control District)
- Reed, Rodney (Harris County Fire Marshal's Office)
- Steiber, Jon (Harris County Engineering Dept.)
- Turner, Roy (Chambers County)
- Registering, but not testifying:
  - Reed, Cyrus (Sierra Club - Lone Star Chapter)
  - Winnike, Allison (The Immunization Partnership)

## **BACKGROUND**

Texas is especially vulnerable to disaster situations. Since the first recorded Presidential Major Disaster Declaration, Texas has had 96 events, or an average of one major disaster every eight months.<sup>2</sup> Disasters strike every corner of this state; hurricanes along the coast, flooding in central Texas, tornadoes in north Texas, blizzards in the panhandle, wildfires in east Texas, and dust storms in west Texas, no area in this state is safe from disasters. In 2017, Texas was besieged by Hurricane Harvey, one of the most catastrophic disasters Texas has ever seen.

Catastrophic damage caused by Hurricane and flood event Harvey was the impetus for Governor Greg Abbott to issue disaster declarations for Aransas, Angelina, Atascosa, Austin, Bastrop, Bee, Bexar, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, Dallas, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kerr, Kleberg, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Milam, Montgomery, Newton, Nueces, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, San Patricio, Tarrant, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Willacy and Wilson counties.

According to the National Oceanic and Atmospheric Administration (NOAA)<sup>3</sup>, after accounting for inflation, Hurricane Harvey is the second-most costly hurricane in U.S. history, causing \$125 billion in damages, although those costs may still be growing. It is the second-deadliest tropical cyclone in Texas history, with at least 68 reported deaths.



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Harvey first made landfall in Texas on August 26, 2017, beginning at San Jose Island, about 5 miles east of Rockport, Texas as a Category 4 hurricane. The storm touched land once more as it made its way up the coast before hitting Louisiana on August 30, 2018. The hurricane brought both heavy winds and unprecedented flooding, even after its downgrading to a tropical storm.

## **FINDINGS**

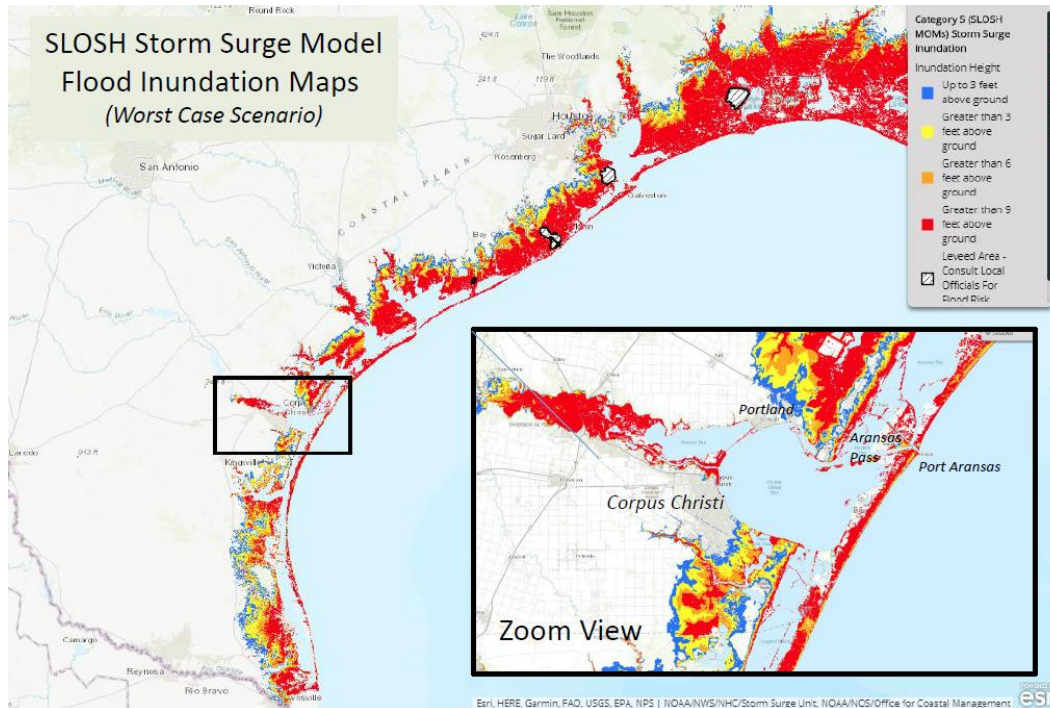
A Presidential Declaration is required in order to declare a federal disaster. The threshold for this type of declaration in Texas is, based upon its population, at least \$37M in uninsured property damage. Unless a disaster meets this loss threshold, an entity does not receive federal aid; oftentimes, this threshold is not met despite large property losses.

The Governor may, through executive order or proclamation, declare a state of disaster when an event has occurred or is imminent. In the event of a state declared disaster, resources are made available to assist in preparedness or for response services. In the case of Hurricane Harvey, Governor Abbott issued a disaster declaration that ultimately included 60 counties, and was most recently renewed on December 4, 2018.<sup>4</sup>

County judges and mayors may issue a local disaster declaration effective for up to seven days; a disaster declaration beyond that requires action by a commissioners court or city council. Local entities must use their own resources to respond to these disasters. Local entities may apply for state aid if they do not have necessary resources to adequately respond to a disaster. Each disaster has its own unique set of challenges. Even in the same disaster, its impacts across the state may be dissimilar, creating different needs and solutions for each community. While there is no “one-size-fits-all” solution for Texas, communities are most resilient and successful in their recovery when the state and federal government support and respect local decisions and opinions. Although Hurricane Harvey may have been an unprecedented event, like all disasters, response, relief, and recovery began locally and will end locally.

### *Weather Patterns*

John Metz with the National Weather Service (NWS) testified in front of the committee on June 6, 2018. He explained that the mission of the National Weather Service (NWS) is the protection of lives and property. Through its 13 Weather Forecast Offices which serve Texas, the NWS offers monitoring 365 days a year with 24-hour operations. In addition to hurricanes, Texas is prone to numerous threats, including tornadoes, wildfires, drought, and severe storms. Springtime is the peak severe weather season, while August and September are the months most likely to experience hurricanes. On average, a hurricane strikes Texas roughly every three years. On average, Texas will be struck by a major hurricane, classified as a Category 3-4, every seven years. To date, Texas has never had a Category 5 Hurricane.



Through its constant monitoring, the NWS is able to begin communicating with local entities ahead of an oncoming threat. The Monday before Hurricane Harvey hit, the NWS began conference calls with local Emergency Managers and decision-makers along the coast to begin preparing for the storm. In addition to the NWS monitoring, The National Hurricane Center had been providing updates about Harvey two weeks before it reached Texas. While tracking models have continually gotten better at predicting where hurricanes will hit, intensity forecasting is still quite difficult. Although officials were aware of Harvey's headed trajectory, the magnitude of the storm was unknown until it got closer. Harvey was unique in its rapid intensification, and the magnitude of the storm quickly grew to a Category 3-4 hurricane, far greater than the Category 1 it had been forecasted as. Despite all of the early monitoring and planning, those first hit communities only had 20 hours of advance notice before tropical wind storms were expected to hit Texas.

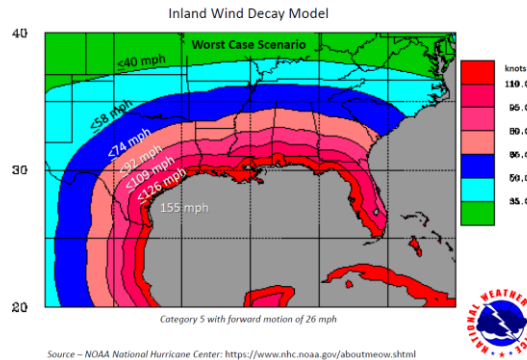
In advance of Harvey, the NWS deployed meteorologists to emergency operation centers in Corpus Christi and Victoria. They also provided specific communications and briefings to emergency managers in Port Aransas, Aransas Pass, Fulton, Rockport, and Corpus Christi on the timing of the eyewall passage, which allowed for safer rescue and evacuation operations.

Along with tracking the trajectory of Harvey, the NWS also focused on the associated dangers a hurricane brings, such as force winds, storm surge, heavy rains, and flooding. Unlike the flooding in Harris County, the Coastal area of Texas was struck with a massive wind storm, and the damage it caused was catastrophic. Harvey peak winds were comparable to a 30-mile wide F3 magnitude tornado that lasted for five hours as it crossed through numerous counties and municipalities. In all, Harvey brought 13 hours of hurricane force winds. Storm surge predictions were also crucial to efforts to safely evacuate residents ahead of Hurricane Harvey. Models predicted rainfall totals exceeding 40 inches in portions of southeast Texas, ultimately, nearly 60

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inches of rain would fall, causing unprecedented flooding and damage.

## Damaging Wind Threat



Weather tracking innovations can only provide so much advance notice. As it stands, the best models cannot predict beyond five days where a storm might hit. Averages and predictions can tell us if conditions are likely, but the severity is nearly impossible to predict until the event occurs, which is why preparation is still the best line of defense when it comes to threats, regardless of the type.<sup>5</sup>

### *Emergency Response State Agencies*

Several state agencies are tasked with disaster preparation, response, and relief efforts. Agencies including the division of the Texas Department of Public Safety dedicated to disasters - the Texas Division of Emergency Management (TDEM), Texas A&M Forest Service (Forest Service) and Texas A&M Engineering Extension Service (TEEX) receive direct appropriations in support of these efforts. Other agencies such as the Texas General Land Office, Health and Human Services Commission (HHSC), Texas Commission on Environmental Quality (TCEQ), Texas State Fire Marshal's Office, and the Texas Department of Housing and Community Affairs provide resources and assistance in times of manmade and natural disasters.

The Texas Emergency Management Council is a larger collection of state agencies and aid relief organizations that advise and assist the Governor in disaster mitigation, emergency preparedness, disaster response and recovery. During a time of need, they coordinate and deploy state resources to local entities that have requested assistance.

TDEM is the primary agency within the state that assists with the mobilization and deployment of state resources and they are tasked with implementing the State's emergency management plan. Through the State Operations Center, TDEM has State Coordinators assigned to each DPS region within the state that oversee a team of district coordinators. These district coordinators help local officials through emergency planning and training of local response teams.

Throughout the six hearings regarding this charge, the Committee learned that communication between the federal and state agencies to local governments and state representatives became a key issue. During the June 6, 2018 hearing in Corpus Christi, Representative Todd Hunter thanked his local officials and TDEM for keeping in constant contact with him. However, the

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Committee realized that this does not happen statewide. Many times, state representatives are not being contacted in a timely manner during a disaster, and therefore, are unable to assist immediately.

*City and County Emergency Response and Recovery Services*

In Texas, county judges and mayors have responsibility for emergency preparedness and response within their local jurisdictions. Both have the authority to declare a local disaster and can call for mandatory evacuations if necessary for the preservation of life or other disaster mitigation, response, or recovery. While each presiding officer has jurisdiction over their own political subdivision, when there is a conflict between decisions of the county judge and the mayor, the decision of the county judge ultimately prevails.<sup>6</sup>

Emergency services in the state of Texas are provided through a patchwork of volunteer and professional first responders. Emergency Service Districts (ESD) are political subdivisions of the state that are funded by ad valorem taxes and in some cases sales tax. ESDs are governed by a board of five commissioners that, in most cases, are appointed by a commissioners court, although they are otherwise independent governmental entities. There are around 300 ESDs in the state providing fire protection, emergency medical response or both. In some cities, these services are provided fully or partially by municipal-supported departments.

The Committee received testimony from ESD representatives regarding mobile integrated healthcare or community paramedicine (MIH-CP)). EMS services have very few alternatives to transporting patients to hospital emergency rooms and increasing numbers of high utilizers of 9-1-1 systems have created a burden on resources and personnel due to unnecessary 9-1-1 calls for service. The mission of MIH-CP programs is to prevent unnecessary 9-1-1 calls and avoid unnecessary emergency room transports thereby reducing the burden on the 9-1-1- system. MIH-CP programs do not replace existing healthcare services but reduce the likelihood and necessity for costly emergency room visits. An MIH-CP programs imbeds trained personnel into the community to make in-home visits to evaluate such things as home safety, fall risks, nutrition, medication compliance and act as a patient advocate. Studies indicate that 30-50% of the emergency room transports are inappropriate or not required, and 10-40% of the EMS transports are low-acuity transports and can be addressed without transport to emergency room. Counties and cities are currently authorized to implement MIH-CP programs, but ESDs are not. Authorizing ESDs to provide MIH-CP programs could help reduce the costs those entities incur for unnecessary EMS transport and simultaneously improve healthcare for at-risk individuals in our communities. One ESD testified that it would avoid an internal cost of over \$400 for every prevented ambulance response and over \$600 for every prevented ambulance transport to an emergency room. A simple change to the existing laws to allow ESDs to provide this type of preventative service could save taxpayers a significant amount of money across the state and improve healthcare in our communities.<sup>7</sup>

Cities, counties, and ESDs often work in partnership with area Councils of Governments and state agencies, such as TDEM, to devise regional preparedness planning and training in order to better respond to the unique challenges of their community. Local responders must be prepared to respond to a wide variety of both natural and man-made disasters. Mike Wisko, Legislative

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Director for the Texas Fire Chiefs Association shined a light on challenges firefighters face when dealing with state agencies. He stated during his testimony on May 10, 2018 that "there is a need for a single State agency that manages and coordinates all Fire & Rescue response in the State of Texas. Currently, there are multiple different state response teams comprised of firefighters from Texas Fire Departments that are activated during an emergency. While these programs are working because of strong leadership at each agency, there are many challenges that remain in regards to coordination, training and funding".<sup>8</sup> Another example, Travis County faces both wildfires and flooding within its geographical boundaries, which requires response teams trained to deal with either situation, whereas Dallas County is prone to tornadoes and flooding.

During a time of emergency, regional partners and government officials coordinate their efforts through an Emergency Operation Center (EOC), which serves as a command center for response and recovery operations. It is through these operations where local response is coordinated and emergency management plans are activated.

#### *County Perspective and Authority*

Urban and rural County response and recovery services vary widely and occur in collaboration with state partners including the Texas Department of Emergency Management, General Land Office, Health and Human Services Commission, the Texas Commission on Environmental Quality and Councils of Government. Collaboration with federal partners is also key to response and recovery efforts.

National Incident Management System (NIMS) protocol provides a consistent, nationwide template for government, private-sector and non-governmental organizations to work together during disaster situations. NIMS is the standard that is trained to for disaster response and requires entities to make requests in the structure of city to county to state to federal. Resources flow in a reverse manner: federal to state to county to city. Harris County Judge Ed Emmett explained during his testimony on February 6, 2018, in the heat of an event, the tendency exists to move requests out of this order. For instance a city will often request federal partners outside of the NIMS protocol. Such requests disrupt the mandated channels, and can cause confusion and inefficient deployment of resources.

The Texas Disaster Act of 1975 wisely deploys statewide emergency management directors across all 254 counties in the form of County Judges<sup>9</sup>. Although each emergency event will bring its own challenges and impacts to a community, there is a universal acknowledgement that maintaining a ground-up approach to response and recovery creates the best outcomes.

During the response portion of an emergency, cities and counties are granted roughly the same authority. However, counties are severely handicapped in their ability to adequately respond to the other stages of emergency management, specifically as it relates to mitigation. There is a misconception that counties have ordinance-making authority similar to cities, when in fact, counties have very limited authority in general. The primary purpose of expanding county authority should be to ensure the increased protection of citizens through safer standards and hazard mitigation, yet counties are able to do very little when compared to cities

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### *Debris Removal*

After securing the safety of residents, counties immediately begin to address the removal of debris from the damaged areas. This work is essential to the restoration of utilities, access by emergency vehicles, and recovery of public services and private businesses. Disasters produce an enormous amount of debris; everything from demolished buildings, trees, vehicles, and personal items must be collected and properly disposed. Although county equipment and personnel are utilized, additional resources are required. In the wake of disasters, the burden of this task typically falls upon local governments. Counties often lack sufficient local reserves to adequately respond to this immediate need. These expenditures can leave a county in financial peril. Any reimbursement is often months, or years, away. For example, San Patricio County expended \$4.5 million for debris removal following Hurricane Harvey. At this date, the county has received \$65,000 in reimbursement. Fortunately, this county had the foresight and reserves to meet this demand, but many other counties were financially unable to assume this burden. FEMA provides only partial reimbursement and that assistance is often delayed or denied for failure to meet regulations. State funding to provide immediate support to local entities for debris removal and other needs should be studied.

Local governments are dependent upon private contractors for the majority of debris removal. Delays in this task hamper recovery by utilities, schools, businesses, and housing. While larger entities may obtain pre-event contracts for these services, smaller jurisdictions cannot. Debris removal in smaller counties was delayed while proposed contracts were reviewed by FEMA. A solution to this issue could be having a state agency pre-qualify debris removal contractors for local governments, including bonding requirements to avoid defaults and price-gouging. The debris removal assets should be pooled and coordinated at the state level to insure their proper allocation and to prevent over-promising by contractors.

### *County Finances*

Local governments are the immediate financiers of emergency response and recovery. Without quick action, local operations would not be able to provide immediate services to residents impacted by an event. Counties are expected to use their own resources and those available through mutual aid before requesting assistance from the state.

The scale of damage caused by Hurricane Harvey and associated flooding is unprecedented for Texas.

According to the February 2018 issue of the Texas Comptroller's Fiscal Notes:

The storm hit the 13-county Houston-Galveston COG region hardest, causing an estimated \$16 billion economic loss during the first year. FEMA designated all 13 counties in this region as disaster areas. The Coastal Bend, South East Texas and Golden Crescent COGs can expect first-year losses projected at \$350 million to \$800 million each. The Alamo Area, Capital Area and North Central Texas regions, by contrast, stand to gain in Harvey's wake, each with an estimated \$1 billion to \$2 billion in additional economic activity.<sup>10</sup>

In many cases, the cost of initial recovery operations was far more than local governments had cash reserves to cover. Federal programs work on a reimbursement basis, which can cause cash

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flow issues for local entities in a catastrophic event. For example, Harris County's needs assessment surveys submitted to the Governor's Commission to Rebuild Texas for use in the federal disaster funding appropriation related to Harvey totaled more than \$16 billion. While local match requirements vary from 10% - 50% depending on the program, the scale of local funds that are needed is unprecedented.

Property taxes are the primary source of funding allowed by the legislature for the operations of counties. In times of emergency, these resources are severely strained. Not only does an emergency typically result in damage and economic losses within the county, but the response often requires shifting funds from daily operations towards the immediate needs of an emergency. Even when counties have reserve funds in place, an emergency event can quickly deplete those funds. Ongoing recovery costs can make replenishing reserves a near impossible task.

Federal reimbursements can take years to receive, in the case of Hurricane Ike, reimbursements are still coming in nearly 10 years later. Even then, counties will never fully recover all of the costs associated with an emergency event.

The state funds disaster recovery through General Revenue Funds, supplemental appropriations, Federal Funds, and Other Funds. The Governor may also provide disaster grant funds to local and state agencies, once appropriated funds have been depleted. State and Local entities can also apply directly to FEMA, but unless the state reaches the \$37M federally-required, uninsured loss threshold, they cannot receive funding. Additionally, local entities must pay a non-federal match to draw down these funds. In the case of state declared disasters, absent of a federal declaration, the cost of recovery further shifts the burden to local governments as there is no dedicated state recovery fund in place.

Participation within federal programs can also be costly to county governments. Outside of delays, following federal guidelines can be an arduous process that often gets in the way of recovery. Local governments already are governed by state procurement statutes that ensure compliance and protect consumers. However, the additional layer of federal requirements can slow down the bidding process for something as simple as debris removal. Failure to comply with FEMA requirements can jeopardize reimbursements to a county and can result in a clawback of funds, long after the event took place.

#### *General Obligation Bonds Can Be Part of the Solution for Disaster Recovery*

While local governments have a mechanism to apply for federal disaster recovery funds, there is no comparable dedicated state fund. Chief Nim Kidd from the Texas Department of Emergency Management testified in front of the committee on February 6, 2018. In his testimony he explained that federal dollars are only available after the state reaches \$37 million in uninsured losses.<sup>11</sup> For example when a storm hits Oklahoma and moves into Texas, Oklahoma is able to pull federal funding because their threshold is less than \$5 million, but areas in Texas impacted by that same storm are unable to receive funds because the State cannot meet the \$37 million threshold. As a result, there are many devastating losses in local communities including partial and complete destruction of public and private property and public road infrastructure. Texas

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counties have and will continue to spend millions of dollars responding to these events and will never see reimbursement. Therefore, many smaller tax base communities that have suffered severe losses, never fully recover because they cannot fully fund their own disaster relief effort.

Despite various public financing options available to local governments, many counties and cities lack the ad valorem tax base and other revenue sources to properly fund debt issuance. Harris County Flood Control District's 2018 Package is an exception and serves as an excellent example of how proper funding can provide the necessary infrastructure repair and improvements. Backed by sufficient property tax revenues collected under its enabling statute authority as a special taxing district, the bond revenue will be used to provide local match funds and fill gaps in watershed-critical projects that do not qualify for federal funding. The state should provide similar funding to local governments that do not have local tax revenues to properly fund such an initiative.

The State should look to its current resources, including the Economic Stabilization Fund (Rainy Day Fund), to provide adequate funding to aid in local disaster recovery. For example, the State should consider levying general obligation (GO) bonds as a means to fund this effort, as it has done in the past with Highway Improvement General Obligation Bonds (HIGO) and the State Water Implementation Fund for Texas (SWIFT). GO bonds are bonds secured by the state through the legislative process. These bonds are issued only after voter approval at a bond election. This approach to public financing for major projects allows for a higher level of transparency as an election is required. Furthermore, in Chief Kidd's testimony he explained that due to Hurricane Harvey, \$14 billion of federal funds had been successfully passed down to Texans and local governments at a pace never seen before in Texas, however, it was still not fast enough. The majority of Hurricane Harvey funding is federal while the portion of state funding has remained a static \$5.2 million. Given the needs for immediate funding, GO bonds could operate as a temporary funding stream for local governments while they await federal reimbursements. The state could be an indispensable partner in assisting local governments either in grants for local match requirements or as 0% interest loans to bridge the period before federal reimbursement funds are received.

Additionally, the funding through the GO bond could provide resources for localized emergency events that may not rise to the level of a federal disaster, but are nonetheless beyond the means of a local government to respond to. Improved infrastructure will reduce the damage from disasters and improve the emergency response. For example, local governments could use this emergency funding for repairing and constructing vital infrastructure, roadway construction, repair institutes of education, and parks and wildlife. The State could also utilize this fund to help offset the economic impact to local governments of any future contemplated short-term homestead exemptions offered to disaster victims. A similar state fund from general obligation bonds would provide essential funding for improved roads and highways, public buildings, and equipment to facilitate evacuations, provide access to emergency responders and establish a base of disaster resistant infrastructure.



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### *Housing Recovery*

In the case of disaster rebuilding, the first priority should be to get people back into their homes quickly and, secondly, to get the most number of people back into their homes and recovering financially in the quickest amount of time at the lowest cost. There are front-end measures that can help communities recover more quickly, maintain the local tax base, and reduce post-disaster recovery aid.

During the recovery process following Hurricane Harvey, the General Land Office has been working in tandem with FEMA to provide short-term housing. Through Community Development Block Grant Disaster Recovery Program (CDBG-DR), funds have been given to local councils of governments to address housing needs. The GLO has approved all nine methods of distribution (MODs) proposed by regional Councils of Governments' (COGs) for \$276 million in Hurricane Harvey recovery funds for the buyout and acquisition program and \$413 million for infrastructure program for cities and counties affected by Hurricane Harvey.<sup>12</sup>

Despite good faith efforts, the delivery of housing often runs into delays. GLO Commissioner George P. Bush testified in front of the Committee on May 10, 2018 and discussed many innovative housing solutions, such as 3D printed housing. Unfortunately, permanent structures cannot be utilized for temporary housing in a disaster stricken area under the Stafford Act. Modular housing, such as Rapido or 3D printed structures are defined as permanent and thus cannot be utilized as temporary housing despite how quickly they can be put in place.

Additionally, there are duplications throughout the housing recovery process that are delaying the recovery process. For example, HUD cannot utilize an environmental permit that was cleared through the FEMA process. Instead, they must get their own permit. While the state has very robust programs for emergency recovery, there is very little that has been done to establish long-term rebuilding programs. There is a need for moderate to low-income housing. Although property owners can be left with substantial damage to their homes, they have more avenues for recovery than renters, who are often more vulnerable after emergency events. Single family housing is more often prioritized over rental properties and multifamily housing. There is also a lack of available housing to accommodate those in the middle of rebuilding.

### *Disaster Reappraisal*

Studying and considering alternatives to the cumbersome and costly disaster reappraisal process currently in place under Section 23.02 of the Texas Property Tax Code should be considered. "Disaster reappraisal" can be defined as the range of activities designed to maintain control during a designated disaster timeframe that provides a framework for determining at-risk properties for tax adjustment. Disaster reappraisal deals with situations that occur prior to, during, and after the disaster.<sup>13</sup>

On August 23, 2018 Brent South with the Texas Association of Appraisal Districts explained that difficulties in the current statute creates many challenges. These challenges include limited resources and staffing requirements to complete reappraisal and current year appraisal simultaneously and no limitation on when a taxing unit may request the reappraisal. The code does not include appeals process for reappraised properties, therefore homeowners are not aware

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of the appeals. There is also no limitation on when a taxing unit can request reappraisals, therefore, damaged properties may have been reconstructed prior to the appraisers conducting the reappraisal which would not give a true appraisal of the damages. Consideration of guidelines on when the reappraisals can be called for should be explored.<sup>14</sup> Lastly, solutions for temporary partial exemptions for those properties effected by disasters, but that do not overload counties with additional burden should be studied.

### *Infrastructure Planning*

In the event of a disaster, advance planning is imperative to ensure that the least amount of damage and loss is incurred by a community. Local jurisdictions should have the ability to preclear and get approval for rebuilding efforts before a disaster occurs. State agencies that partner in these efforts also need clear directives when supporting and aiding in such plans. It is important to balance reasonable building mandates that help reduce the loss of life with the goal of providing safe and affordable housing.

### *Public Health and Safety*

During disasters, emergency shelters, Local Mental Health Authorities (LMHAs), and hospitals play a vital life-saving role in relief efforts. The Committee heard testimony on February 6, 2018 and May 10, 2018 from local hospitals and county public health departments to share their experiences during Hurricane Harvey. According to the Texas Hospital Association's (THA) Hurricane Harvey Analysis Special Report; typically, communities and residents have five to seven days to prepare for an impending hurricane. With Harvey, that preparation time was under 50 hours. This short window of time meant that many communities were insufficiently prepared to handle the storm when it hit.

THA's report further explained that local hospitals reported people with medical needs were turned away from shelters or that shelters could not handle their medical needs, with that population turning to hospital emergency departments, despite not requiring acute medical attention. This influx of people taxed hospitals' resources, specifically food and linen, and created additional challenges for hospital staff, physicians and security personnel. The timely replenishing of needed supplies for hospitals always is of vital importance. During a crisis, this need is amplified. Texas hospitals reported that they needed more help getting resources and supplies delivered during the storm and afterwards to replenish exhausted stockpiles. Some hospitals reported that they knew their shipments were sitting in UPS terminals, but because facilities were inaccessible by vehicle due to high water, drivers could not deliver them.<sup>15</sup>

Additionally, Dr. Alan Vierling with Harris Health System (LBJ Hospital) testified that they had several challenges during Hurricane Harvey with communication failures including not being able to communicate with the local Emergency Operations Center.<sup>16</sup> Statewide improvement of communication with emergency response teams must be examined. Moreover, communication about the long-term public health impact also is essential, with a particular focus needed on potential respiratory issues caused by mold, the Zika threat caused by a growing mosquito population and the need for current immunizations to guard against communicable diseases.<sup>17</sup>

Local Mental Health Authorities also provide a vital role in helping with behavioral health needs

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after a disaster. For example, centers in areas not directly affected by Hurricane Harvey were invaluable. Burke (various centers in east Texas) offered to call individuals receiving intellectual or developmental disabilities (IDD) services from neighboring centers to do welfare checks and provide assistance as needed. Integral Care staffed Austin-area shelters with more than 100 staff, assessing people and helping them access needed services. Tropical Texas offered nearby centers access to its mobile clinic, and many centers offered spaces in their group homes and crisis facilities, as well as case management assistance and service coordination staff.

Recently, the Texas Council of Community Centers also entered into a collaborative effort with the Texas Education Agency (TEA) and HHSC, aimed at addressing the immediate and ongoing needs of students and families affected by Harvey, as well as forming connections and deepening existing partnerships between schools and Centers. This is an exciting opportunity to continue the outreach work that has already been done in schools and to better serve children in communities across Texas. Finally, the Texas Council will represent our system in upcoming meetings of the Texas Emergency Management Advisory Committee (TEMAC). TEMAC provides strategic, timely, specific and actionable advice to the Texas Department of Emergency Management on issues including preparedness, the needs of special populations, and technology.

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#### *Relationships and Coordination with Charitable Organizations*

While recovery efforts are still directed by local officials, they are primarily serviced by volunteer organizations; during Harvey alone, 3.5 million hours of volunteer hours were logged.<sup>19</sup> These organizations include national organization, statewide organizations, and local organizations. The degree of short-term and long-term services these organizations provide varies. Some smaller groups may focus on providing essentials like clothing and food. Whereas some larger organizations have the capacity to run emergency short-term and long-term shelters, provide case management, and aid in rebuilding efforts. These specific organizations are imperative to ensuring a community's success in short-term recovery by filling the needs gaps of impacted and displaced residents.

The Committee learned through testimony that the faith-based community is instrumental in the response to disasters. Pastor Matt Roberson of TheMET Church during his testimony on February 6, 2018 told their story of how through their relationship with their local fire chief, the church was able to open three emergency shelters, and provide immediate assistance. Local religious organizations are able to provide this type of relief in areas of counties that get overlooked because they are in unincorporated areas, or emergency services are pulled at higher populated areas. However, these organization would like to see the State become more involved to help with the coordination of efforts. For example, in the event the county determines there are imminent threats, religious organizations would like to see a "pre-deployment" or sooner deployment of emergency shelter teams to ensure better safety and preparedness.<sup>20</sup>

Although volunteer organizations typically work in connection with governmental entities, they are sometimes more nimble in their ability to immediately provide services and support due to their funding source. For example, TheMET church was able to distribute over \$300,000 just from their two campuses, and Catholic Charities USA provided nearly \$7.1 million to the

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Dioceses in Texas to assist those impacted by Harvey.<sup>21</sup> Since many of these volunteer organizations are funded through private entities, they do not face the same funding delays that counties may encounter.

## RECOMMENDATION

- 1. The Texas Legislature should study and consider using other taxation resources, such as the Economic Stabilization Fund, as collateral for general obligation bonds to prepare for and respond to emergencies and disasters.**

While local governments have a mechanism to apply for federal disaster recovery funds, there is no comparable dedicated state fund. Despite various public financing options available to local governments, many counties and cities lack the ad valorem tax base and other revenue sources to properly fund debt issuance. The State should look to its current resources, including the Economic Stabilization Fund (Rainy Day Fund), to provide adequate funding to aid in local disaster recovery.

- 2. The Texas Legislature should work with its federal partners to share best practices learned during Hurricane Harvey response, relief, and recovery efforts, including recommendations that would update and streamline FEMA and HUD requirements that create duplicative and/or conflicting processes which result in increased costs and delays.**

The National Flood Insurance Program (NFIP) is reauthorized by Congress every five years. FEMA thresholds for teardown/rebuild should be updated from 150k to 300k. Residents would be better served if there was an expanded option to rebuild rather than elevate in many circumstances. Look at standards to be more flexible to address the differences between urban and rural flooding incidents. FEMA and HUD should embrace new modular building units as a solution that could serve as short-term and long-term housing such as Rapido and 3D printing.

- 3. The Texas Legislature should consider designating a single state agency to be responsible for training local officials and providing immediate response specialists to assist local officials in coordinating with the state and FEMA.**

- 4. The Texas Legislature should encourage extensive NIMS training for local, state and federal partners prior to disaster, as well as adherence to NIMS protocol.**

Within this training there should be a stronger emphasis on communication from federal and local officials with State Representatives. Additional emphasis should also be placed on better communication and coordination with charitable organizations.

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- 5. The Texas Legislature should look to provide state assistance in compiling a pre-approved vendor list for debris, if local governments need to expand beyond their contracts.**

Local governments are dependent upon private contractors for the majority of debris removal. Delays in this task hamper recovery by utilities, schools, businesses, and housing. While larger entities may obtain pre-event contracts for these services, smaller jurisdictions cannot. Debris removal in smaller counties continuously get delayed while proposed contracts are reviewed by FEMA.

- 6. The Texas Legislature should consider reviewing Section 23.02 of the Texas Property Tax Code and consider solutions to alleviate challenges for reappraisals after a disaster.**

- 7. The Texas Legislature should consider amending Chapter 775 and Section 121.006 of the Texas Health & Safety Code to authorize ESDs to provide MIH-CP services.** ESDs are not currently authorized to implement MIH-CP programs. Authorizing ESDs to provide MIH-CP programs could help reduce the costs those entities incur for unnecessary EMS transport and simultaneously improve healthcare for at-risk individuals in our communities.

- 8. The Committee agrees with recommendation from Eye of the Storm, Report of the Governor's Commission to Rebuild Texas, Chapter 6 number 10: The Texas Legislature should set up a response team at the state level to respond to questions and other inquiries from local emergency management officials.** <sup>22</sup>

- 9. The Texas Legislature should ensure that current resources are adequately funded and maintained.**

Providing fire and emergency services is a costly, yet necessary service. The gear for one responder can cost upwards of \$8,000. Trucks and equipment can range from \$500,000 – 800,000. Resources must be available in advance of their need and require ongoing maintenance and repair. Additionally, they need to be strategically placed and positioned for easy deployment across the state. Ensuring that communities have the needed resources for both local use and statewide mutual use should be a priority.<sup>23</sup>

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**CHARGE II - Evaluate whether counties have the necessary ordinance-making and enforcement authority to deal with flood risk in unincorporated rural and suburban areas of Texas. Additionally, examine whether counties have adequate resources and authority to ensure that new development in unincorporated areas is not susceptible to flooding.**

**SCOPE OF THE CHARGE**

Flooding in Texas is occurring more frequently and has become increasingly costly. In 2017, Hurricane Harvey alone caused billions of dollars of damage, and most of that damage was flood-related damage not storm damage. In an effort to determine ways to minimize flood risk, it is useful to look at the causes of flooding and study regulatory structures in place that allow counties to minimize the amount of damage that a flood will cause. During the committee hearings it became clear that Interim Charge I and Charge 2 are intertwined. In order to talk about one, the other one must also be discussed. Because of this, the witness list will be the same. The Committee requested that witnesses speak on one or both interim charges without having to differentiate between the two. Due to this decision, please acknowledge that the recommendations in this charge should be looked at in conjunction with the recommendations in Charge I.

**SUMMARY OF COMMITTEE ACTION**

Committee Hearings

- February 6, 2018, The University of Houston - Downtown Campus, Welcome Center Building, Houston, Texas
- May 10, 2018, Capitol Room E2.026, Austin, Texas
- June 6, 2018, Texas A&M University Corpus Christi, Harte Research Institute for Gulf of Mexico Studies, Corpus Christi, Texas
- August 23, 2018, Dallas County Commissioners Courtroom, Dallas, Texas
- October 17, 2018, Houston Community College, Coleman Tower, Houston, Texas

Witnesses

February 6, 2018, The University of Houston - Downtown Campus, Welcome Center Building, Houston, Texas

- Babin, Anna (United Way of Greater Houston)
- Barone, Rosanne (Texas Campaign for the Environment)
- Bracken, John (Save the Children)
- Brunett, Brad (Brazos River Authority)
- Carrizal, Shain (Harris County Budget Management Department.)
- Champion, Bret (Klein Independent School District)
- Costello, Stephen (City of Houston)
- DeMasi, Michael (US Army Corp of Engineers- Galveston District)
- Ellis, Rodney (Harris County Commissioners Court)
- Emmett, Ed (Harris County Judge)
- Granato, Jim (Hobby School of Public Affairs)

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- Haddock, Carol (Houston Public Works)
  - Hardway, Anna (Save the Children Federation)
  - Henry, Mark (Cypress-Fairbanks Independent School District)
  - Houston, Jace (San Jacinto River Authority)
  - Kidd, Nim (Texas Division of Emergency Management)
  - Lemelle, Daphne (Harris County Community Services Department)
  - Noriega, Melissa (Baker Ripley)
  - Poppe, Russ (Harris County Flood Control District)
  - Roberson, Matt (The Met Church)
  - Shah, Dr. Umair (Harris County Public Health)
  - Sloan, Mark (Harris County Office of Homeland Security and Emergency Management)
  - Spieler, Christof (Greater Houston Flood Mitigation Consortium)
  - Stuckey, Joshua (Harris County- County Engineer's Office)
  - Woods, Nyla (Catholic Charities of the Archdiocese of Galveston-Houston)

May 10, 2018, Capitol Room E2.026, Austin, Texas

- Abbott, Robert (Self; Travis County ESD No. 6)
- Adams, Chris (Health and Human Services Commission)
- Allison, Jim (County Judges and Commissioners Association of Texas)
- Commissioner Bush, George (Texas General Land Office)
- Carlton, John (Texas State Association of Fire and Emergency Districts)
- Carrizal, Shain (Harris County Budget Management Department)
- Gaines, Sonja (Health and Human Services Commission)
- Garza, Clint (Hays County)
- Jack, Mark (SAFE-D & Parker County ESD1)
- Janusaitis, Robert (SAFE-D)
- Kludt, Brandon (Self; Comal County ESD No. 2 & Comal County ESD No. 3)
- Kostroun, David (Health and Human Services Commission)
- Kroll, Carrie (Texas Hospital Association)
- Max, Alisa (Harris County Engineering Department)
- Morgan, Richard (South-central Partnership for Energy Efficiency as a Resource)
- Munoz, Ned (Texas Association of Builders)
- Nuckols, Tom (Travis County)
- Perez, Vincent (County of El Paso)
- Phillips, Pete (General Land Office)
- Poppe, Russell (Harris County Flood Control District)
- Reed, Cyrus (Lone star chapter sierra club)
- Salazar, Andres (American Society of Civil Engineers)
- Salter, Wayne (Health and Human Services Commission)
- Scheffel, Stacey (Travis County TNR)
- Smith, Kharley (Hays County Emergency Management)
- Taylor, Kyle (SAFE-D)
- Tudor, Nathan (Texas Organization of Rural and Community Hospitals)

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- Turco, Michael (Harris-Galveston Subsidence District)
  - Vierling, Alan (Harris Health System)
  - Wemple, Charles (Houston-Galveston Area Council)
  - Registering, but not testifying:
    - Avery, Clay (Texas State Association of Fire and Emergency Districts (SAFE-D))
    - Avery, Cliff (SAFE-D)
    - Cook, Russell (Health and Human Services Commission)
    - Hays, Jet (Texas general land office)
    - Watson, Stephen (Self; Parker County esd1)
    - Wisko, Mike (Texas Fire Chiefs Association) Rick Flanagan (City of Houston)
    - Doug Bass (Self; Dallas County)

June 6, 2018, Texas A&M University Corpus Christi, Harte Research Institute for Gulf of Mexico Studies, Corpus Christi, Texas

- Allison, Jim (County Judges and Commissioners Association of Texas)
- Arnold, Mark (Texas Conference of Catholic Bishops)
- Boyce, Christopher (Nueces County Judge Loyd Neal)
- Davis, Mike (Behavioral Health Center of Nueces County)
- Durand, Mark (Coastal Plains Center)
- Hipp, Jonny (Nueces County Hospital District)
- Madrid, Rudy (Kleberg County)
- Metz, John (National Weather Service)
- Mills, Burt (Aransas County)
- Nicolau, Brien (Jim Wells County Emergency Service District #1)
- Phipps, Warren (Coastal Bend Disaster Recovery Group)
- Rivera, Connie (Self; Texas Society of Architects)
- Seaman, Eugene (Self)
- Tatum, Beth (Coastal Bend Disaster Recovery Group/ First United Methodist Church of Sinton)
- Van de Putte, Henry (American Red Cross)
- Voth, Desiree (San Patricio County)
- Registering, but not testifying:
  - Cottingham, Mary (Self)
  - Trejo, Leo (Self)

August 23, 2018, Dallas County Commissioners Courtroom, Dallas, Texas

- Bass, Charles Douglas (Dallas County)
- Honorable Brinkley, Jason (Cooke County)
- Earnest, Gary (Texas Association of Appraisal Districts)
- Gaines, Sonja (Health and Human Services commission)
- Honorable Gossom, Woody (Wichita County)
- Howie, Steve (Kaufman County)
- Honorable Jenkins, Clay (Dallas County)



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- Martin, Edith (North Central Texas Council of Governments)
  - McCurdy, David (Tarrant County)
  - South, Brent (Texas Association of Appraisal Districts)
  - Honorable Wood, Bruce (Kaufman County Commissioners Court)

October 17, 2018, Houston Community College, Coleman Tower, Houston, Texas

- Bracken, John (Save the Children)
- Honorable Emmett, Ed (Harris County)
- Lemelle, Daphne (Harris County Community Services Dept.)
- Moorhead, Bee (Texas Interfaith Center/ TX Impact)
- Honorable Murphy, Sydney (County of Polk)
- Poppe, Russ (Harris County Flood Control District)
- Reed, Rodney (Harris County Fire Marshal's Office)
- Steiber, Jon (Harris County Engineering Dept.)
- Turner, Roy (Chambers County)
- Registering, but not testifying:
  - Reed, Cyrus (Sierra Club - Lone Star Chapter)
  - Winnike, Allison (The Immunization Partnership)

## **BACKGROUND**

Disasters do not recognize jurisdictional boundaries, which makes uniform hazard mitigation standards between cities and counties all the more important. Because Texas does not have a statewide building code and counties have very little land use authority, cities ultimately have the most control over construction and new development. Through this authority, cities are able to put more mitigation protections in place ahead of an emergency than counties when it comes to new construction. However, in order to fully understand preparation and mitigate flooding impact, it is important to examine the different types of flooding and how flooding occurs.

## **FINDINGS**

### *Floodplains*

During the hearing on February 6, 2018, Christof Spieler with the Greater Houston Flood Mitigation Consortium provided the Committee with information regarding floodplains. The information provided explained that FEMA defines a floodplain as any land area susceptible to being inundated by floodwaters from any source. This can include coastal areas impacted by storm surge, land along a river or bayou that is flooded when that waterway rises out of its banks, or low-lying land that fills with water when it rains. Flooding occurs in a wide range of landscapes in Texas. Those types of flooding include riverine flooding, flash flooding, slow-rise flooding, coastal flooding, stormwater flooding, and structural failure flooding. It is generally safe to say that land inside the designated floodplain is at risk of flooding, that land inside the floodway is at higher risk of flooding than land in the 1% floodplain, which is at higher risk of flooding than land in the 0.2% floodplain. However, land outside the designated floodplain can still be at risk of flooding. In some landscapes, floodplains are clearly defined by natural

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features. In a river valley, for example, there is often a flat area around a river that floods frequently, and land above steep banks on either side that the river never reaches.

In some landscapes, floodplains are clearly defined by man-made infrastructure. Levees hold floodwaters back and create a clear boundary: land between the river and the levees is likely to flood, and land beyond the levees is not.

In many parts of the Houston region, floodplains are not clearly outlined by elevation differences. In a flat landscape, water spreads broadly once it rises out of the banks of the bayou. The FEMA modeled floodplains are more uncertain in this type of topography. A small rise in rainfall volume can lead to a large increase in the area flooded. There is no geographic feature that protects a house on the far side of the designated 100-year floodplain from flooding.

In some areas, undersized stormwater systems contribute to localized flooding in areas that are not near a river or bayou. In these areas, flooding can occur no matter how low or how high the water may be in the nearest waterway. Since these areas are not near a waterway, they may not be included in FEMA floodplain mapping.<sup>24</sup>

In addition, there are two types of rainfall-related flooding. One is stream or bayou flooding, and the other is localized street and overland flooding. These are both important in Harris County, and other coastal areas, but local overland flooding receives much less attention than does stream or bayou flooding due to the existence of flood monitoring systems and flood control projects (e.g., federal flood programs) that focus on stream flooding rather than local overland drainage systems.

A bayou, creek, or river is known as a natural watercourse, which is an area cut into earth's surface over thousands of years by the flow of water. Natural watercourses have defined beds and banks where the water usually flows, and they also have areas that they drain called watersheds. When rain falls, most of it flows from high points to lower points across the landscape due to gravity. A watercourse is a geographic low point, and its associated watershed is defined by surrounding areas of higher elevation that determine whether rainwater goes to one watercourse or another. Watersheds are the basic flood management units, and they are key to understanding flooding in places like Harris County.<sup>25</sup>

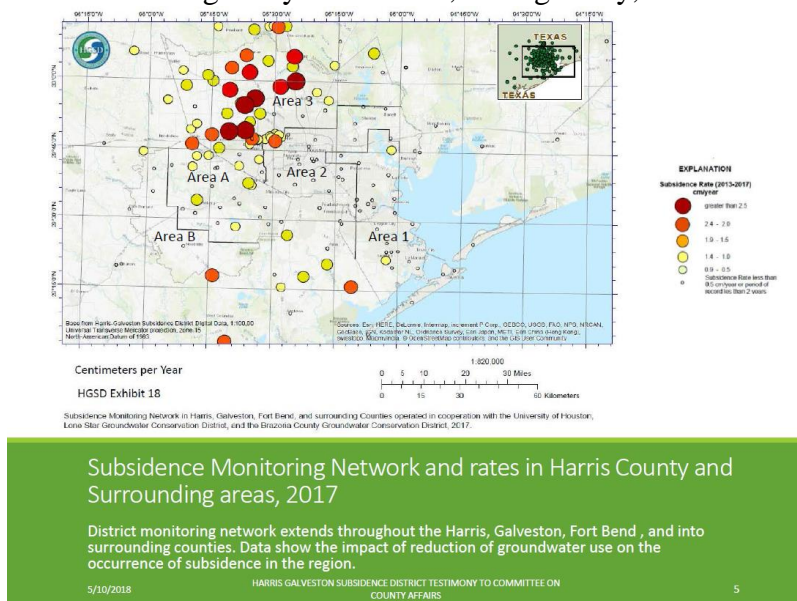
### **Flood Mitigation**

#### *Subsidence*

On May 10, 2018 Michael Turco with the Harris-Galveston Subsidence District provided testimony to the Committee on how subsidence greatly effects Harris County's flooding. He explained that with a number of studies linking groundwater withdrawal to subsidence — and ongoing measurements confirming those findings — groups of citizens began to work for a reduction in groundwater use in the late 1960's. By 1973, the City of Galveston had begun converting to surface water supplied from Lake Houston, and in May of 1975, the Texas Legislature created the Harris-Galveston Subsidence District (HGSD), the first of its kind in the United States. Authorized as a regulatory agency created to “end subsidence” and armed with the power to restrict groundwater withdrawals, the Subsidence District immediately went to work on

a plan to positively impact the critical situation in the coastal areas.

In the Houston area, since 1906 about 10 feet of subsidence has occurred near the ship channel and Baytown, Texas. The area that has experienced about 6 feet of subsidence covers the most of the area inside the beltway extending to Seabrook, Texas. Most of the subsidence that occurs today occurs west and north of the Beltway of Houston in areas currently working to construct the necessary infrastructure to reduce groundwater and increase the use of alternative source waters. The issue of subsidence is not unique to the two Districts HGSD identified, significant rates of subsidence are occurring today in Brazoria, Montgomery, and Waller Counties.



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The City of Houston and the Regional Water Authorities are currently undertaking the largest water infrastructure project in the US to supply alternative water to these areas. Subsidence has generally ceased in areas where conversion has been completed and groundwater use has been reduced.<sup>27</sup>

### Flood Warning System

A Flood Warning System (FWS) provides accurate information to allow individuals and decision-makers to make informed decisions about whether to take emergency action, like evacuation, during a flood event. Some flood warning systems simply provide real-time data on flood conditions, but others use real-time data to predict future flood conditions several hours in advance.<sup>28</sup>

During testimony from Hays County officials Clint Garza and Kharley Smith, discussed that prior to the Memorial Day floods of 2015 in Wimberley, TX there were no gauges in place for a flood warning system and data was not being collected. In the aftermath, Hays County received grant funding from the Texas Water Development Board to install gauges to monitor the rise and rate of flow as well as gauges on detention basis and water crossings. However, it is important that projects like these are carried out statewide in order to collect more accurate information. Moreover, while these systems provide real-time data, these systems do not predict future water

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levels.

However, the Severe Storm Prediction, Education, and Evacuation from Disasters (SSPEED) Center at Rice University has built localized Flood Alert Systems for the Texas Medical Center (TMC FAS4), Sugar Land, and the Texas Department of Transportation (TxDOT). These systems use real-time radar rainfall data to predict flood levels at critical locations. For example, the TMC uses FAS4 to determine when to implement emergency protocols regarding the placement and/or closing of gates and doors that prevent damages to the TMC from flooding. These systems are designed for use by specific end-users, but the real-time predictions and flood warnings are also available to the public online.<sup>29</sup>

#### *River Authorities*

There are 15 River Authorities throughout Texas which manage and operate water supply reservoirs within their basins. They help to mitigate the impact and hazards of flooding within the region through river management and providing local officials with real-time data collection alerting them to the conditions that may contribute to a natural disaster. It is important to note that while some river authorities are responsible for operation of these reservoirs including management of flood water, some of them are managed by the United States Army Corp of Engineers.<sup>30</sup>

Brad Burnett with the Brazos River Authority (BRA) testified during the committee hearing on February 6, 2018 that in addition to reservoir management and operations, the BRA is currently involved in a Lower Brazos River Flood Protection Planning Study that began in 2014. This \$1.7 million regional study effort extends along the Brazos River from the Grimes/Waller County line downstream to the Gulf of Mexico. The BRA is coordinating this effort on behalf of a number of local entities within the study area including cities, counties, and drainage districts. Roughly half of the study costs are being funded through grants from the Texas Water Development Board with the remaining half being funded by the local entities and BRA.<sup>31</sup>

The Committee heard additional testimony from San Jacinto River Authority's General Manager Jace Houston during that same hearing. Both testimonies made clear the need for a state-wide flood plan and the need for more flood modeling studies to continue.<sup>32</sup>

#### *County Authority*

Any question regarding county ordinance-making and enforcement authority must necessarily begin with a look at the structure of county authority. Texas generally follows Dillon's Rule which states that a municipal government has the authority to act only when:

- “(1) the power is granted in the express words of the statute, private act, or charter creating the municipal corporation;
- (2) the power is necessarily or fairly implied in, or incident to the powers expressly granted; or
- (3) the power is one that is neither expressly granted nor fairly implied from the express grants of power, but is otherwise implied as essential to the declared objects and purposes of the corporation.

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The Dillon rule is used in interpreting state law when there is a question of whether or not a local government has a certain power. Judge Forest Dillon, the chief justice of the Iowa Supreme Court expounded this famous rule, which was quickly adopted by state supreme courts around the nation.”<sup>33</sup>

In Texas, counties are legal subdivisions of the state and serve as an administrative arm of state government. As such, in contrast to municipal government in Texas, a county does not have a charter or home-rule authority which grants some independence in ordinance-making. Under this structure, in the area flood regulation, counties generally have been granted limited authority to regulate land use, usually through the approval of plats. Furthermore, counties have limited authority to enforce regulations that are in place to prevent the building of structures in the flood plain.

Specifically, Local Government Code Sec. 232.030 grants counties the authority to adopt and enforce the model subdivision rules. Subsection (c) states that: The commissioners court shall adopt regulations setting forth requirements for:

- (1) potable water sufficient in quality and quantity to meet minimum state standards;
- (2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter [364](#), Health and Safety Code;
- (3) sufficient and adequate roads that satisfy the standards adopted by the county;
- (4) sewer facilities meeting minimum state standards;
- (5) electric service and gas service; and
- (6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).<sup>34</sup>

Under this section, counties must regulate standards for flood management in line with the standards adopted by the Federal Management Agency under the National Flood Insurance Act. The Water Code also allows counties to restrict certain development and to regulate construction in the flood plain. Counties use this authority to mandate certain designs to mitigate flooding, to prevent flooding on neighboring properties, and to minimize erosion.

However, even though a county may adopt these standards for flood management, the impact of these regulations may be muted when surrounding counties do not adopt similar regulations. It is important to note that flooding does not stop at the borders of counties. What occurs in neighboring counties upstream and downstream has a tremendous impact on flooding for any individual county. Currently, the law does not incentivize counties that share watersheds to adopt similar regulations.

After regulations have been adopted, the major issue for counties is whether there is a reasonable ability to enforce the regulations. Although counties may attempt to enforce floodplain regulations, the enforcement provisions are weak and time-consuming for counties. For example, Texas Water Code Section 16.322 specifies a civil penalty for a person who violates a county flood plain regulation. Texas Water Code Section 16.323 specifies the enforcement process for these civil violations of the regulations. However, Texas Water Code 16.3221 which

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specifies the criminal penalty for violating county flood plain regulations does not have a corresponding criminal enforcement provisions like the civil penalty contains. Therefore, counties attempting to enforce their regulation must use a time-consuming and costly civil process for enforcing their regulations. In the case of new development, counties are unable to halt development until well after the development has been completed. This means that it is more costly for the developer because a project may finish before the civil process requires a fix to the flood plain development issue.

### *Building and New Development*

Disasters do not recognize jurisdictional boundaries, which makes uniform hazard mitigation standards between cities and counties all the more important. Because Texas does not have a statewide building code and counties have very little land use authority, cities ultimately have the most control over construction and new development. Through this authority, cities are able to put more mitigation protections in place ahead of an emergency than counties when it comes to new construction. Under the National Flood Insurance Program, counties and their citizens lose out on premium discounts because they lack the authority to impose even basic building standards.

Jim Allison with the County Judges and Commissioners Association of Texas testified on May 10, 2018 that through plat regulations, counties may require that subdivision developers manage the drainage within the subdivision and coordinate subdivision drainage with the general storm drainage pattern for the area. However, counties have no authority to adopt and enforce a comprehensive drainage plan for the unincorporated area. Ironically, the drainage requirements imposed within the subdivision may actually exacerbate the flooding risk and damage below the new subdivision.<sup>35</sup> However, Ned Munoz with the Texas Association of Builders stated in his testimony on May 10, 2018 that "of the 75,000 homes built in subdivisions developed after the 2009 Harris County flood and drainage requirements, only 0.6% (467) homes were flooded".<sup>36</sup> Furthermore, Mr. Munoz gave the example of how current homes built to the latest windstorm codes in the coastal area withstood Harvey's high winds. Other counties should be granted similar authority to develop countywide requirements.

In conclusion, counties need more tools to ensure the safety of its residents, especially as counties see increased growth in their unincorporated areas. Building standards should be tailored to the conditions of the geographical location and its particular known hazards; however, they should not end at the city limits. Enforcement and compliance with Building Codes and Development Regulations are paramount and will help minimize damage in the future.

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## RECOMMENDATIONS

- 1. The Texas Legislature should explore solutions to create greater parity between the standards and regulations regarding new development and construction both inside a city's extraterritorial jurisdiction and unincorporated areas within counties. Review current county ordinance making authority to set minimum standards for emergency mitigation in both platted subdivisions and other unincorporated areas.**

Counties currently have subdivision authority to require limited mitigation regulations for new development that occurs within a platted subdivision. However, counties do not have this authority for development that falls outside of subdivisions, which is the source for much of the growth in counties. Due to the lack of authority, there is a lack of uniformity about the safety of structures going up across the state. Increased authority would allow for universal mitigation efforts for new development in the unincorporated areas of the county.
- 2. The Texas Legislature should consider improvements to strengthen and accelerate the process of civil enforcement of flood plain violations.**

Counties attempting to enforce their regulation must use a time-consuming and costly civil process for enforcing their regulations. In the case of new development, counties are unable to halt development until well after the development has been completed. This means that it is more costly for the developer because a project may finish before the civil process requires a fix to the flood plain development issue.
- 3. The Texas Legislature should explore a regional approach to flood plain regulation, allowing counties that share watersheds to adopt similar regulations.**

The Water Code also allows counties to restrict certain development and to regulate construction in the flood plain. Counties use this authority to mandate certain designs to mitigate flooding, to prevent flooding on neighboring properties, and to minimize erosion. However, although a county may adopt these standards for flood management, the impact of these regulations may be muted when surrounding counties do not adopt similar regulations.
- 4. The Committee agrees with recommendation from Eye of the Storm, Report of the Governor's Commission to Rebuild Texas, Chapter 7 number 1: The Texas Legislature should establish a special study committee to evaluate and propose options for a state-local partnership to help future-proof Texas against flood events on watershed basis.**<sup>37</sup>

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**CHARGE III - Study how counties identify defendants' and inmates' behavioral health needs and deferral opportunities to appropriate rehabilitative and transition services. Consider models for ensuring defendants and inmates with mental illness receive appropriate services upon release from the criminal justice system.**

**SCOPE OF THE CHARGE**

The committee was charged with studying how counties identify defendants' and inmates' behavioral health needs and diversion throughout the state. The committee heard invited and public testimony that focused on the current landscape, as well as innovative approaches to criminal justice reform and rehabilitation.

**SUMMARY OF COMMITTEE ACTION**

Committee Hearings

August 23, 2018, Dallas County Administration Building, Allen Clemson Courtroom, Dallas, Texas

September 26, 2018, Capitol Room E2.012, Austin, Texas

Witnesses

August 23, 2018, Dallas County Administration Building, Allen Clemson Courtroom, Dallas, Texas

- Collins, Dominique (Dallas County Criminal District Court #4/Veteran's Court)
- Daniel, Theresa (Dallas County)
- Ferguson, Alyse (Collin County)
- Gaines, Sonja (Health and Human Services commission)
- Heddins, Ramey (My Health My Resources Tarrant County/Tarrant County)
- Houser, Chad (Self; Cafe Momentum)
- Martinez, Jessica (North Texas Behavioral Health Authority)
- Powell, Joe (Self; North Texas Behavioral Health and APAA-RCO)
- Randolph, Charlene (Dallas County)
- Wagner, B.J. (Meadows Mental Health Policy Institute)
- Ahmed, Waseem (Self; Parkland Health and Hospital System)
- Brinkley, Jason (Cooke County)
- Burkhart, Geoffrey (Texas Indigent Defense Commission)
- Ferguson, Alyse (Collin County)
- Gossom, Woodrow (Wichita County)
- Rice, Vickie (Dallas County Public Defender's Office)

September 25, 2018, Capitol Room E2.012, Austin, Texas

- Gonzales, Gilbert (Bexar County)
- Hansch, Greg (National Alliance on Mental Illness (NAMI) Texas)
- Hocker, Mark (Self)
- Lavelle, Tanya (Hogg foundation for mental health)
- Lozito, Michael (Bexar County)



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- Pan, David (Center for Health Care Services)
  - Smith, Reginald (Texas Criminal Justice Coalition)
  - Wilson, Kenneth (Haven for Hope)
  - Registering, but not testifying
    - Presley, Talbot (Self)

September 26, 2018, Capitol Room E2.012, Austin, Texas

- Allison, Jim (County Judges and Commissioners Association of Texas)
- Auxier, Albert (Kendall County)
- Elder, Dawn (Self; Starlite Recovery)
- Witherspoon, Tifani (Robertson County Sheriff's Office)
- Yezak, Gerald (Sheriff's Assoc. of Texas and the Robertson County Sheriff's Office)

## **BACKGROUND**

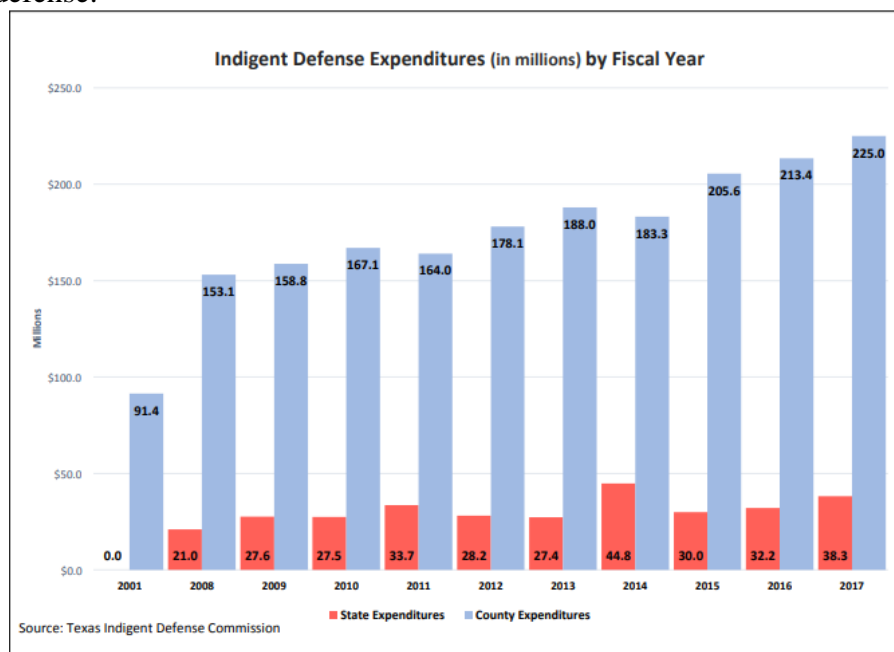
The Texas Legislature has become increasingly aware that individual's with behavioral health needs have been revolving in and out of jail without receiving the services they need. From the Courts, to the jails, to treatment facilities; this issue touches and affects every aspect of the criminal justice system. Over the last several sessions, the Texas Legislature has increased funding and created new programs to help divert individuals with behavioral health needs out of the criminal justice system and into treatment. Frequently, it is the burden of the individual counties to ensure that these individuals get the help they need. The Committee thanks Speaker of the House Joseph Straus for creating the House Select Committee on Substance Use and Opioid Addiction and the Texas Judicial Council on Mental Health Committee for their work on these very important issues.

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## FINDINGS

### *Indigent Defense*

Texas counties are responsible for most of the costs of appointed counsel for indigent defendants. Currently, Texas is one of only 17 states that provide less than 50% in state funding for indigent defense.<sup>38</sup>



In 2001, the 77th Texas Legislature passed SB 7 otherwise known as the Fair Defense Act, creating the blueprint for distribution of indigent defense funding from the State of Texas to local government through the creation of the Task Force on Indigent Defense, the first state body to administer statewide appropriations and policies. During the 82nd Legislative Session (2011), Governor Perry signed House Bill 1754 into law, establishing the Texas Indigent Defense Commission (TIDC), the permanent organization that renamed and replaced the Task Force. TIDC provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law. In addition, TIDC requires local planning for indigent defense and reporting of expenditures and provide an array of resources for counties to improve these services.<sup>39</sup> Recently, TIDC awarded \$1.5 million in new discretionary grants to 11 counties to support more effective and efficient indigent defense representation in Texas. Programs include regional public defender programs for rural counties, defense services for young adult pretrial diversion programs, technology to streamline indigent defense processes, and specialized defender staff to enhance the effectiveness of existing defender programs.<sup>40</sup>

There are five basic types of attorney appointment systems employed by Texas counties: assigned counsel; public defender; contract defender; client choice; and managed assigned counsel. A county may also use a combination of these methods of appointing counsel in what is called an “alternative system.” Each of these systems has advantages and risks, and can work well or poorly depending on how it is operated.

**Figure 1. Indigent Defense Attorney Appointment Systems in Texas**

MODEL	GENERAL DESCRIPTION	RELEVANT STATUTES	PREVALENCE <sup>40</sup>
<b>Assigned Counsel</b>	A system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed from a public appointment list of qualified attorneys using a system of rotation to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.	Government Code, Section 79.001(1) Code of Criminal Procedure, Article 26.04	<ul style="list-style-type: none"> <li>• 209 Counties in one or more District Courts</li> <li>• 214 Counties in one or more County Courts</li> <li>• 220 County Juvenile Boards</li> </ul>
<b>Public Defender Office</b>	A governmental entity or nonprofit corporation that: 1) operates under written agreement with a county rather than an individual judge or court; 2) uses public funds; and 3) provides legal representation and services to indigent defendants accused of a crime or juvenile offense.	Code of Criminal Procedure, Article 26.044	<ul style="list-style-type: none"> <li>• <b>20 offices serving 186 counties</b>, including 3 regional offices (Bee Co. Regional PDO; Caprock Regional PDO; and the Regional Public Defender for Capital Cases) that serve 176 counties overall.</li> </ul>
<b>Contract Defender</b>	A system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.	Government Code, Section 79.001(4) Texas Administrative Code, Section 174.10(2)	<ul style="list-style-type: none"> <li>• 19 Counties in one or more District Court</li> <li>• 15 Counties in one or more County Court</li> <li>• 14 County Juvenile Boards</li> </ul>
<b>Client Choice</b>	A system under which private attorneys, acting as independent contractors and compensated with public funds, are appointed to represent a defendant after the defendant chooses that attorney from a list of qualified attorneys approved by the judges.	Code of Criminal Procedure, Article 26.04 (not specifically referenced in statute but implemented pursuant to this provision of code)	1 program: Comal County
<b>Managed Assigned Counsel</b>	A governmental entity, nonprofit corporation, or bar association operating under a written agreement with a county for the purpose of appointing counsel to indigent defendants. The program must be directed by a licensed attorney who has substantial experience in the practice of criminal law and the ability to provide supervision and leadership for participating attorneys.	Code of Criminal Procedure, Article 26.047	3 programs as of 2017: <ul style="list-style-type: none"> <li>• Collin County</li> <li>• Lubbock County</li> <li>• Travis County</li> </ul>

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Often, defendants who qualify as indigent also suffer from a behavioral health needs. The Committee heard testimony from Alyse Ferguson of Collin County's Mental Health Managed Counsel Program (MHMC) regarding how Collin County is better identifying and helping those defendants with their health needs. Thanks to a program that works to identify inmates with behavioral health needs at booking which is reviewed promptly by a magistrate, inmates can be diverted out of jail and into treatment with the use of mental health bonds.

Before Collin County started this project competency cases were spending on average 271 days in custody in 2012. This number has been nearly cut in half to 144 days in 2018 - a projected savings of over half a million dollars to the county.<sup>42</sup> While managed assigned counsel is successful for Collin County, it is important to note that there is no one size fits all to indigent defense.

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### *Mental Health Treatment and Diversion*

People suffering a mental health crisis need treatment instead of incarceration. For example, Bexar County employs a diversion before booking program where they immediately divert individuals they screen and identify as suffering from mental health issues straight into treatment instead of booking them before diverting them. The intercept model found in Appendix A is utilized throughout the state, from urban to rural counties, as a guide to best practices. This model is important because it demonstrates best practices throughout every step an individual may go through in the criminal justice system.

Through the testimony provided in the committee hearings, it became apparent that most jurisdictions, if they have a diversion program in place, divert post booking. This results in the individual having an arrest record as a result of their illness. Once the individual has received treatment and is ready to return to normalcy, this arrest record can prevent them from obtaining employment, housing, and other vital things necessary to live a productive life

Challenges arise in local communities that do not have places or resources to divert individuals to. Some communities are able to divert to LMHA's treatment facilities, but often they do not have sufficient resources and, as a result, many have waitlists of eligible people who require mental health services.

People do get services if they are in crisis, which is defined as presenting an “immediate danger to self or others; at risk of serious deterioration of mental or physical health.” Crisis services focus on stabilizing a person who is experiencing a mental health crisis. These services can be provided in costly hospital emergency rooms if, for example, the local jurisdiction does not have a crisis stabilization unit, extended observation unit, or mobile crisis outreach teams, or has these services but does not have enough capacity to serve the community.<sup>43</sup>

The goal after stabilization is to connect the person to treatment for longer-term recovery. The goal of treatment is “recovery” as there is no “cure” for these conditions in the same sense that somebody can be cured of an ear infection or similar physical conditions. People can recover from behavioral health problems and, with the right support, they can be productive in their lives and recover a sense of well-being.<sup>44</sup>

Treatment can also be more challenging when the person also has a substance use problem. The combination of mental health and substance use problems is commonly referred to as co-occurring conditions. Among the 18.7 million adults in the United States who experienced a substance use disorder, 45.6%—8.5 million adults—had a co-occurring mental illness. In jail, some estimates indicated that about 72% of jail inmates who had a serious mental illness also had a co-occurring drug and/or alcohol problem.<sup>45</sup>

If diversion is not an option for communities due to lack of available options to divert individuals to, telemedicine is an option that could be used to address this problem. The use of telemedicine to assess and treat individuals who suffer from mental health issues is one viable, cost-efficient way to address the provider shortage in rural areas.

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The Texas Legislature addressed these shortfalls during the 85th Legislative Session through HB 13 by Representative Four Price, SB 292 by Senator Joan Huffman, and SB 1849 by Senator John Whitmire (Chairman Coleman was the House Sponsor and catalyst). These three bills in total provided for \$92.5 million in matching funds over the biennium to help counties divert individuals suffering from mental health away from jail or do competency restoration in the jail setting. It is because of these laws that, for the first time, the state is providing funding to rural communities to develop regional partnerships to combat these issues.

The Committee heard from Sonja Gaines from HHSC during multiple committee hearings that these programs established out of the three bills were popular with the counties and that all the matching grants made available to counties were achieved. Additionally, during the committee hearing on September 25, 2018, Greg Hansch with the National Alliance on Mental Illness-Texas expressed that the demand for matching grants is likely higher than the supply of matching grants made available. Specifically, the amount of money made available in FY 2020 was higher than that made available in FY 2019. Thus, Mr. Hansch's recommendation to the committee is at a minimum the funding levels for the next biennium should be at the FY 2020 level and not the average of FY 2019 and 2020.<sup>46</sup>

During the Dallas hearing held August 23, 2018, the Committee heard from Charlene Randolph, Director of Criminal Justice Department for Dallas County. She explained how the Rapid Integrated Group Healthcare Team or RIGHT Care has been implemented in Dallas to great success. The multidisciplinary team made up of law enforcement, paramedics, and clinicians work together to identify those in need of services who have come into contact with law enforcement and divert them away from booking and into treatment. The RIGHT Care team has prevented at least 1,000 first-time misdemeanor bookings for persons with mental illness.<sup>47</sup>

#### *Pre-Trial/Risk Assessment Tools*

The right to bail is guaranteed in both the Texas Constitution and the Texas Code of Criminal Procedure (CCP), except in capital cases, as a way to keep those who have been accused of a crime, but not yet convicted, from languishing in jail until their trial. Texas Court of Criminal Procedure 17.01 establishes the distinction between “bail bond” and “personal bond.” Bail bond involves a cash deposit or other security provided by an insurance company in what is commonly referred to as a “surety bond” provided by a “bail bondsman.” Personal bond can include release on personal recognizance, commonly referred to as a PR bond, which is based on a person swearing under oath to appear before a magistrate.<sup>48</sup>

CCP 17.032 establishes the process by which defendants with a mental illness are considered for release on a personal bond if they remain in custody. (This process is different if the defendant is found incompetent to stand trial; that process is not discussed here.) If the defendant has not committed a “violent offense” as defined in the CCP 17.032, is eligible for personal bond as established by law, and the magistrate determines services are available and the defendant would appear in court with any other “credible information,” then the magistrate shall require that the defendant submit to outpatient or inpatient treatment as a condition of release on personal bond.

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The magistrate shall set a condition for treatment if he or she releases the defendant on personal bond, but the magistrate is not required to grant a personal bond. Magistrates consider factors such as local personal bond judicial restrictions, ability to supervise defendants on pretrial release, availability of treatment resources for defendants who are not in the priority population for LMHA services, and the risk for the defendant to fail to appear to court hearings.<sup>49</sup> Governor Abbott and magistrates have recommended that magistrates be informed of defendants' full criminal history and take that into account when administering a risk-assessment and setting bond amounts.<sup>50</sup>

#### *Wrap-Around Services/Community Based Care*

On August 25, 2018 the committee heard testimony from Bexar County officials Mike Lozito, David Pan, and Gilbert Gonzales, as well as Haven for Hope's Executive Director Kenneth Wilson about the successful collaboration between the county, local law enforcement, and Haven for Hope. This collaboration aims to combat homelessness while aiding in recovery and diversion. Haven for Hope is one of the original Healthy Community Collaboratives. Haven for Hope is a 22-acre campus that provides comprehensive services which leverages public funding through private partnerships. Haven for Hope is truly a one-stop shop for individuals diverted away from the criminal justice system and into treatment.<sup>51</sup>

At Haven for Hope law enforcement can divert an individual into a restoration center instead of jail. After a person is stabilized at the restoration center they can be moved along to a service coordinator to assist individuals in finding services either at the collaborative or in the community. Moreover, Haven for Hope also offers long term supportive housing which is essential to providing people with the stability they need to get back on their feet.<sup>52</sup>

While Haven for Hope is a model for comprehensive services, it is important to acknowledge that most counties do not have the resources to create such a facility. The public funding required for an operation like Haven for Hope is insurmountable for smaller communities. Instead, they must rely on their LMHAs and community partners for services. Ultimately, it is critical that the State continue funding for existing and new Healthy Community Collaboratives.

## **RECOMMENDATIONS**

- 1. The Texas Legislature should continue to financially assist counties in areas with medical provider shortages to use telemedicine to assess and treat individuals in their jail.**

The use of telemedicine is a cost-efficient, technology savvy way to address provider shortages in Texas while still providing adequate medical services to those in need.

- 2. The Texas Legislature should create policies that appropriately encourage the use of personal recognizance bonds and risk assessments.**

The understanding of someone's risk to public safety and ability to pay allows the judge to better determine whether a personal recognizance or surety bond should be set.

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**3. The Texas Legislature should implement laws that allow Jail ID to be recognized as a Government ID.**

A large number of inmates with behavioral health issues do not have an ID in their possession. They may be homeless and no longer have a birth certificate, funds, or mental state to obtain one. As a result, they cannot receive treatment services. The limited housing options will not accept persons without ID. Alternatively, the Legislature could look to create a waiver for indigent to replace a government ID.

**4. The Texas Legislature should continue to increase funding for Long Term Supportive Housing.**

There is an ongoing need for long term supported housing for persons with mental illness. Transience contributes to changes in service providers and inability to maintain medications and mental health services. Residency is a rigid requirement for mental health providers. We frequently struggle to maintain stability for individuals who move back and forth across county lines. The time required for moving services between providers can be prolonged and delay medication appointments. A more centralized method of maintaining service authorizations would improve the continuity of care.

**5. The Texas Legislature should look to remove barriers and increase the communication between law enforcement and medical/mental health professionals.**

Enhanced communication between medical/mental health professionals and law enforcement would aid law enforcement in determining appropriate diversion options.

**6. The Texas Legislature should continue to assist counties with implementing diversion before booking programs at or above Fiscal Year 2020 funding levels.**

Bexar County has created a diversion before booking program, where individuals are immediately diverted into treatment at a restoration center instead of taken to the county jail. While the Committee recognizes that many counties do not have the same resources as Bexar County, counties that do have these resources should implement a similar diversion policy. State support is essential to expand these services into other counties.

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**CHARGE IV**-Review the population limitations found in Local Government Code Section 154.041 and Local Government Code Section 113.047. Determine if counties with a population below 190,000 could benefit from the population limitations being removed.

### **SCOPE OF THE CHARGE**

The Committee heard from elected county officials regarding the need to remove the population limitations for counties with less than 190,000, so that it would allow commissioners courts to delegate their authority to approve payment for all disbursements, including payroll, to their county treasurer or auditor.

### **SUMMARY OF COMMITTEE ACTION**

#### Committee Hearing

September 25, 2018, State Capitol, Room E2.012, Austin, Texas

#### Witnesses

- Ortega Carter, Dolores (County Treasurers Association of Texas)
- Wood, Bruce (Kaufman County)

### **BACKGROUND**

David P. Weeks, Walker County Criminal District Attorney, requested a Texas Attorney General opinion (RQ-0150-KP) on behalf of the Walker County Treasurer and the Walker County Auditor regarding the manner in which payment of certain claims, including payroll, are approved. They are asking whether it is proper for the Walker County Commissioners' Court to enter an order authorizing the Treasurer to pay certain types of claims and bills prior to presenting the actual claims or bills to the Court.

The Texas Attorney General issued its opinion (KP-160) that stated:

Under sections 113.041, 115.021, and 115.022 of the Local Government Code, the commissioners court must approve claims, and the treasurer and auditor do not have the authority to pay claims without the commissioners court's approval. A commissioners court cannot delegate to the county treasurer the commissioners court's duty and authority to approve payment of county claims. Provided it complies with any statute applicable to the particular subject matter, a commissioners court may review and direct payment of payroll and claims at a meeting called for a day other than the commissioners court's regular meeting day.



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## FINDINGS

KP-160 applies most directly in counties with a population of 190,000 or less. In counties with a population more than 190,000, Texas Local Government Code sections 113.047 and 154.043(a) authorize the Treasurer to disburse salary and expenses based on a district, county, or precinct officer issuing a warrant for such, and does not require prior commissioners court.

KP-160 merely confirms what has long been the legal procedure for approval of disbursements from the treasury in counties with population of 190,000 or less. In other words, there is really nothing new in KP-160. For example, 34 years ago, Texas Attorney General Opinion H-171 at 5 (1973) stated: “Without the approval of the County Commissioners, the issuance of a county warrant is in violation of the statutory duties of the Treasurer.” In 1984, Texas Attorney General opinion JM-192 (1984) stated: “We conclude that *each* county warrant paid to an official or employee of the county requires commissioners court approval....

The 1943 Texas Attorney General Opinion –5049 expresses that “the commissioners court’s duty to audit and settle claims against the county cannot be delegated to the county auditor under a standing order authorizing the auditor to pay county officials and employees without periodic approval by the commissioners court. In other words, the monthly payroll reports prepared by the respective county officials are turned in to the commissioners court for its approval and its order issuing salary warrants. The commissioners court cannot delegate this responsibility to the county auditor. In summary, *we conclude that salaries paid to county employees require commissioners court approval before any warrants may be issued.*”

In 1988, Texas Attorney General Opinion JM-986 (1988) addressed the question of whether the commissioners court could delegate payroll approval to the Treasurer and counter-signed by the Auditor for each payroll period. The Attorney General held that was not authorized:

In a county with a population of 190,000 or less, the commissioners court is responsible for approving the county payroll and issuing warrants in payment of salaries. *These duties may not be delegated to either the county auditor or county treasurer.*

In 1995, Texas Attorney General Opinion LO-95-002 at 1 (1995) said, “...[I]n counties, like Ellis County, of under 190,000 population, there are no officers except the commissioners court authorized to issue such certificate or warrant.” The Opinion also noted the commissioners court approval “must be done in an open meeting held in compliance with the Open Meetings Act of Government Code chapter 551. *Id.* at 2. This Opinion noted a 1921 court opinion (*Gussett v. Nueces County*, 235 S.W. 857, 860 (Tex. Comm’n App. 1921, judgment adopted) in which “subsequent ratification” of payments made by the Treasurer without prior commissioners court approval “relieved the treasurer of liability on the alleged shortages resulting from those allegedly improper payments.”

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However, the Opinion quoted from *Gussett*:

Of course, if the treasurer pays out money without a warrant or other authority of the commissioners court, he necessarily takes a great risk, *for the court may not ratify his payments.*

The Opinion concluded:

The Ellis County Treasurer may not properly make payments from the county treasury without prior approval by the commissioners court. If he does so, *he is subject to personal liability for such payments if they are not subsequently ratified by the commissioners court.*

### **RECOMMENDATION**

**The Texas Legislature should remove the population limitation brackets (190,000) found in Local Government Code Sections 154.051 and 113.047.**

Because counties with populations of 190,000 or less have bills become due when the commissioners court is not in session, the commissioners court must hold a special meeting to approve any expenditures to comply with the Local Government statutes. Removing the brackets, would allow the commissioners courts to delegate their authority to approve payment to their county treasurers or county auditor. This would allow for more efficiency in county government.

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**CHARGE V**- Monitor the agencies and programs under the Committee’s jurisdiction and oversee the implementation of relevant legislation passed by the 85th Legislature.

**SCOPE OF THE CHARGE**

Under legislative oversight, the Committee discussed the implementation of SB 1849 "Sandra Bland Act" and behavioral health in school settings. The Committee also discussed oversight of the Texas Commission on Jail Standards. Each topic is discussed below.

**Senate Bill 1849 "Sandra Bland Act" Implementation**

**SUMMARY OF COMMITTEE ACTION**

Committee Hearings

August 22, 2017, Capitol Room E2.026, Austin, Texas

February 6, 2018, University of Houston-Downtown Campus, Welcome Center Building, Milam and Travis Rooms Houston, Texas

September 26, 2018, Capitol Room E2.012, Austin, Texas

Witnesses

August 22, 2017, State Capitol, Room E2.026, Austin, Texas

- Allison, Jim (County Judges and Commissioners Association of Texas)
- Brecht, Robert (Texas Medical Board)
- Carter, Gina (The Health and Human Services Commission)
- Deitch, Michele (Self)
- Feehery, Matthew (Self; Memorial Hermann)
- Gaines, Sonja (The Health and Human Services Commission)
- Garcia, Sonia (DPS)
- Hansch, Greg (Self; NATIONAL ALLIANCE on Mental Illness (NAMI) TX)
- Joy, Ron (DPS)
- Louderback, AJ (Sheriffs' Association of Texas)
- Mann, Fatima (Self; Counter Balance: ATX)
- Porsa, Esmaeil (Parkland and jail commission)
- Vickers, Kim (Texas Commission on Law Enforcement)
- Wexler, Sherwin (Police Executive Research Forum)
- Wilson, Thomas (Police Executive Research Forum)
- Wood, Brandon (Texas Commission on Jail Standards)

February 6, 2018, University of Houston-Downtown Campus, Welcome Center Building, Milam and Travis Rooms Houston, Texas

- Donaldson, Scott (Texas Commission on Law Enforcement)
- Gaines, Sonja (Health and Human Services Commission)
- Grigsby, Gretchen (Texas Commission on Law Enforcement)

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- Wood, Brandon (Texas Commission on Jail Standards)

September 26, 2018, State Capitol, Room E2.012, Austin, Texas

- Antu, Michael (Texas Commission on Law Enforcement)
- Wood, Brandon (Texas Commission on Jail Standards)

## **BACKGROUND**

In July of 2015, Trooper Brian Encinia pulled over Sandra Bland for failure to signal when changing lanes. The encounter led to Ms. Bland's arrest and being taken to the Waller County Jail. Ms. Bland remained in the jail for three days where she later committed suicide in her jail cell. Her story made national headlines and sparked the Texas House Committee on County Affairs during the 84th legislative interim to launch an investigation into the systemic practices that led to Ms. Bland's tragic death.

Out of the work done by the House County Affairs Committee, Chairman of House County Affairs Garnet Coleman and Senator John Whitmire passed Senate Bill 1849, also known as the Sandra Bland Act. The Act increased minimal jail standards, increased mental health diversion, increased de-escalation training for peace officers, and enhanced data collection for both jails and traffic stops.

This interim the committee continued to look at what can be done to improve our criminal justice system, as well as ensuring that the Sandra Bland Act was being successfully and smoothly implemented. For a full timeline of the Act please refer to Appendix B.

## **FINDINGS**

### *Increasing the Minimum County Jail Standards*

The Sandra Bland Act increased minimum county jail standards in several ways. Including putting in standards for continuity of medication, access to tele-mental health and tele-medicine, installation of automated electronic sensor systems for jail checks of high-risk inmates, independent investigation of jail deaths, a jail administrator examination, creation of a serious incident report, and increased mental health training for jailers. Many of these provisions were put in on a staggered implementation time line to give counties time to implement the needed changes. Additionally, the increasing access to tele-mental health and tele-medicine, installation of automated electronic sensor systems for jail checks of high-risk inmates, and increased training for jailers was passed to extend key policies required for Waller County as part of the civil settlement between Waller County and Ms. Bland's family.

### *Tele-Mental Health and Tele-Medicine*

The requirements relating to tele-mental health and tele-medicine are not required until September 1, 2020. The reason for the delayed implementation is to ensure there is ample time to implement parts of the Act that would require capital investment. The 85th Legislature provided \$1 million in funding to county jails with a capacity of 96 inmates or less to help them implement the parts of the Act that required purchasing of tele-mental health and tele-medicine

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equipment, and installation of automated electronic sensor systems for jail checks of high-risk inmates. Through the committee's hearing County Judges and Sheriffs though thankful for the much needed financial assistance pointed out that this financial help may also need to be provided to jails with a capacity greater than 96 inmates.<sup>53</sup>

It is important to consider the continuation of the Prisoner Safety Fund and expansion of what those funds can be utilized for. The original intent was to assist smaller rural counties with purchasing and installing cameras or electronic sensors in order to comply with SB1849. In addition, purchasing and installing tele-health equipment was determined to be a permissible expenditure in accordance with the language in the statute. Brandon Wood with the Texas Commission on Jail Standards (TCJS) stated in his testimony that "this commitment by the state was very well received and was recognized by the counties as a genuine effort to truly assist. Based upon a review of the equipment and operations, the first area that could be explored would be to assist counties with the installation of both cameras and sensors. Counties that already had sensors were not eligible to receive funding and it is obvious that cameras provide a much better tool to determine what has actually occurred."<sup>54</sup>

#### *Increased Training in De-escalation Techniques*

The Sandra Bland Act also increased the required number of hours of de-escalation training for new peace officers, and peace officers seeking a higher proficiency level. The Act increased de-escalation training for individuals suffering from mental health from 16 hours to the Health and Human Services recommended 40 hours. Additionally, training for de-escalation in all situations is now required for new officers and officers seeking a higher proficiency level. During the committee hearing on February 6, 2018, Gretchen Grigsby with the Texas Commission on Law Enforcement gave the committee an overview of the mental health training for jailers.<sup>55</sup>

#### *Expansion of Healthy Community Collaboratives*

The Sandra Bland Act expanded the Healthy Community Collaboratives program (which was established in the 83rd Legislative Session) to include rural communities serving two or more counties within a population of less than 100,000. Funding was secured through Rider 73 of SB 1, Article II, Health and Human Services Commission during the 85th Legislative session. Rider 73 specifies up to \$10 million of the \$25 million allocated may be used to expand into rural areas. HHSC identified \$4.8 million over the 2018-2019 biennium available for rural expansion. \$400,000 set aside for a Learning Community project.<sup>56</sup>

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## RECOMMENDATIONS

- 1. The Texas Legislature should expand the limit on which County Jails can receive grants under the Prisoner Safety Fund created by the Sandra Bland Act.**

The 85th legislature provided funding for jails with a capacity of 96 inmates or fewer to help with the purchasing of tele-mental health and tele-medicine equipment, and installation of automated electronic sensor systems for jail checks of high-risk inmates. However, there is a need for assistance to jails above the 96 inmate threshold.

- 2. The Texas Legislature should continue to monitor the implementation of SB 1849 and consider ways to improve upon the Act.**

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## **Behavioral Health in School Settings**

### **SUMMARY OF COMMITTEE ACTION**

#### **Committee Hearings**

August 23, 2018, Dallas County Administration Building, Allen Clemson Courtroom, Dallas, Texas

September 26, 2018, Capitol Room E2.012, Austin, Texas

#### **Witnesses**

August 23, 2018, Dallas County Administration Building, Allen Clemson Courtroom, Dallas, Texas

- Blanks, Betsy (Mental Health America of Greater Houston)
- Sandoval, Jaime (Dallas Independent School District)

September 26, 2018, Capitol Room E2.012, Austin, Texas

- Robles, Holly (Boerne ISD)

## **BACKGROUND**

During the 85th interim Hurricane Harvey and the tragic school shooting in Santa Fe, Texas highlighted the need for behavioral health to be better addressed in our schools, with a particular focus on trauma that students experience because of these incidents and others.

Texas has been a leader when it comes to behavioral health training in schools. During the 82nd Legislature, the Texas Legislature passed HB 1386 by Representative Coleman, which recognized the threat of bullying, mental illness, and emotional trauma among students and allowed schools to implement best-practice-based programs to combat that harm. HB 1386 required the Department of State Health Services and the Texas Education Agency to establish and annually update a list of best practice-based early mental health and suicide prevention intervention programs to be implemented by school districts.<sup>57</sup> This legislation was dedicated to every child who has fallen victim to emotional trauma and arose in response to the spate of adolescent suicides taking place across the country due to bullying. These trainings were made mandatory the next session in SB 460 by Senator Deuell and Representative Coleman. Also in SB 460 language was included to direct local school health advisory committees to include mental health recommendations in their recommendations for coordinated health curriculum.<sup>58</sup>

One of the many approved trainings for school personnel is "mental health first aid" (MHFA) training. During the 83rd Legislature, HB 3793 by Representative Coleman allowed LMHAs to solicit and receive grants from the Texas Department of State Health Services to train school personnel on "mental health first aid" training.<sup>59</sup>

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On May 30, 2018 Governor Abbott published the School Safety Action Plan. Within this plan, the Governor outlines issues that the Committee also studied. Some of those issues include MHFA training, expanding on-campus counseling resources, and improve mental health crisis response infrastructure.

## FINDINGS

### *Updating Behavioral Health and Trauma Training*

"Mental Health First Aid" training is a successful training that many school personnel receive. According to Governor Abbott's School Safety Action Plan report nearly 25,000 school employees have received that particular training.<sup>60</sup> However, MHFA training is not the only well-done evidence based training available for school personnel dealing with behavioral health needs of students.

Throughout the testimony provided to the committee it became clear the importance to make available other behavioral health trainings to school personnel, and that a recognition was made that just because it is not MHFA training does not mean that it is an inferior training.

Additionally, the Committee heard from Betsy Blanks of Mental Health America of Greater Houston on August 23, 2018 that there needs to be a greater recognition of the impact that trauma has on students, and its prevalence. She explained that according to data gathered prior to Hurricane Harvey, approximately two thirds of children reported at least one traumatic event by the age 16 and a third of U.S. youth age 12-17 have experienced two or more types of childhood adversity that are likely to affect their physical and mental health as adults. These types of trauma can include being a witness to domestic violence; repeated physical, emotional or sexual abuse; neglect; homelessness; food insecurity; living in homes with family members with untreated mental illness or substance abuse; or having a family member incarcerated.<sup>61</sup>

The Committee learned that children suffering from untreated trauma may demonstrate such signs as an inability to concentrate and regulate emotion. They might engage in disruptive and belligerent behavior – which can often be misdiagnosed as ADD or ADHD. Perhaps too frequently, trauma-impacted youth can be labeled as defiant, disobedient, or bad kids. In schools, these behaviors often result in punishment, visits to the principal and in-and-out-of-school suspension – consequences which strongly correlate with truancy and increased involvement with the juvenile justice system.<sup>62</sup> Thus, it is important to identify trauma early in students and provide them the necessary help in order to prevent future harm.

In the hearing held on September 26, 2018, the Committee heard testimony from Dr. Holly Robles who is the Head of Counseling Department for Boerne ISD. She explained that in addition to training school personnel on behavioral health needs of students, schools should create programs or policies that allow training to be implemented properly so that it is not easily forgotten. Ms. Robles testified that thanks to Boerne ISD's suicide prevention policies, they had not had a student suicide in the last 3 and a half years.<sup>63</sup>



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### *Reporting Behavioral Health Training*

The Texas Legislature has been a leader in improving behavioral health training in schools. However, there is room for improvement in the area of reporting. There are two reasons why school personal training reporting is falling behind. The first is that there is a need for improvements made to ensure schools, and school districts report training information to the Texas Education Agency (TEA). The second is that there may need to be a clean up of the behavioral health trainings that school personnel require in statute.

Enforcement needs to be studied in order to ensure that schools and school districts are properly reporting behavioral health trainings to TEA. The Texas Legislature should consider what can be done to make sure this reporting is being done.

The statutory language of the requirement of school personnel relating to behavioral health training is in different sections of codes, and in some place duplicative. Creating one place where all behavioral health training for school personnel is located, and making the reporting requirements clear would ease the burden on schools and school districts of what is mandated, and ensure that their personnel is properly trained to deal with the behavioral health needs of their students.

### *Increasing Access to Behavioral Health Specialists in Schools*

During Dr. Holly Robles' testimony, she explained that there are barriers for many counselors to get hired by school districts. This is because many qualified counselors may not be a certified school counselor, and therefore do not qualify for employment. Dr. Robles holds a Masters of Science, Master of Arts, and Doctor of Philosophy degrees (all of which are in counseling and psychology), and is licensed at the highest level in both Texas and internationally in traditional counseling and substance abuse counseling. However, she would not qualify to be hired by many districts because of her lack of a school counselor certificate. Thus, it should be made clear that school districts can hire qualified candidates regardless of whether they have a school counseling certification. Making it clear that schools can hire from a larger pool of qualified counselors will make it easier for schools to hire more capable counselors.<sup>64</sup>

Tele-mental health was also discussed during committee hearings. Testimony suggested that tele-mental health is efficacious in helping meet the behavioral health needs of patients. Particularly in rural areas of Texas where there is a workforce shortage of behavioral health specialists, tele-mental health can be used to effectively connect students to a professional before a crisis happens.

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## RECOMMENDATIONS

- 1. The Texas Legislature should study and consider providing grant funding for all behavioral health training for school personnel.**

The General Appropriations Act for Fiscal Year 2018-2019 includes \$5 million in general revenue for grants to LMHAs for MHFA training. As of May 29, 2018, HHSC indicated \$2 million will be expended during the summer of 2018 to provide MHFA training. Additional grant funding should be considered for all approved evidence based behavioral health training for school personnel.

- 2. The Texas Legislature should encourage school districts and/or schools to report completed behavioral health training by school personnel to the Texas Education Agency.**

- 3. The Texas Legislature should encourage schools to create policies to properly implement behavioral health training that school personnel receive.**

School districts that have created programs or policies that allow training to be implemented in proper manner so that the training is not done and forgotten have been successful at preventing suicide.

- 4. The Texas Legislature should consider consolidating statutory language of requirements of school personnel relating to behavioral health training.**

Creating one clean place where all behavioral health trainings for school personnel is located in statute, and making the reporting requirements clear. This would ease the burden on schools and school districts of what needs to be done to confirm with the law, and ensure that their personnel are properly trained to deal with the behavioral health needs of their students.

- 5. The Texas Legislature should consider ways to provide school districts and/or schools, who are in areas that have a behavioral health specialist shortage, with tele-mental health equipment in order to ensure students can receive equal services regardless of their zip code.**

Tele-mental health has been shown to be efficacious in helping meet the behavioral health needs of patients. For rural areas of Texas that have a need for behavioral health specialists, tele-mental health can be used to effectively connect students to a professional before a crisis happens.

- 6. The Committee agrees with the following recommendation from Governor Abbott's "School Safety Action Plan" The Texas Legislature should prioritize the importance of the mental and behavioral health needs of students by freeing up counselors to focus on those needs, encourage school districts to add more counselors at the campus level, and appropriate funds to fill in gaps.**

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## **The Texas Commission on Jail Standards (TCJS)**

### **SUMMARY OF COMMITTEE ACTION**

#### **Committee Hearings**

August 22, 2017, Capitol Room E2.026, Austin, Texas

September 26, 2018, Capitol Room E2.012, Austin, Texas

#### **Witnesses**

August 22, 2017, Capitol Room E2.026, Austin, Texas

- Wood, Brandon (Texas Commission on Jail Standards)

September 26, 2018, Capitol Room E2.012, Austin, Texas

- Wood, Brandon (Texas Commission on Jail Standards)

### **BACKGROUND**

The Texas Commission on Jail Standards (TCJS) conducts annual on-site inspections of county jails to verify compliance with minimum jail standards in Texas. Currently there are 245 jails that fall under the jurisdiction of TCJS. The policy-making body consists of nine Commission members appointed by the Governor. The Commission operates with 22 full time employees, four of which are field jail inspectors, one complaint inspector, and one critical incident inspector with an annual budget of \$1.3 million. TCJS requires administration of inmate population reports from jails, and it investigates and resolves inmate grievances. The Commission meets quarterly to discuss any issue that needs to be addressed concerning the various county jail issues under their purview. It is the duty of the Commission to establish written rules and procedures establishing minimum standards, inspection procedures, enforcement policies and technical assistance for:

1. the construction, equipment, maintenance, and operation of jail facilities under its jurisdiction;
2. the custody, care and treatment of inmates;
3. programs of rehabilitation, education, and recreation for inmates confined in county and municipal jail facilities under its jurisdiction.

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## FINDINGS

### *Implementation of SB 1849 the Sandra Bland Act*

During the 85th Legislative Session, three new programs mandated by SB1849 were created. These three programs consist of Mental Health Training, Critical Incident Review and the administration of the Prisoner Safety Fund. These three programs resulted in the addition of five FTEs which require supervision but also the required reporting, coordination and management associated with each one. The agency utilized existing staff to oversee the creation of each of these programs and subsequent management, but after a year's worth of operation, it is evident that this function requires a dedicated FTE to ensure proper execution in the most cost-efficient manner. The addition of one FTE to serve as a manager would allow a proper reorganization of staff that consolidates similar functions within TCJS strategies. The manager would still oversee multiple strategies, but employees within the same strategy would now report to a single point of contact rather than multiple staff members that we have been forced to utilize.<sup>65</sup>

Testimony provided to the Committee by Executive Director Brandon Wood states "one of the most well received provisions of SB1849 was the inclusion of three FTEs with adequate travel funding to provide mental health training to jailers across the state. As of December 1, 2018, over 7,000 jailers have taken the 8-hour course that was created for jailers. The most common comment received is that this training was long overdue, and we are continuously asked what other training we will be providing. The three Mental Health Trainers were designated "Master Trainers" by the Department of Justice-National Institute of Corrections (NIC) after completing a program that was created in conjunction with the Correctional Management Institute of Texas at Sam Houston State University. This program was funded by NIC, utilized the "train the trainer" model, and served as the test case for what is now a national program. These three FTEs are force multipliers—able to provide specialized and much needed training within the state. After the initial provision is completed in 2021, it is strongly recommended that the program be continued and current/updated mental health training be provided."<sup>66</sup>

Additionally, the Legislative Appropriations Request (LAR) submitted for the 86th Legislative Session provides adequate funding to carry out the agency's statutorily mandated duties. Any reduction in the amount requested would impact the ability to provide timely inspections and necessary special inspections. Historically, the agency was insulated from the high turnover rates that plague most other state agencies. In FY2018 though, the agency experienced a large turnover in staff as they left for employment with larger state agencies and large counties that could compensate them on average of 50% more than the agency could. This trend is not new, but the number of employees that took advantage of the opportunities was unprecedented. It is recommended that a salary study be conducted for the professional positions within the agency and funding to retain mission critical staff be provided. The amount of institutional knowledge and expertise is difficult to replace, and the cost-of-living for the Austin metro area makes it extremely difficult to recruit potential employees when a vacancy occurs.<sup>67</sup>

It is important to consider the continuation and expansion of the Prisoner Safety Fund due to its success. The original intent for this fund was to assist smaller, rural counties with purchasing

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and installing cameras or electronic sensors in order to comply with SB 1849. Purchasing and installing tele-health equipment was determined to be a permissible expenditure in accordance with the language in the statute. The Committee heard testimony from various entities that stated it would be helpful to see more funding be made available to jails with more than 96 beds.

## **RECOMMENDATIONS**

- 1. The Texas Legislature should consider the request for two FTEs to fulfill open records requests and manage the new programs mandated by SB 1849.**
- 2. The Texas Legislature should consider continuing to fund and expand the Prisoner Safety Fund.**

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## **Specialty Family Drug Treatment Courts**

### **SUMMARY OF COMMITTEE ACTION**

#### **Committee Hearings**

September 25, 2018, Capitol Room E2.026, Austin, Texas

#### **Witnesses**

August 22, 2017, Capitol Room E2.026, Austin, Texas

- Blackstone, Kristene (Texas Department of Family and Protective Services)
- Martinez Jones, Aurora (Self; Travis County Civil Courts)

### **BACKGROUND**

In the 85th Interim, this Committee studied the prevalence of substance use disorders, and the success specialty drug courts have across the state as it relates to Child Protective Services (CPS) cases. It is important to note that while these courts are vital in the recovery of the parents, intervention should be taken before the child is ever in the CPS system. In February, 2018, Congress passed the Family First Prevention Services Act which will, among other items, allow States to use federal foster care entitlement dollars on evidence-based drug treatment for families at imminent risk of losing their children. Previously, those dollars could only be spent on children already in foster care. This is a preventative measure to help keep families together. States must put up a 50 percent match to receive the federal funds.<sup>68</sup>

### **FINDINGS**

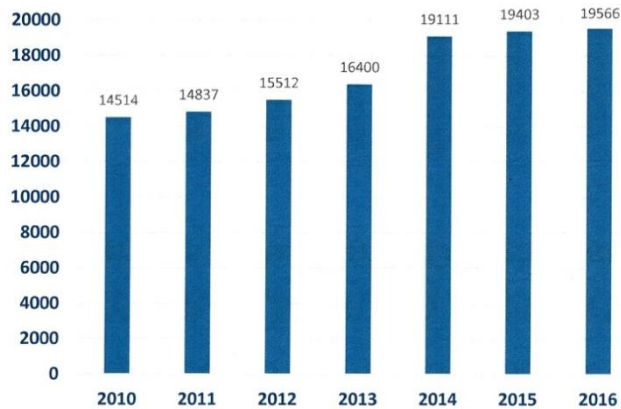
#### ***Substance Use***

Substance use is the leading contributor to children entering the CPS system. Information requested by the Chairman from the Department of Family and Protective Services found that in 2017, out of the 19,864 children removed by their department, 13,512 of those parents and caretakers substance abuse was a contributing factor. That's roughly 68% of CPS cases involving parents and caretaker substance use. In order to keep families together, substance use treatment for parents and caretakers must be a priority. Many children who come from families where parents are addicts are at a greater risk of becoming addicts themselves. CPS is experiencing high volumes of families entering the system due to substance use. As seen in the chart below, the number of individuals referred to drug treatment has consistently increased since 2010.



## SUD Treatment Data for DFPS

### DFPS Referrals to Treatment Programs



Source: HHSC Behavioral Health Decision Support, November 2016

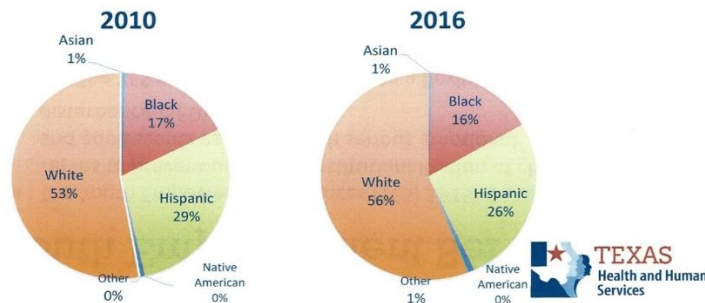
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Moreover, evidence shows that there are significant differences in drug usage among races. In 2010, 53% of those who received treatment through state services were White. This number increased in 2016 to 56%. The chart below provides a complete breakdown by race for individuals who received treatment through state services.<sup>69</sup>



## SUD Treatment Demographics

### Ethnicity Breakdown



Source: HHSC Behavioral Health Decision Support, November 2016

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High numbers of drug use among Whites contributes significantly to the increase in children entering CPS. Due to the nature of the disease, children who come from homes where drug use is

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prevalent are more likely to use in their lifetime. This cycle only perpetuates the issue of increasing numbers of children entering the system repeatedly.

#### *Parenting in Recovery/Family Drug Treatment Court*

Travis County is combating relinquishment of the child by getting parents suffering from substance disorder issues the help that they need through intervention without removal of the child. On September 25, 2018, the Honorable Aurora Martinez Jones, Associate Court Judge testified on behalf of the Parenting in Recovery/Family Drug Treatment Court. She discussed the Parenting in Recovery/Family Drug Treatment Court program (PIR/FDTC) which was first established in 2005 when several individuals came together to discuss the possibility of forming a drug court to serve families involved in the CPS system. By 2010 numerous community collaborators signed a charter. PIR/FDTC is a program for parents who are struggling with problems of alcohol/ drug addiction and are involved in the Child Protective Services Civil Court system of Travis County. The Court is designed as an enhancement to the CPS Court docket.

PIR/FDTC participants are Travis County residents who have been identified by the Texas Department of Family & Protective Services, CPS as exhibiting symptoms of substance use disorders that impact the care and well-being of their young children. Participants' average length of participation in PIR/FDTC is 12-18 months, during which time they engage in programs, services, and activities that challenge, encourage, and help guide them to recovery from substance dependence, maintain or regain custody of their children, and improve quality of life for themselves, their children, and their families.

The goal of the PIR/FDTC is to maintain children in the care of their parents while they begin the journey of recovery from addiction and develop the skills and ability to safely parent their children. This focus of support and accountability for the parents and their children is to promote the goal of stopping the cycle of abuse/ neglect and addiction for the next generation.<sup>70</sup>

The mission of the PIR/FDTC is "to provide a spectrum of court and community-based supports for parents involved in the child welfare system that promotes recovery from alcohol and drug addiction and encourage healthy lifestyle choices". Furthermore, "almost all participating parents (97%) have other co-occurring mental health disorders, 84% have a history of trauma and 86% have a criminal history. Despite the overwhelming challenges that this underserved population faces, 89% successfully completed inpatient/residential substance use treatment, parenting training and intensive therapy. Almost all (89%) exhibited no reoccurrence of child maltreatment within the following fiscal year."<sup>71</sup> From the beginning of FY 2008 through the end of FY 2017, the results of PIR/FDTC is that the program has assisted 248 parents and 348 children with achieving safe, healthy, and sober lifestyles."<sup>72</sup> Please see Appendix C for more information on this program.

#### *House Select Committee on Opioids and Substance Abuse*

The Honorable Joe Straus, Speaker of the Texas House of Representatives appointed the Select Committee on Mental Health in October 2017. Speaker Straus, via a Proclamation, instructed the Select Committee to study and make recommendations on virtually every aspect of opioid and



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substance abuse in Texas. Specifically, the Select Committee was charged with identifying and studying the specialty drug courts in Texas that specialize in substance use disorders. The recommendations from that committee report include the Texas Legislature to consider funds to the Office of Court Administration (OCA) for the development of a statewide court case management system; and for the Legislature to amend the Government Code to provide the Judicial Branch increased oversight of specialty courts.

## **RECOMMENDATIONS**

- 1. The Texas Legislature should encourage counties to develop specialty courts, like the Travis County Family Drug Treatment Court, to intervene with families within the CPS Court system to assist parents with substance use disorders.**

Combating relinquishment of the child is a high priority emphasized throughout our committee's discussions. The Travis County Parenting in Recover/Family Drug Treatment Court provides a model for counties to help families the most in need without relinquishing the child. PIC/FDTC has proven to be a success in keeping families together and helping families get the help and resources they need to combat substance abuse.

- 2 The Texas Legislature should strongly consider recommendations made by the House Select Committee on Opioid and Substance Abuse addressing services and treatments for children and parents.**

# APPENDIX A<sup>73</sup>

Sequential Intercepts for Developing CJ–MH Partnerships

### Action for System-Level Change

- Develop a comprehensive state plan for mental health/criminal justice collaboration
- Legislate task forces/commissions comprising mental health, substance abuse, criminal justice, and other stakeholders to legitimize addressing the issues
- Encourage and support collaboration among stakeholders through joint projects, blended funding, information sharing, and cross-training
- Institute statewide crisis intervention services, bringing together stakeholders from mental health, substance abuse, and criminal justice to prevent inappropriate involvement of persons with mental illness in the criminal justice system
- Take legislative action establishing jail diversion programs for people with mental illness
- Improve access to benefits through state-level change; allow retention of Medicaid/SSI by suspending rather than terminating benefits during incarceration; help people who lack benefits apply for same prior to release
- Make housing for persons with mental illness and criminal justice involvement a priority; remove constraints that exclude persons formerly incarcerated from housing or services
- Expand access to treatment; provide comprehensive and evidence-based services; integrate treatment of mental illness and substance use disorders
- Expand supportive services to sustain recovery efforts, such as supported housing, education and training, supportive employment, and peer advocacy
- Ensure constitutionally adequate services in jails and prisons for physical and mental health; individualize transition plans to support individuals in the community
- Ensure all systems and services are culturally competent, gender specific, and trauma informed – with specific interventions for women, men, and veterans

### Action Steps for Service-Level Change at Each Intercept

**Intercept 1**  
Law enforcement

- **911:** Train dispatchers to identify calls involving persons with mental illness and refer to designated, trained respondents
- **Police:** Train officers to respond to calls where mental illness may be a factor
- **Documentation:** Document police contacts with persons with mental illness
- **Emergency/Crisis Response:** Provide police-friendly drop off at local hospital, crisis unit, or triage center
- **Follow Up:** Provide service linkages and follow-up services to individuals who are not hospitalized and those leaving the hospital
- **Evaluation:** Monitor and evaluate services through regular stakeholder meetings for continuous quality improvement

**Intercept 2**  
Initial detention/Initial court hearings

- **Screening:** Screen for mental illness at earliest opportunity; initiate process that identifies those eligible for diversion or needing treatment in jail; use validated, simple instrument or matching management information systems; screen at jail or at court by prosecution, defense, judge/court staff or service providers
- **Pre-trial Diversion:** Maximize opportunities for pretrial release and assist defendants with mental illness in complying with conditions of pretrial diversion
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, integrated dual disorder treatment (IDDT) as appropriate, prompt access to benefits, health care, and housing
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, integrated dual disorder treatment (IDDT) as appropriate, prompt access to benefits, health care, and housing; IDDT is an essential evidence-based practice (EBP)

**Intercept 3**  
Jails/Courts

- **Screening:** Inform diversion opportunities and need for treatment in jail with screening information from Intercept 2
- **Court Coordination:** Maximize potential for diversion in a mental health court or non-specialty court
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, IDDT as appropriate, prompt access to benefits, health care, and housing
- **Court Feedback:** Monitor progress with scheduled appearances (typically directly by court); promote communication and information sharing between non-specialty courts and service providers by establishing clear policies and procedures
- **Jail-Based Services:** Provide services consistent with community and public health standards, including appropriate psychiatric medications; coordinate care with community providers

**Intercept 4**  
Reentry

- **Assess clinical and social needs and public safety risks;** boundary spanner position (e.g., discharge coordinator, transition planner) can coordinate institutional with community mental health and community supervision agencies
- **Plan** for treatment and services that address needs; GAINS Reentry Checklist (available from <http://www.gaincentersamhsa.gov/nml/resources/reentry.asp>) documents treatment plan and communicates it to community providers and supervision agencies – domains include prompt access to medication, mental health and health services, benefits, and housing
- **Identify** required community and correctional programs responsible for post-release services; best practices include reach-in engagement and specialized case management teams
- **Coordinate** transition plans to avoid gaps in care with community-based services

**Intercept 5**  
Community corrections

- **Screening** Screen all individuals under community supervision for mental illness and co-occurring substance use disorders; link to necessary services
- **Maintain a Community of Care:** Connect individuals to employment, including supportive employment; facilitate engagement in IDDT and supportive health services; link to housing; facilitate collaboration between community corrections and service providers; establish policies and procedures that promote communication and information sharing
- **Implement a Supervision Strategy:** Concentrate supervision immediately after release; adjust strategies as needs change; implement specialized caseloads and cross-systems training
- **Graduated Responses & Modification of Conditions of Supervision:** Ensure a range of options for community corrections officers to reinforce positive behavior and effectively address violations or noncompliance with conditions of release

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## APPENDIX B<sup>74</sup>

During the 85th session, the Legislature passed SB 1849, also known as the Sandra Bland Act. This legislation touches issues important to our counties, including: jail diversion, jail safety, officer training, data collection, and behavioral health. Below is an implementation timeline:

### **Jan. 1, 2018**

- **Adopted Rules for Continuity of Medication**  
Texas Commission on Jail Standards (TCJS) adopted reasonable rules and procedures for Continuity of Medication. See the Texas Administrative Code to review minimum jail standards.
- **Created Form for Serious Incident Form**  
TCJS created a serious incident form to be used by jails by the fifth day of each month.
- **Adopted Rules for Independent Investigation of Death**  
TCJS adopted rules for appointing independent investigation of death occurring in a county jail.
- **Approved Mental Health Training**  
Mental Health Training approved by Texas Commission on Law Enforcement (TCOLE) and TCJS. All prospective jailers beginning the basic licensing course on or after Jan. 1, 2018, are required to also complete Course 4900 (Mental Health for Jailers) to complete their licensing process. Integration into new basic licensing course to take effect Jan. 1, 2019.
- **Collection of New Racial Profiling Report Data Began**  
All law enforcement agencies that conduct traffic stops, including those previously classified as partially exempt, must begin collecting data for all stops regardless of disposition. Additional information is available on the TCOLE website.

### **Feb. 9, 2018**

- **Healthy Community Collaborative Learning Community**  
Texas Health and Human Services Commission (HHSC) selected a potential Learning Community university partner. More information is available on HHSC's website.

### **March 1, 2018**

- **Approved Jail Administrator Examination** TCOLE developed and TCJS approved a jail administrator examination.
- **Adopted Rules for TCJS Jail Administrator Exam**  
TCJS adopted rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination.
- **Modified Crisis Intervention Training (CIT)**  
TCOLE expanded current CIT to 40 hours for the Basic Peace Officer Course and to obtain an Intermediate or Advanced Proficiency Certificate.
- **Established De-escalation Training**  
TCOLE created a course on De-escalation Techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury. This was released December 2017.

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### **April 1, 2018**

- New CIT Requirement Took Effect  
Beginning April 1, 2018, all peace officers taking CIT to fulfill their basic licensing requirements or to obtain an Intermediate or Advanced Proficiency Certificate will have to complete the expanded 40 hour course.

### **May 11, 2018**

- Request for Applications Released  
HHSC released the Request for Applications for the Healthy Community Collaboratives rural expansion.

### **July 11, 2018**

- Healthy Community Collaboratives Rural Expansion Grantees Identified  
HHSC identified prospective rural Healthy Community Collaboratives grantees and vetted with stakeholders.

### **Aug. 31, 2018**

- Healthy Community Collaboratives Rural Expansion  
HHSC completed contract negotiations and executed the Healthy Community Collaboratives rural expansion contracts. Grantees began service delivery.

### **Sept. 1, 2018**

- Rules for Telemental Health/Telehealth  
TCJS adopted rules and procedures that require a county jail to: (A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day; (B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional adopted. Counties must comply by Sept. 1, 2020.
- Rules for Electronic Sensors  
TCJS adopted rules regarding the use of electronic sensors/cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals adopted. Counties must comply by Sept. 1, 2020.

### **March 1, 2019**

- Racial Profiling Reports Due  
This is the deadline for law enforcement agencies to submit their annual racial profiling report to TCOLE under the new data requirements established by the Sandra Bland Act.

### **Sept. 1, 2020**

- Electronic Sensors/Cameras  
Jails must have in place automated electronic sensors or cameras for cells confining high-risk inmates.
- Telemental Health/Telehealth  
Jail must have tele-med equipment installed that gives prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day and gives prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional.

### **Aug. 31, 2021**

- Finish Training on Mental Health Training  
Jailers in position on Sept. 1, 2017 must receive 8 hours MH training by Aug. 31, 2021.

## APPENDIX C<sup>75</sup>

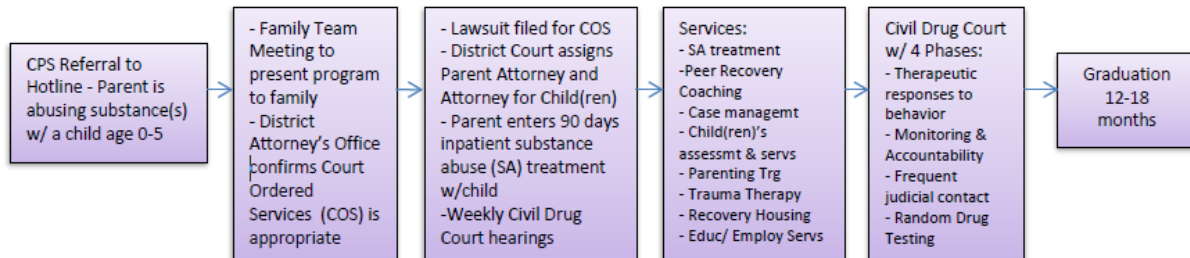
**FY 2017 DATA**

### PARENTING IN RECOVERY/FAMILY DRUG TREATMENT COURT (PIR/FDTC) TRAVIS COUNTY

#### Parenting in Recovery/Family Drug Treatment Court: Program Description

PIR/FDTC brings together a coalition of county departments and community service providers to provide oversight, accountability and a comprehensive continuum of services for parents, children and families. Eligible participants are parents who have been identified by Child Protective Services as exhibiting symptoms of substance use disorders that impact the safety, care and well-being of their young children.

PIR/FDTC program components include: a civil court which monitors compliance; a service array for both parents and children; and a collaborative team that includes county personnel, community providers, and CPS staff.



#### Parenting in Recovery/Family Drug Treatment Court: Collaborative Partners

- Austin Recovery
- Austin Travis County Integral Care
- Child Protective Services
- CASA of Travis County
- Communities for Recovery
- Foundation Communities
- Private Attorneys
- Safe Alliance
- Travis County District Attorney's Office
- Travis County District Courts – Civil
- Travis County Health and Human Services
- Travis County Office of Child Representation

#### Parenting in Recovery/Family Drug Treatment Court: Participant Demographics\*

- 86% of participants have a criminal history
- 54% of participants have a High School Diploma/ GED
- 84% of participants endorse a history of trauma
- 70% of participants endorse a history of homelessness
- 70% of participants have prior CPS involvement as adults
- 30% of participants endorse CPS involvement as a child
- 22% of participants have had parental rights terminated to child/ren not part of the current lawsuit

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