



Saving Money & Making Harris County Safe

The Harris County DA's Office is smart on crime.

The Texas Criminal Justice Coalition (TCJC)¹ encourages Texas jurisdictions to consider new ideas for successful programs by spotlighting programs that advance effective law enforcement, increase public safety, and make more efficient use of taxpayer dollars. This brief focuses on three innovative programs implemented by the Harris County District Attorney's Office over the past two years.

PROSECUTORIAL DISCRETION THAT MAKES SENSE

Requiring a testable amount of narcotic for felony prosecution on drug charges is a professional, effective, and cost-efficient criminal justice policy.

In 2010, the Harris County District Attorney's Office changed the policy for charging individuals with possession of small amounts of narcotics by limiting felony charges to individuals in possession of at least one-hundredth of a gram, the minimum amount needed for testing by a crime lab to confirm that the substance is an illegal drug.

The new "trace case"² policy benefits Harris County by: (1) decreasing jail overcrowding; (2) saving county taxpayers money; (3) freeing up law enforcement resources to focus on higher-level or violent offenses; (4) increasing confidence in the criminal justice system; and (5) facilitating more opportunities for rehabilitation, to reduce rates of re-offending.

(1) Harris County's new policy has eliminated its jail's historic, chronic overcrowding problem, which, along with problems related to inmate conditions, had raised the specter of costly litigation³ and the need for new jail construction.

- In August 2009, the Harris County Jail was 16% over its designed capacity with an average daily jail population of 10,941 inmates.⁴
- By December 2010, largely as a result of ending the prosecution of trace cases, the average daily jail population fell to 9,758, only 3% above designed capacity. As of December 2011, the jail was housing a population 8% below its designed maximum capacity.⁵

(2) As a result of a dramatically lower jail population, the Harris County Jail ended its costly use of contract facilities to expand detention capacity in January 2012.

- At its population peak in late 2009, the jail system used approximately 1,200 outsourced jail beds at an average cost of \$32 per day per bed.⁶ One year of use of 1,200 outsourced beds cost the county roughly \$14 million.⁷

Cost savings have also occurred through the jail's reduced need for staff overtime, dropping from \$33 million to \$20 million for fiscal year 2011-2012.⁸

(3) As a result of the change in low-level drug possession prosecutions, Harris County law enforcement had significantly more time to patrol and investigate higher-risk crimes, having been freed up from making thousands of arrests of petty drug users.

- In 2009, there were 10,674 charges for possession of less than a gram of a controlled substance. In 2010, that number dropped to 5,942.⁹
- Clearance rates (the percentage of crimes successfully solved by law enforcement) improved across the board for the Houston Police Department between 2009 and 2010.¹⁰

(4) The new policy also increases confidence in convictions for drug possession by ensuring that only individuals who are actually in possession of an illicit drug are prosecuted for a felony.

(5) Lastly, Harris County's new policy increases the likelihood that individuals suffering from drug abuse have greater opportunity to become rehabilitated, productive community members.

- The short-term warehousing of drug users in the Harris County Jail ignores the root of the problem for these individuals: their drug abuse. Jail time may even encourage individuals with low-level, nonviolent offenses to develop more destructive criminal behaviors by socializing with more serious offenders in the Harris County Jail.¹¹
- Furthermore, individuals convicted of possession of a trace amount of narcotics were frequently encouraged to plead guilty to a felony in exchange for serving a sentence in the Harris County Jail, rather than taking deferred adjudication or probation with obligations to attend drug treatment, which is proven to reduce recidivism.¹²

It is also important to note that, in spite of concerns that eliminating the trace cases would lead to more drug-related property crimes, property crimes have actually decreased in Harris County since 2009.

- Property crimes have decreased in Harris County since 2009, indicating that the policy of arresting individuals with trace amounts of drugs was not preventing property crimes. More specifically, according to FBI uniform crime reporting data, property crimes (along with all FBI-tracked crimes) for Houston decreased from 2009 to 2010. In 2009 there were 53 property crimes per 1,000 residents; that number dropped to 51 property crimes per 1,000 residents in 2010.¹³ Similarly, burglaries dropped from 13 per 1,000 residents in 2009 to 12 per 1,000 residents in 2010.

SETTING KIDS ON THE RIGHT PATH

Creating a path for certain juveniles to avoid a criminal record and receive support to keep them on the right track saves taxpayer money, strengthens families, and prevents crime over the long term.

The Juvenile Deferred Prosecution Program gives youth who have committed a first-time nonviolent misdemeanor the opportunity to participate in a special, rehabilitation-focused community supervision program. Upon successful completion of the program, a youth will not receive a criminal conviction or record.

- The Juvenile Deferred Prosecution Program is designed to guide youth away from delinquent behavior and toward responsible conduct, so they can transition into productive adulthood. The Program relies on proven, family-focused interventions and creates opportunities for positive youth development.
- Since the Program started in March 2009, over 90% of participants, or 4,729 children, have successfully completed it, saving the county \$2,837,400 in court costs alone.¹⁴

GRABBING THE ATTENTION OF FIRST-TIME DWI OFFENDERS PREVENTS RE-OFFENDING

Allowing first-time DWI offenders to complete a strict program designed to prevent recidivism in exchange for dismissal of their case can make Harris County streets safer.

The DIVERT (Direct Intervention using Voluntary Education Restitution and Treatment) Program for individuals charged with first-time DWI offenses includes an assessment, an individually tailored program with treatment (where necessary), mandatory drug testing, and electronic monitoring of alcohol usage. Participating defendants must enter a guilty plea and sign a written contract specifying the conditions of supervision. Successful completion of the terms results in the dismissal of the case and expunction of case records, while program expulsion leads to a 30-day jail sentence.

- Roughly 10,000 misdemeanor DWI charges are filed each year in Harris County.¹⁵
- Before implementing DIVERT, Harris County had performed extensive studies of the recidivism rates for DWI offenders. Of first-time DWI offenders in Harris County who were convicted in 2002, 18.5% re-offended by 2007.¹⁶
- Roughly a third of all first-time DWI offenders now participate in DWI DIVERT. During the operation of the program, 2,063 individuals, or over 77% of participants, have successfully completed DIVERT and have had their cases dismissed.¹⁷
- So far, only 1.8% of those who have completed the DIVERT program have committed a subsequent offense.¹⁸

ENDNOTES

- ¹ TCJC is committed to identifying and advancing real solutions to the problems facing Texas' juvenile and criminal justice systems. We provide policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety and preserve human and civil rights.
- ² The cases prosecuted under the previous policy where any discernible trace or residue of narcotics could be identified, usually on used drug paraphernalia like a crack pipe, were commonly referred to as "trace cases."
- ³ The U.S. Department of Justice issued a report in 2009 critical of the jail's capacity to keep inmates safe and provide constitutional medical care. In 2010, a group of Houston-based legislators wrote to the Director of the Texas Commission on Jail Standards, expressing concern regarding the overcrowding at the Harris County Jail and the Jail's perpetual request for variance beds to avoid being out of compliance with state standards.
- ⁴ The designed capacity for all Harris County jail facilities combined is 9,434 beds.
- ⁵ The Harris County Criminal Justice Coordinating Committee attributes a drop of about 400 inmates in jail on any given day – part of a 2,000-inmate decrease over the past two years – to the change in the charging of low-level drug possession cases. Brian Rogers, "Crack policy puts Harris County DA at odds with police," Dec. 5, 2011, *Houston Chronicle*, available at: <http://www.chron.com/default/article/Crack-policy-puts-Harris-County-DA-at-odds-with-2346724.php#page-2>.
- ⁶ It costs Harris County \$42 per day to house a jail inmate in the Harris County Jail.
- ⁷ Because these beds were not at maximum capacity from late 2009 to January 2012, it is impossible to get an exact cost of the use of these facilities for that two-year period. Conversation between the author and Alan Bernstein, Director of Public Affairs, Harris County Sheriff's Department on 1/20/12.
- ⁸ According to the Harris County Sheriff's Department, the decrease in the use of overtime is largely due to improved staff management systems.
- ⁹ Brian Rogers, *Crack policy puts Harris County DA at odds with police*. Most but not all of the drop in charges for possession of less than a gram of a controlled substance can be attributed to the change in the trace case policy. Additionally, charges for felony offenses were down across the board between 2009 and 2010.
- ¹⁰ Houston Police Department, 2010 Annual Report, p. 7.
- ¹¹ Marc Levin, Esq., "Breaking Addiction without Breaking the Bank, Cost-Effective Strategies for Texas Lawmakers to Reduce Substance Abuse," Texas Public Policy Foundation Policy Perspective, Center for Effective Justice, April 2011, pp. 1-2.
- ¹² The option of pleading guilty to a state jail felony and serving a misdemeanor length sentence in the county jail is authorized under section 12.44(a) of the Texas Penal Code.
- ¹³ Although there is only preliminary data available for 2011, from January through June, if the second half of 2011 looks like the first, Houston is on track to lower its property crime rate to 45 property crimes per 1,000 for the year 2011.
- ¹⁴ Updated data on program completion through December 31, 2011, and court cost-savings were provided by Thomas Brooks, Director of the Harris County Juvenile Probation Department. On file with TCJC. See also, Allan Turner, "Texas juvenile justice reforms working, group says," October 4, 2011, *Houston Chronicle*, available at: <http://www.chron.com/default/article/Texas-juvenile-justice-reforms-working-group-says-2202923.php>.
- ¹⁵ "DWI Study for the Harris County Criminal Courts at Law, Recidivism profiles of first-time defendants with case filed 2002," Office of Court Management, Harris County Criminal Courts at Law, p. 4. Data collected on March 23, 2007. On file with TCJC.
- ¹⁶ *Ibid.*
- ¹⁷ Data provided by Roger Bridgwater, Bureau Chief, Harris County District Attorney's Office on 1/12/12. On file with TCJC.
- ¹⁸ *Ibid.*