

# Monitoring Pretrial Reform in Harris County

## Third Report of the Court-Appointed Monitor

*September 3, 2021*

THE OFFICIAL WEBSITE OF THE  
**INDEPENDENT MONITOR FOR THE  
*ODONNELL V. HARRIS COUNTY DECREE***  
REGARDING MISDEMEANOR  
BAIL PRACTICES

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## *Executive Summary*

- **The ODonnell Consent Decree:**
  - *Misdemeanor Bail Reform:* In Harris County, secured money bonds are no longer required for most misdemeanor cases under the court rule adopted as part of the *ODonnell v. Harris County* settlement. Most people are released promptly without a hearing.
  - *Bail Options Unchanged for Cases with Public Safety Concerns:* People who are charged with misdemeanors that potentially present public safety risks (e.g., repeat DWIs, family violence, prior bond violations or outstanding warrants) are not automatically released. They get a hearing at which magistrates have the usual options to require financial bonds, protective orders, pretrial supervision requirements, or other conditions, including GPS monitoring.
  - *Better Bail Hearings:* Defense attorneys continue to represent people at bail hearings, as required by Rule 9 and the Consent Decree. Before 2017, people arrested in Harris County had no defense attorney at these hearings. Judges also must give greater attention to more rigorous bail requirements.
  
- **Major Consent Decree Accomplishments:**
  - *Court Appearance:* Ideas42 began to research the primary causes of court non-appearance, with surveys and interviews completed and analyses ongoing.
  - *Revised Pretrial Hearing Form:* Criminal Court Judges implemented a set of redesigned misdemeanor pretrial hearing forms that better reflect the Consent Decree provisions and progress.
  - *Text Notifications:* New email and text notifications were approved by the Judges and fully implemented for cite and release cases, with implementation for all other misdemeanor cases, including the reset, personal bonds, General Order Bonds (GOBs), cash, and surety form, scheduled to be completed by November 1, 2021.
  - *Translation of Court Forms:* The County has completed translating the bond conditions form and financial affidavit.
  - *Second Public Meeting:* Harris County held its second official public meeting regarding the ODonnell Consent Decree at which the Monitors presented the Second Report. The Monitors also presented the Second Report at a series of additional presentations to community groups and stakeholders.
  - *Training:* VERA Institute of Justice designed, incorporated feedback, and provided the second set of trainings on the Consent Decree to public defenders, prosecutors, hearing officers, judges, and other county officials from August 11-20, 2021.
  - *Indigent Defense:* The National Association for Public Defense (NAPD) completed its evaluation of Harris County’s indigent defense systems on July 9, 2021. The findings of the NAPD report are detailed below and the report is available online.<sup>1</sup>
  - The NAPD Report highlighted:
    - In Fiscal Year 2020, there were 46,090 misdemeanor cases filed.

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<sup>1</sup> See *National Association for Public Defense Harris County Misdemeanor Assessment Report* (July 6, 2021), at <https://www.publicdefenders.us/files/Harris%20County%20Report%20July%206%202021%20FINAL.pdf>.

- Approximately, 14,000 persons received a bail hearing in front of a Hearing Officer in FY 2020.
  - 68 percent of all misdemeanor cases closed in FY 2020 were dismissed.
  - Only 34 cases out of 46,090 cases filed in FY 2020 (which equals .07% of cases) went to trial.
  - The average number of days from filing to disposition was 292.
  - Defense lawyers representing people at bail hearings need more resources, including confidential space to interview clients, to comply with basic indigent defense standards.
  - Regarding representation after magistration, the Report noted substantial inadequacies, including:
    - Counsel face long delays in receiving discovery.
    - Appointed counsel rarely request funds for investigators and experts.
    - Training specific to appointed counsel’s responsibilities is not provided and should be offered by Managed Assigned Counsel.
    - Diversion is underutilized and has substantial costs for indigents.
- **Ongoing Work by the Monitor Team:**
  - *Cost Study:* We continue to conduct conversations with Harris County offices to gather data to permit a more detailed cost analysis of the misdemeanor system. When necessary data becomes available, future analyses will offer “cost per event” findings for criminal case milestones including arrest, intake, bond hearings, court settings, detention, prosecution, defense, and costs to defendants and victims.
  - *Data Development:* We analyzed data prepared by Harris County and provided continual feedback on data development in regular meetings concerning the assembly and validation of data regarding misdemeanor cases.
  - *Community Work Group:* We convened our monthly Community Work Group, to share our work and solicit input from our diverse community stakeholders.
  - *Regular Meetings:* We held regular meetings with the parties and Harris County stakeholders, including weekly calls, monthly meetings with both judges and hearing officers, and periodic calls with public defenders and prosecutors.
  - *Feedback:* We provided feedback to the parties on several improvements to the hearing process, the designed and implemented training, and the assessment work regarding holistic defense services and nonappearance.
- **Our Findings:**
  - *Data Analysis:* Our analysis now includes richer and more comprehensive data regarding misdemeanor cases in Harris County. Our findings largely confirm what we reported in our first two reports, but with more detailed analyses.
    - *Overall, the work suggests that repeat offending by misdemeanor arrestees has remained largely stable in recent years.*
  - We note that analyses which have not been completed at this time, because adequate data has not yet been available to the Monitor team include: Court

appearance and decisions made during probable cause hearing, geographic distribution of misdemeanor offenses and persons arrested, and a separate subgroup analysis on persons with homelessness and mental health issues. We plan to undertake these analyses and report the results promptly in the future, as more data restoration, expansion, and validation take place.

- These analyses show:

***Misdemeanor Case and Defendant Characteristics***

- The number of misdemeanor charges and the number of people arrested for misdemeanors in Harris County noticeably fell in 2020, a year heavily affected by the pandemic.
- We continue to observe a notable downward trend in the number of misdemeanor cases filed, which fell from approximately 61,000 per year in 2015 to 46,000 in 2020.
- The number of misdemeanor cases filed during the first half of 2021 is nearly 25,000, which is only slightly higher than the number from the first half of 2020 (23,308).
- The number of people arrested for misdemeanors during the first half of 2021 (21,799) is somewhat higher than the number from the first half of 2020 (20,044).
- The number of misdemeanor cases with co-occurring felonies, where an individual is arrested for a misdemeanor and a felony on the same date, gradually increased between 2015 and 2020, accounting for approximately 5% of total misdemeanor cases in 2015-2019 and 8% of total cases in 2021. During the first half of 2021, 7% of total misdemeanor cases had a co-occurring felony.
- We observe an increase in the share of misdemeanor offenses that fall within the carve-out categories (that are not automatically eligible for general order bonds at the time of booking), which rose from 17% in 2015 to 36% in 2020. In terms of the share of carve-out offenses, the first half of 2021 closely resembles 2020 (34% vs. 36%).
- The largest increases have been in the carve-out category for people who are arrested while on bond. It makes sense that this number would increase, given that many more people are being released on bond in light of the Consent Decree, and the pretrial period lasts much longer, including due to the relative lack of trial dates since the COVID-19 pandemic began. We note, that prior to the lack of trials due to the closure of the courthouse after Hurricane Harvey and during the pandemic and the adoption of Rule 9, cases more often would have resulted in guilty pleas within a short time (especially if people remained in the jail), so any reoffending would not have been “on bond,” even though the reoffending may have been occurred.
- Currently, nearly 40% of people arrested for misdemeanors are Black and 60% are White (a category that includes people who identify as Hispanic or Latinx). We estimate that Latinx persons accounted for approximately one-third (36%) of all persons arrested for misdemeanor in 2015, but this share gradually increased over time, reaching 40 percent in

the first half of 2021. The racial distribution of people arrested for misdemeanors in Harris County has been remarkably stable over the past years. However, it does not reflect the racial composition of Harris County, which includes approximately 20% Black persons, 44% Latinx persons, and 29% White (not Latinx) persons, according to 2019 Census estimates.

- Despite substantial changes in the misdemeanor bail system in recent years, there has been very little change in the 77% of people arrested for misdemeanors who are identified in the data as male and 23% as female.

### ***Bond Amounts and Holds***

- Prior to 2018, the initial bond amount was set at \$500 or more in virtually all misdemeanor cases where the bond amounts were observed. Bond amounts of \$3,000 or more were also quite common, observed in nearly 40% of misdemeanor cases from 2015 and 2016. However, initial bond amounts of \$100 or less are now observed in most misdemeanor cases since 2019: 62% in 2019, 66% in 2020, and 68% in the first half of 2021.
- The overall bond failure rate (i.e. the combined rate of bond forfeitures and bond revocations) rose from 17% in 2015 to 30% in 2018 (prior to the date the current misdemeanor judges took the bench), and has gradually declined since then, reaching 23% in the first half of 2020. In time, we will receive data for subsequent months.
- This data from before 2021, however, is subject to important limitations. Judges have historically applied widely varying policies regarding when to forfeit or revoke a bond. Beginning in December 2020, a uniform set of definitions for “failure to appear” and “nonappearance” were adopted as required by the Consent Decree’s court appearance policy. This new data should permit a more consistent interpretation of future bond failure data. We have not yet, however, received these data.
- The share of ICE holds as a percentage of all active holds in place at the time of case filing has gradually increased over time, and now accounts for nearly half of all active holds from 2020. There were approximately 3000 misdemeanor cases with active holds at the time of case filing in 2020. The number of misdemeanor cases with active holds during the first half of 2021 was 1016 cases, which predicts a decline in the total number of holds for 2021.

### ***Case Dispositions***

- Most people arrested for misdemeanor offenses now experience a relatively short period of pretrial detention. Since 2017, the length of pretrial detention in more than 80% of the cases was two days or less. Moreover, the share of people arrested who are detained pretrial for longer than a week has declined from 20% in 2015 to 10% in 2020 to 7% in the first half of 2021.
- The share of misdemeanor cases resulting in a conviction has rapidly declined over the past several years. Among all misdemeanor cases that were filed in 2019 and disposed, about 66% were dismissed, while only about one-third resulted in a conviction. Very few criminal trials occurred.

(We note that 2019 is the last full year for which we can observe the entire subsequent year of case disposition information. We also report below on the first half of 2020).

- Prior to 2017, the vast majority of convictions came from guilty pleas. In 2015, for example, 61% of cases resulted in a conviction, and of those 97% resulted from guilty pleas. In 2016, it was 58% of convictions that came from guilty pleas, and of those 97% resulted from guilty pleas. Since then, the share of guilty pleas has declined.
- The length of time a case remains open has increased recently. The share of misdemeanor cases disposed within three months has significantly declined between 2015 (53%) and the first half of 2020 (16%). Likewise, more than 90% of the cases filed in 2015 were disposed within a year, but the share fell to 43% during the first half of 2020.

### ***Repeat Offending***

- The share of people arrested for misdemeanors who had new charges filed within one year following the initial arrest remained basically constant between 2015 and 2021. Twenty-three percent of misdemeanor defendants from the first half of 2020 were re-arrested within a year. These shares have remained largely constant since 2015.
- The numbers of persons arrested for misdemeanors who had new charges filed within one year has steadily declined. In 2015, that number was 11,899 persons, while in 2019 it was 9,153 persons.
- Very few misdemeanor defendants are re-arrested for a serious offense. 0.2% of misdemeanor defendants from the first half of 2020 were re-arrested for a criminal homicide within a year; that figure was .14% in 2018. Re-arrests within a year due to aggravated assault, burglary, and larceny are more common but still relatively rare, observed in 4.4%, 2.9%, and 2.9% of the misdemeanor defendant population, respectively, from the first half of 2020.
- Overall, the work suggests that repeat offending by misdemeanor arrestees has remained largely stable.

- **Next Monitoring Steps:**

- Assist in further implementation of improvements to pretrial hearings to facilitate compliance with the Consent Decree.
- Review County plans that follow recommendations made in NAPD indigent defense study.
- Review county implementation of text and electronic court notification system.
- Conduct further data analysis, including regarding vulnerable populations and further cost analysis.



## *Table of Contents*

<b><i>Introduction</i></b>	<b>1</b>
<b>I. The ODonnell Litigation and the Monitor’s Role</b>	<b>1</b>
<b>A. The Goals of the Monitor</b>	<b>3</b>
<b>B. The Monitor Team</b>	<b>4</b>
<b>C. Community Working Group</b>	<b>5</b>
<b>D. Consent Decree Authority</b>	<b>10</b>
<b>II. Policy Assessment and Reporting</b>	<b>12</b>
<b>A. Policy Assessment</b>	<b>12</b>
<b>1. Studying Magistration Hearing Outcomes</b>	<b>12</b>
<b>2. Harris County Sheriff’s Office</b>	<b>16</b>
<b>3. CCCL: Court Appearance and Notifications</b>	<b>17</b>
<b>4. Pretrial Services</b>	<b>17</b>
<b>5. Public Defender’s Office and Managed Assigned Counsel</b>	<b>18</b>
<b>B. Data Analysis</b>	<b>19</b>
<b>III. Cost Study and Project Management</b>	<b>48</b>
<b>A. Cost Evaluation</b>	<b>48</b>
<b>B. Project Management</b>	<b>49</b>
<b>IV. Our Work in the Next Six Months</b>	<b>59</b>
<b><i>Appendix</i></b>	<b>60</b>
<b>A. Monitor Team Bios</b>	<b>63</b>
<b>B. Organizational Chart</b>	<b>64</b>
<b>C. Year 2 Statement of Work</b>	<b>65</b>
<b>D. Cost Analysis Data Components</b>	<b>77</b>
<b>E. Consent Decree Tasks and Milestones</b>	<b>87</b>

## ***Introduction***

On March 3, 2020, Professor Brandon L. Garrett at Duke University School of Law, was appointed to serve as Monitor for the *ODonnell* Consent Decree, along with Professor Sandra Guerra Thompson, University of Houston Law Center, who serves as the Deputy Monitor. The Monitor team includes research experts from the Public Policy Research Institute (“PPRI”) at Texas A&M University, and the Wilson Center for Science and Justice (“WCSJ”) at Duke University.

Our first report was filed on September 3, 2020. In that report, we described how impressed we have been with the progress made towards implementing this Decree, during trying circumstances. We noted that important implementation work remained and how the next six months would be a critical time as the structure of the remedies under this Decree take shape.

In our second report, filed on March 3, 2021, we described how great progress had been made despite the fact that the entire first year of our work has been marked by the COVID-19 pandemic. The work conducted during that time period included the court appearance rules, the beginning of trainings, implementation of electronic discovery, and adoption of new misdemeanor pretrial disposition forms.

In the past six months, important implementation work was conducted, including: designing and conducting follow-up trainings; further implementation of the court appearance provisions of the Consent Decree, including approval and implementation of an electronic court notification system; completion of a study of indigent defense in misdemeanor cases in Harris County; and, ongoing work to examine more complete data concerning misdemeanor case outcomes.

### **I. The ODonnell Litigation and the Monitor’s Role**

As described in our first six-month report, the *ODonnell* lawsuit laid bare in stark terms the failings of a money bail system in terms of racial, ethnic and socioeconomic fairness, wise use of taxpayer dollars, prevention of the needless suffering of vulnerable people, and the promotion of public safety. After three years of litigation, the parties reached a settlement consisting in this landmark Consent Decree, approved on November 21, 2019.<sup>2</sup> The *ODonnell* Consent Decree represents the first federal court-supervised remedy governing bail. The Consent Decree sets forth a blueprint for creating a constitutional and transparent pretrial system to protect the due process and equal protection rights of people arrested for misdemeanor offenses.<sup>3</sup>

First, under the Consent Decree, people arrested for low-level misdemeanors are promptly released. The Consent Decree incorporates the new Harris County Criminal Courts at Law

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<sup>2</sup> Consent Decree, *ODonnell et al v. Harris Cty.*, No. 16-cv-01414 (S.D. Tex. Nov. 21, 2019), ECF 708 [hereinafter, Consent Decree].

<sup>3</sup> *Id.* at ¶12 (noting “[T]he terms of this Consent Decree are intended to implement and enforce fair and transparent policies and practices that will result in meaningful, lasting reform...”).

(CCCL) Rule 9, which sets out bail policies.<sup>4</sup> Persons arrested for misdemeanors that do not fall within a set list of carve-out offenses must be promptly released under General Order Bonds. Allowing this group to be quickly released without paying allows them to return to their jobs, take care of their children, and avoid the trauma and danger of incarceration.

Second, the Consent Decree has brought about more rigorous bail hearings with greater attention paid to the issues that matter—whether a person should be released and on what least-restrictive conditions—though much work remains to ensure the hearings and the recorded findings comply with Rule 9 and the Consent Decree. Persons arrested for misdemeanors that fall within the list of carve-out offenses must receive a magistration hearing, complying with Rule 9, at which there must be clear and convincing evidence supporting the pretrial conditions set and any decision to detain a person. All misdemeanor arrestees have access to a public defender to represent them at that hearing. Counsel has access to the client and information needed to prepare for the hearing. New trainings on the Consent Decree policies are being conducted. Completed work to study indigent defense in misdemeanor cases will inform plans and standards for misdemeanor representation, including to ensure that defense lawyers have access to social workers, investigators, and other support staff necessary to provide effective representation to people arrested for misdemeanor offenses.

Third, following this pretrial stage, misdemeanor arrestees now benefit from a defined set of court appearance rules that is uniform among the 16 misdemeanor courts. The Consent Decree sets out a new process for waiving or rescheduling appearances. People can change some court dates so they can make it to court without undue hardship due to illness, lack of childcare and other issues. Further, a new court notification system is to be built by Harris County. New work will study the causes of non-appearance and improve the ability to address those causes.

Fourth, the Consent Decree provides that robust data will be made available, including regarding misdemeanor pretrial release and detention decisions and demographic and socioeconomic information regarding each misdemeanor arrestee, as well as prior data dating back to 2009.<sup>5</sup> The Consent Decree provides for public meetings and input, Harris County reports to be published every sixty days, and for Harris County to make information available online regarding the implementation of the Decree.<sup>6</sup>

Finally, the Consent Decree calls for a Monitor, with a set of responsibilities to evaluate compliance with the Decree and to approve a range of decisions to be made as the Decree is implemented. After applying to serve as Monitor, and proposing to conduct the work described below, we started our work upon our appointment on March 3, 2020. As we will describe below, remarkable changes have occurred in the Harris County misdemeanor system since the adoption of Rule 9 and then the Consent Decree. Key elements of the Consent Decree have now been implemented. Important work also remains, and all involved look forward to the work to come, as we build a model misdemeanor pretrial system in Harris County.

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<sup>4</sup> Rules of Court, Harris County Criminal Courts at Law, Rule 9 (as amended through April 22, 2020), at <http://www.ccl.hctx.net/attorneys/rules/Rules.pdf>; Consent Decree ¶ 30.

<sup>5</sup> Consent Decree, *supra*, at ¶83-85.

<sup>6</sup> *Id.* at ¶87-88.

## A. The Goals of the Monitor

The principal task of this Monitorship, as set out in the Consent Decree, is to report to the Court as we oversee and support Harris County officials implementing a new pretrial justice system. This system is intended to restore the public’s trust, safeguard constitutional rights, and accomplish the aims of bail: to maximize pretrial release while keeping the community safe and promoting the integrity of the judicial proceedings by preventing persons from fleeing justice. Thus, as the Consent Decree summarizes in its Introduction, this Decree: “is intended to create and enforce constitutional and transparent pretrial practices and systems that protect due process rights and equal protection rights of misdemeanor arrestees.”<sup>7</sup> From the Consent Decree, we distilled nine guiding principles:

- (1) **Transparency** – A transparent system keeps the public informed about how and why the system operates as it does—what rules and procedures apply and how effectively the system is meeting its goals.
- (2) **Accountability** – We view accountability as part of an ongoing process of systemic evaluation and improvement with community participation.
- (3) **Permanency** – We must not only evaluate progress, but also ensure that the administrative measures, policies, and processes, can work well long-term.
- (4) **Protecting constitutional rights** – We must protect civil and human rights, including the constitutional rights of arrestees.
- (5) **Racial, ethnic, and socioeconomic fairness** – We must continue to measure and remedy disparities concerning racial, ethnic, and socioeconomic unfairness in pretrial detention.
- (6) **Public safety and effective law enforcement** – We must seek to manage risk and improve public safety.
- (7) **Maximizing liberty** – We must seek to maximize pretrial liberty and to minimize criminal legal involvement of people in Harris County.
- (8) **Cost and process efficiency** – We will work to measure the wide range of costs implicated by the pretrial misdemeanor system to advise on the most cost-effective means for realizing the goals of a just system.
- (9) **Evidence-based, demonstrated effectiveness** – In our approach to all of these goals, we should establish a system that is self-monitoring and can make ongoing improvements.

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<sup>7</sup> Consent Decree, *supra*, at ¶1.

Thus, this Monitorship reflects a belief that an efficient and effective system, operated on the basis of relevant information and empirical data, will promote social justice while also meeting the goals of law enforcement and public safety.

## B. Monitor Team

Our interdisciplinary team includes experts in law, social science, behavioral health, economic analysis, indigent defense, and project management. Team biographies are included in Appendix A. The team includes:

- Monitor, Professor Brandon L. Garrett (Duke University School of Law)
- Deputy Monitor, Sandra Guerra Thompson (University of Houston Law Center)
- Dottie Carmichael, Trey Marchbanks and George Naufal (Public Policy Research Institute at Texas A&M University)
- Marvin Swartz and Philip J. Cook (WCSJ at Duke University)
- Songman Kang (Hanyang University)

Our full organization chart is also included in Appendix B.

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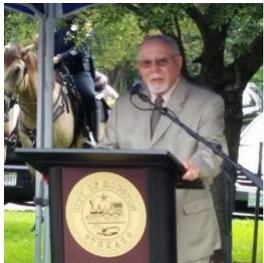
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## C. Community Working Group

The Monitor Team relies on the guidance of a Community Working Group (CWG), a dedicated group of community leaders who represent a diverse set of perspectives and

specializations. The CWG meets on a monthly basis with the Monitor Team, as well as with various county officials responsible for the implementation of the Consent Decree.

Since our last report, the CWG welcomed a new member, Frances Isbell, the President and CEO of Healthcare for the Homeless. In the past six months, the CWG has advised the Monitor team and county officials on crucial topics, focusing mostly on the data and policy issues regarding vulnerable populations, specifically people who are homeless, who suffer from mental illness, or who fall into both categories. These vulnerable groups are overrepresented in the misdemeanor population. For example, at a recent meeting the group provided guidance to Ideas42, the consulting firm conducting a study on behalf of Harris County under the Consent Decree of why people may fail to appear in court. Numerous CWG members have expertise working with vulnerable populations and lived experience, and they provided important suggestions for designing the research study to reach these populations. The group also examined preliminary data from Dr. Carmichael's study of the costs of the misdemeanor pretrial system (done on behalf of the Monitor team as required by the Consent Decree). Following that presentation, CWG member Allen Douglas helped to organize a meeting with the Monitor team, the CWG, and the leadership team of the Coalition of the Homeless—Houston. Additionally, the group guided the Monitor team on how to proceed should the Texas legislature adopt a bill that would require procedural changes that would put the county's practices in conflict with the Consent Decree's requirements.



**Hiram A. Contreras** served for 36 years with the Houston Police Department. He retired as Assistant Chief of Police in March 1998. While ascending the police ranks, Mr. Contreras' assignments included the Auto Theft, Juvenile, Recruiting, Planning and Research, Northeast Patrol and Major Offenders. He was promoted to the rank of Assistant Chief July 1991. In the same year as a result of a court ruling, he became the only Latinx person to attain the rank of Deputy Chief. This was retroactive as of March 1986. As Assistant Chief he directed the Professional Development Command. At retirement he was directing the Special Investigation Command. In his career with HPD, Mr. Contreras established the first HPD storefront in the city and initiated the Culture Awareness Program. In collaboration with the U.S. Marshal's Service, he initiated the Gulf Coast Violent Offenders Task Force. As commander of the Special Investigations Command, he coordinated HPD's participation with the Department of Justice High-Intensity Drug Trafficking Area Program. Also, he coordinated the International Symposium on the Police Administration and Problems in Metropolitan Cities with the Istanbul Police Department in Istanbul, Turkey. As Assistant Chief, Mr. Contreras, at the request of the Police Executive Research Forum, participated in police promotional assessment centers in Chicago, Denver, and San Francisco. Nominated by President William J. Clinton, Mr. Contreras became U.S. Marshal for the Southern District of Texas in 1998 and served until 2002. His consulting business, Art Contreras & Associates – LLC, specializes in human resource and marketing principles.



**Thao Costis** is President and CEO of SEARCH Homeless Services, a leading Houston agency helping people move from the streets, into jobs, and safe, stable housing. During her 24-year tenure, she's focused on how SEARCH can best help people who are homeless transform their lives, improve their health, and change how the community addresses this problem. Prior to SEARCH, she worked at the Coalition for the Homeless of Houston/Harris County where she brought together 150 not-for-profit agencies to coordinate their efforts. Thao has a bachelor's degree in accounting from the University of Texas and an MBA from University of Houston.



**J. Allen Douglas** is the executive director of the Downtown Redevelopment Authority (DRA). In addition, he performs the duties of general counsel for the organization and its related entities Central Houston and the Downtown District. Prior to joining the DRA, Allen practiced law for more than 20 years, beginning his career as a law clerk at Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C. in Houston. He worked for the United States Court of Appeals, Sixth Circuit and the United States District Court, Northern District of Ohio in Cleveland, Ohio. Most recently he was an associate attorney at Littler Mendelson, P.C. and assistant county attorney with the Harris County Attorney's office where he focused on appellate labor, employment, and civil rights cases. Allen has also served as vice-chair of the Midtown Management District's board of directors since June 2015, as well as chair of the organization's Urban Planning Committee.



**Guadalupe Fernández** joined the Houston Office of Tahirih Justice Center in 2015 and serves the Policy and Advocacy Manager. She leads the development and advancement of Tahirih's local and state-wide advocacy projects to transform the policies and practices that impact immigrant survivors of gender-based violence. Guadalupe joined Tahirih as the Children's Legal Advocate. Prior to Tahirih, she worked at Catholic Charities Houston as the Lead Legal Caseworker for the Child Advocacy and Legal Services Program. In Washington DC, Guadalupe was on the steering committee of the DC Detention Visitation Network and completed internships at the Lawyers' Committee for Civil Rights Under Law and the Central American Resource Center. Currently, she serves on the Public Policy Committee for the Texas Council of Family Violence, the Immigration and Racial Equity taskforces of the Texas Family Leadership Council, and the Harris Co. Housing Stability Taskforce. She is a graduate of the Advocacy Learning Center hosted by Praxis International and Camp Wellstone. Guadalupe is the proud daughter of immigrants and a first-generation college graduate from Georgetown University. She is a Fully Accredited Representative through the Department of Justice and is allowed to practice before both DHS and the Executive Office for Immigration Review, which includes the immigration courts and the Board of Immigration Appeals.



**Tara Grigg Green** (formerly Garlinghouse) is the Co-Founder and Executive Director of Foster Care Advocacy Center. Prior to founding Foster Care Advocacy Center, Tara was a Staff Attorney and Skadden Fellow in the Houston office of Disability Rights Texas. There, she helped develop the Foster Care Team to provide direct representation to foster children with disabilities in state child welfare cases, special education litigation and Medicaid appeals. She authored an Amicus Brief in *M.D. v. Abbott*—class action litigation seeking to reform the Texas foster care system—cited by the Fifth Circuit in affirming the State’s liability. She has consulted on child welfare policy issues for organizations such as Casey Family Programs, the ABA Center on Children and the Law, the Texas Children’s Commission, and the United States Children’s Bureau. Tara has published law review articles and research papers on the constitutional rights of children and families and quality legal representation in child welfare proceedings. Her passion for this field comes from her family’s experience as a foster family caring for over one hundred foster children. She has received many awards and was recently named the National Association of Counsel for Children’s Outstanding Young Lawyer. Tara clerked for the Hon. Micaela Alvarez of the U.S. Southern District of Texas in McAllen. She holds a J.D. from the University of Pennsylvania Law School where she was a Toll Public Interest Scholar, a M.P.P. from the Harvard Kennedy School of Government where she was a Taubman Fellow, and a B.A. from Rice University.



**Frances E. Isbell** is the Chief Executive Officer of Healthcare for the Homeless – Houston (HHH), a Federally Qualified Health Center providing care for 8,500 people annually. As the inaugural CEO of Healthcare for the Homeless – Houston, Ms. Isbell has been instrumental in bringing together a large number of community-based agencies, healthcare clinicians, educational institutions, and public organizations to forge a common strategic plan to effectively address the health needs of people experiencing homelessness. The primary aim of this consortium is to increase access to quality healthcare while concurrently reducing costly and ineffective service duplication. Since joining this endeavor in 1998, Ms. Isbell has received numerous local and national awards and recognitions for her work, and two of HHH’s programs have been cited as a national best practice. Previous to this position, Ms. Isbell had a private practice in therapeutic counseling and taught Sociology at Houston Community College, North Harris College, and Sam Houston State University. She also has worked as a consultant in organizational development and has worked in clinical administration within large hospital systems. Ms. Isbell holds undergraduate and graduate degrees in Social Rehabilitation/Pre-Law and Behavioral Sciences, respectively.



**Jay Jenkins** is the Harris County Project Attorney at the Texas Criminal Justice Coalition. Since joining TCJC in 2014, he has promoted broad youth and adult justice reforms in Houston and the surrounding areas. Jay received his J.D. from Northwestern University School of Law, graduating *magna cum laude* in 2009. While at Northwestern, he worked at the Bluhm Legal Clinic’s Children and Family Justice Center, focusing on a number of youth justice issues. In his third year, Jay was the lone law



student at the newly formed Juvenile Post-Dispositional Clinic, where he promoted policy reform throughout Chicago while also advocating on behalf of juvenile clients. Jay was admitted to practice law in the State of Illinois and worked as a civil litigator in the private sector for three years. At TCJC, Jay has researched and pursued reforms related to over-policing and prosecution, while also reimagining the local bail system and supporting indigent defense, and he was instrumental in the development of a first-of-its-kind data dashboard that visualizes more than one million criminal case outcomes in Harris, Dallas, Bexar, and Travis Counties. Jay additionally serves as co-founder and President of the Convict Leasing and Labor Project, which launched in 2018 to expose the history of the convict leasing system and its connection to modern prison slavery.



**Terrence “TK” Koontz** currently serves as Statewide Training Coordinator for the Texas Organizing Project. His path to service began after he was arrested in 2010. While sitting in the Harris County Jail, he witnessed the mistreatment of black and brown people and realized that the criminal justice system was essentially about class and racial oppression. Koontz walked away as a convicted felon. Since that time, he has worked without cease to reestablish his life by fighting as an activist and organizing for criminal justice reform. His passion for criminal justice reform is rooted in his experience growing up in communities that were plagued with crime, poverty, and over-policing. In 2015, after the death of Sandra Bland, Koontz became heavily involved in the criminal justice reform movement. He served on the Harris County Criminal Justice Coordinating Council and led a field team of the Texas Organizing Project that mobilized voters in Fort Bend County that helped to elect Brian Middleton, the first African American D.A. in Fort Bend County history. He also served in the office of Harris County Precinct One Commissioner Rodney Ellis as a Community Engagement Coordinator. He has become a highly influential advocate for change in Houston and surrounding areas and has committed his life to criminal justice reform, social reform, and community service. Koontz hopes to continue to play a major role in creating second-chance opportunities for ex-offenders, specifically as it relates to housing and career opportunities.



**Johnny N. Mata** currently serves as the Presiding Officer of the Greater Houston Coalition for Justice, a coalition of 24 diverse civil rights organizations. Through the coalition, Mr. Mata has supported changes in policing use-of-force policies and called for the creation of a citizen review board. He led the effort to reform the Texas grand jury selection process and has strived to improve relations between the police and communities of color. He has also advocated for bail bond reform, victim’s rights, protecting the voices of residents affected by community development, and promoting the hiring of Latinx educators and administrators. He served two terms as Texas State Director of the League of Latin American Citizens (LULAC) and six terms as a District Director of LULAC. He worked for 32 years as a community director and human resources professional with the Gulf Coast Community Services Association. He organized the community to create the Latino Learning Center and served as a founding board member. Mr. Mata has received the NAACP President’s Award, the OHTLI Award from the Republic of Mexico, the Hispanic Bar Association Lifetime Achievement Award, the Willie Velasquez-

KTMD Telemundo Channel 48 Hispanic Excellence Award, Antioch Baptist Church Martin L. King Justice Award, and numerous others. The Houston Community College System awarded him an honorary Associate in Arts Degree in recognition of his achievements in promoting education in the Latinx community.



**Maureen O'Connell**, M.S.W., founded Angela House in 2001 to serve women coming out of incarceration. She thought it unconscionable that they had so many obstacles and so few opportunities to build a stable life and escape the cycle of recidivism. Sister Maureen created a successful program that has empowered hundreds of women using a standard of care other programs could emulate. Her wide range of experiences prepared her to create this successful ministry: 13 years as a Chicago police officer and police chaplain; 16 years as Clinical Services Coordinator at The Children's Assessment Center in Houston and Victim's Assistance Coordinator for the Archdiocese of Galveston-Houston; and more than 40 years as a Dominican Sister, a religious order known for its commitment to social justice. She developed a program of interventions focused on trauma-informed counseling, addiction recovery, employment readiness and personal and spiritual growth. Sister Maureen served as Executive Director of Angela House for 17 years, retiring in 2018 and joining the Board of Directors in 2019.



**Timothy N. Oettmeier** most recently served as Executive Assistant Chief of Police before retiring after 42 years of public service as a police officer. As Executive Assistant Chief of Police, he was assigned to the Investigative Operations Command supervising the Special Investigations Command consisting of Auto Theft, Gang, Major Offenders, Narcotics, Vehicular Crimes, and Vice Divisions; the Criminal Investigations Command consisting of the Burglary and Theft, Homicide, Investigative First Responder, Juvenile, Robbery, and Special Victims Divisions; and the Technology Services Command. He was a principal architect for implementing community policing throughout the agency. He received his Ph.D. in Police Administration from Sam Houston State University in 1982. He helped oversee national police research initiatives by the National Institute of Justice on fear reduction, organizational change, cultural diversity, measuring what matters, and training. He authored department reports, and articles for textbooks and journals on police management issues. Early in his career, the 100 Club of Houston recognized him as an Officer of the Year. Tim was the recipient of the prestigious Police Executive Research Forum's national Gary P. Hayes Award for outstanding initiative and commitment to improving police services. He received Lifetime Achievement Awards from the Houston Police Department, the State of Texas, and from The 100 Club of Houston.



**Sybil Sybille**, a Texas Advocates for Justice Fellow, is a military veteran, who is a survivor of childhood sexual violence and stabbing, as well as sexual assault in the military. During her life, she nearly died of drug overdoses on seven occasions. Convicted of organized crime, she served time in a Texas prison. Since her release, she completed a college certificate program and was certified in 2015 by the Texas Department of Health Services to provide Peer Recovery Coach Training. In 2017, she received a training certificate in Veterans Court Advocacy and Mentoring for Peers. In 2018, she was a graduate of the Texas Southern University Anthony Graves Smart Justice Speakers Bureau. In 2019, Ms. Sybille

was named a Fellow for Texas Advocates for Justice and Grassroots.org. Through that work she has testified before the Texas legislature regarding a bill to support trauma-informed training for staff within the criminal justice and juvenile justice systems. She is currently working on a portfolio to advocate for “banning the box” to eliminate the check box on job applications which requires disclosure of criminal convictions. She believes this practice poses the greatest barrier for those reentering society.

#### **D. Consent Decree Authority**

This Report contains the Monitor’s review of compliance for the third six months that the Monitor has been in place. The Consent Decree provides in Paragraph 115 that such reports shall be conducted every six months for the first three years of the decree:

The Monitor will conduct reviews every six (6) months for the first three years the Monitor is in place and annually for each year thereafter that the Monitor is in place to determine whether the County, CCCL Judges, and Sheriff have substantially complied with the requirements of this Consent Decree.

Further, the Consent Decree states in Paragraph 117:

Every six (6) months for the first three years after the Monitor is appointed and annually for each year thereafter, the Monitor will file with the Court, and the County will publish, written public reports regarding the status of compliance with this Consent Decree, which will include the following information:

- a. A description of the work conducted by the Monitor during the reporting period;
- b. A description of each Consent Decree requirement assessed during the reporting period, indicating which requirements have been, as appropriate, incorporated into policy (and with respect to which pre-existing, contradictory policies have been rescinded), the subject of training, and carried out in actual practice;
- c. The methodology and specific findings for each compliance review conducted;

- d. For any requirements that were reviewed or audited and found not to have been implemented, the Monitor's recommendations regarding necessary steps to achieve compliance;
- e. A projection of the work to be completed during the upcoming reporting period;
- f. A summary of any challenges or concerns related to the County, CCCL Judges, and Sheriff achieving full and effective compliance with this Consent Decree;
- g. Whether any of the definitions in the Consent Decree need to be updated, and whether any additional terms need to be defined;
- h. For each requirement of the Consent Decree that is assessed whether the requirement is producing the desired outcomes of:
  - i. Maximizing pretrial liberty;
  - ii. Maximizing court appearance; and
  - iii. Maximizing public safety; and
- i. The feasibility of conducting an estimated accounting of the cost savings to the County through any reductions in pretrial detention, including comparing estimated costs of jailing misdemeanor arrestees prior to trial for each year the Monitor is in place relative to the costs of jailing misdemeanor arrestees prior to trial in each of 2015, 2016, and 2017 and order an accounting if feasible.

Paragraph 118 adds:

The Monitor will provide a copy of the reports to the Parties in draft form not more than 30 days after the end of each reporting period. The Parties will have 30 days to comment and provide such comments to the Monitor and all other Parties. The Monitor will have 14 days to consider the Parties' comments and make appropriate changes, if any, before filing the report with the Court.

Our Monitor Work Plans are divided into three Deliverables and we describe each of the subjects detailed in Paragraph 117. As in our first two reports, we have divided this report into three parts, reflecting the main components of our work and addressing each subject set out in the Consent Decree: Policy Assessment and Reporting; Cost Study and Project Management; and Community Outreach, Participation, and Working Group.

## **II. Policy Assessment and Reporting**

We started our work upon our appointment on March 3, 2020.<sup>8</sup> In this third report, we describe our progress towards carrying out the tasks outlined in our Second Year Proposal and

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<sup>8</sup> In the motion to appoint us as Monitor, our submission to the Court included a Proposal and Budget for Year 1 of work, which describes our team members, timelines, an organization chart, and a budget for all participants. We do not repeat that information here, but it is available on our Monitor website

Work Plan, focusing on the time period following the completion of our second report on March 3, 2021. Our goal is to assess the implementation of this Consent Decree and assist officials in Harris County in meeting their goal of making the Harris County misdemeanor system a national model. During our first year, we conducted a detailed initial examination of the misdemeanor process and implementation of Rule 9 in Harris County. Our work continues to be informed by regular conversations with County stakeholders and an intensive analysis of court records, ranging from docket entries to videos. We have welcomed suggestions from Harris County officials, local stakeholders, and the public, and we look forward to the conversations to come.

As our Monitor Plan described, during this time period, we have:

- (1) Conducted regular meetings with the parties to discuss progress under the Consent Decree, as well as conducted regular meetings with hearing officers, judges, and a wide range of stakeholders.
- (2) Approved proposals for the County to retain outside researchers to study topics such as causes of nonappearance, indigent defense, and court forms. The indigent defense and court form studies have been completed, and are in the process of implementation, while the study of causes of nonappearance is in progress.
- (3) Continued to convene monthly with the Community Working Group.
- (4) Continued data collection and analysis and incorporated this work into the third six-month Monitor Report.

## **A. Policy Assessment**

This Report describes our work reviewing the implementation of a range of policies under the Consent Decree. Below we describe work: (1) studying pretrial hearing outcomes and changes to the magistration hearing process; (2) work with the Harris County Sheriff's Office; (3) work with the CCCL and the Office of Court Management; and (4) Pretrial Services. We also describe engagement with nonparties, (5) the Harris County Public Defender's Office (HCPD) and the relatively new office of Managed Assigned Counsel (MAC).

### **1. Studying Magistration Hearing Outcomes**

Since December 2020, when the Office of Court Management completed a system to automatically collect information regarding all filed misdemeanor bail hearings, we have examined a more comprehensive collection of misdemeanor magistration pretrial rulings. We have examined data concerning hearings recorded using the new misdemeanor pretrial form used by Hearing Officers. We have also viewed videos from magistration hearings. We report on this work below.

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<https://sites.law.duke.edu/odonnellmonitor/>. On May 1, 2020, we also provided the Parties with a Work Plan setting out our first year of work, set out in quarterly deliverables, as was most convenient for the County and its budgeting process. That Plan has been made available on our Monitor website, as is our second year Work Plan. *Id.*

We continued to examine the text of Hearing Officers' pretrial rulings in misdemeanor cases. Among Hearing Offices, we have observed more detailed rulings, and rulings that better track the process and requirements of Rule 9 and the Consent Decree. The main ongoing area for improvement is the need for factual findings regarding why or whether there is clear and convincing evidence, and that no less restrictive conditions can assure safety or appearance. Often a ruling still does not explain, for example, why prior offenses render the arrestee an unmitigable risk. The rulings often do not explain why alternative conditions were deemed insufficient. The oral and written hearing rulings often do not make clear what *additional* evidence, relevant to flight and safety, provides the basis for the ruling beyond the charge and the allegations. The new hearing form has, however, better focused written opinions on those key factual findings. We note that the Judge's bail review hearings are not videorecorded and are not as readily observable.

In order to improve the docketing of magistration hearings, a revised schedule was implemented in Fall 2020, and more recently, in May 2021, the Office of Court Management implemented a reduced docket size, with 18 rather than 21 cases per docket. While we hope that this improves the ability of hearing officers to manage their dockets and provide each person arrested with the due process that they are entitled to, we also note our concern that smaller dockets may increase the wait times for individuals to receive a pretrial hearing. It appears that opening an additional court may be needed to reduce wait times. Although the possibility has been discussed, to date, another courtroom has not been opened. Detaining individuals for many additional hours will harm individuals who are separated from their families, jobs, and lives during that time, and will also likely increase medical and potentially security issues. It will also increase costs, because the jail will need to provide basic essentials like meals to people who are detained for longer periods.

We note further below, that translation into Spanish of the forms regarding their bond conditions given to persons at the Harris County Joint Processing Center and during pretrial hearings was approved in May. The translation of existing misdemeanor bond and financial affidavit forms has been completed and were in use as of August 30, 2021.

**a. Findings of Indigency and Ability to Pay by Hearing Officers at the Article 15.17 Hearings**

The Consent Decree provides that a person is "indigent" and lacks the ability to pay any amount of secured bail if they would have to sacrifice basic necessities in order to pay secured bail.<sup>9</sup> The Consent Decree further states that any person who meets the following criteria is "indigent" under the Consent Decree: individuals who are deemed indigent under indigent defense guidelines; who are homeless; who themselves or their dependents receive public assistance; whose household income does not exceed 200% of the federal poverty guidelines; or who are currently incarcerated.<sup>10</sup> For indigent individuals, as Rule 9 states, "An arrestee who is indigent (as defined in Section 17(h)) or who meets any of the following, may not be assessed any fee associated with a personal bond or an unsecured bond, or the cost of a non-financial condition of release..."<sup>11</sup>

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<sup>9</sup> Consent Decree at ¶17(h).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 9.12.8.

Before the important revisions made to the pretrial misdemeanor form, there was not a convenient way for Hearing Officers to note whether a person was found indigent or what that person's ability to pay was. Now that this information is integrated into the pretrial hearing form, and the Monitor team also has access to better data concerning indigency and financials. We have learned that the vast majority of persons at pretrial misdemeanor hearings are found indigent, but that said, there are currently large numbers of cases in which the indigency determination field is blank. Moreover, the Judges do not have a similar form that contains fields to record information concerning ability to pay and indigency, and they routinely do not record on the record their findings regarding indigence. The vast majority of people arrested did not complete a financial affidavit. When a Hearing Officer noted ability to pay, it was typically a small dollar amount.

We examined over 6,400 entries during the time period from March 14 through July 1, 2021. Of the entries we sampled, 65% or 4,218 of 6,453 entries had no financial affidavit. It is very common to see the entry stating that the defendant did not swear a financial affidavit. While 2235 entries did have a financial affidavit, even for those entries, Hearing Officers often do not make findings regarding ability to pay. For example, this is a common entry:

Def swore Financial Affidavit and can afford \$  
Def found indigent

As a result, for almost three-fourths of cases, there was no information recorded regarding what amount the defendant can afford. Where that information was recorded, the most common entry was zero dollars. The average non-zero amount was \$575, but less than 800 people had dollar-amounts noted for ability to pay. Some hearing officer opinions reflect this. For example, one noted: "Unable to determine if indigent. High value property but no cash on hand."

Regarding indigence, 49% or 3,164 entries involved persons who were determined indigent. However, for over 2,000 of the remaining persons, indigence was not determined or the information was not available. Only 9% or 613 persons were affirmatively found not indigent.

We note that these data reflect information shared by the Office of Court Management, and entered by Hearing Officers, and as such, it may not always accurately reflect what information was included in the financial affidavit. Further, Hearing Officers may be able to assess indigency using information provided by public defenders at magistration hearings. However, these findings suggest room for improvement, including the need for a simpler, clearer financial affidavit form that can be more readily filled out and used by others.

Finally, about five-sixths of the magistration hearings, almost 5,000 cases, were resolved using a personal bond. We also underscore information concerning indigency is chiefly relevant only if the Hearing Officer is imposing a secured bond.

#### **b. Cash Bond Requests**

We continue to observe that there is a wide gap between the bail requests of district attorneys and public defenders at misdemeanor pretrial hearings. While Rule 9 and the Consent

Decree did away with the misdemeanor cash bail schedules that had been in place in Harris County, we continue to observe that assistant district attorneys regularly request cash bail in misdemeanor cases that far exceed the amounts imposed pursuant to the bail schedules in past years.<sup>12</sup> In the data shared by the Office of Court Management discussed above, covering the time period from mid-March to July 1, 2021, the average cash bail request by the District Attorney’s Office was about \$4,700. We commonly observe \$10,000, \$15,000, \$20,000, and \$25,000 requests, which are likely far in excess of the individuals’ ability to pay. The average public defender cash bail request was about \$ 1,200. Public defenders commonly requested a personal bond, while prosecutors rarely did so. We have observed that such requests are not likely to inform Hearing Officers in their decision making, particularly given that most of these persons are indigent.

### **c. Studying Hearing Videos**

Each magistration hearing in Harris County is video recorded. We have coded information from the videos of fifty misdemeanor pretrial hearings conducted since March 2021. The average hearing length was nine minutes, which is substantially longer than the typical hearing before Rule 9 was adopted.<sup>13</sup> In cases in which a cash bond was imposed, the mean amount was about \$5,000. Prosecutors asked for bond amounts with a mean of about \$6,400 at these 50 hearings. Prosecutors did not request a personal bond in any of the fifty cases. Public defender cash bond requests averaged about \$1,200, and public defenders also often requested release on personal bond (in 43 of 50 cases). At all of the observed hearings, the person arrested was present.

Over these months, we saw a trend towards more detailed explanations regarding pretrial rulings. In general, criminal history and court appearance history were chiefly cited to in the written findings when imposing a secured bond. When personal bond was selected, other more individualized factors may play a role. In their advocacy at the hearings, public defenders generally focused on such individual factors, including employment status, financial information, court appearance, transportation to court, alternative housing options, and residency in Harris County.

The NAPD reached similar conclusions based on their review of magistration hearings. The NAPD noted in their report that:

The first sentence spoken by the Harris County Public Defender’s lawyer for each client was something like “Mr. Doe is X years old and is a lifelong long Houston, Harris County resident who has been at the same address for Y years where he lives with his parents/girlfriend/roommate.” That is why residency, which shows ties to the community, and age appear so frequently.<sup>14</sup>

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<sup>12</sup> For the 2017 Initial Bail Schedule in Harris County, see <http://www.ccl.hctx.net/attorneys/bailschedule.pdf>. For the 2012 Misdemeanor Bail Schedule for the Harris County Criminal Courts at Law, see <http://www.ccl.hctx.net/criminal/Misdemeanor%20Bail%20Schedule.pdf>.

<sup>13</sup> See *ODonnell v. Harris Cty.*, Texas, 251 F. Supp. 3d 1052, 1092 (S.D. Tex. 2017), *aff’d as modified*, 882 F.3d 528 (5th Cir. 2018), and *aff’d as modified sub nom. ODonnell v. Harris Cty.*, 892 F.3d 147 (5th Cir. 2018) (describing how of the 121 videos examined by the plaintiffs, 26 are under one minute, 98 are at or under two-and-a-half minutes, and 115 are at or under 4 minutes.)

<sup>14</sup> NAPD Report at 40.



The NAPD similarly found that transportation to court and employment status were also almost always discussed.<sup>15</sup> COVID-related hardships were also a theme noted by the NAPD, which highlighted how the defense noted COVID-related unemployment.<sup>16</sup>

In contrast, the NAPD review and our review found that prosecutors tended to focus almost exclusively on criminal history and court appearance when requesting secured bail, regardless of whether the person arrested would be able to pay the amount. ADAs also requested non-financial conditions of pretrial release, such as protective orders, GPS monitoring, and other types of supervision.

We also saw noteworthy examples of hearing officers taking the time to explain the pretrial and subsequent court appearance process to people. Some people missed court appearances during the COVID pandemic, and the public defender at the bail hearing noted the person's confusion regarding scheduling practices. (The NAPD also noted "instances of court date reset confusion because of COVID- 19 scheduling with the courts."<sup>17</sup>). One person missed court because they tested positive for COVID and were in isolation for a month. Another common theme was financial hardship resulting from the pandemic, with public defenders describing how a number of people had recently lost their employment and could not afford to pay secured bail.

More broadly, we hope the second round of training on Rule 9 and the Consent Decree will improve outcomes and consistency in bail hearings at magistration (and also at bail hearings in the Judges' courtrooms). We continue to explore the feasibility of additional changes:

1. Enabling the defense to bring witnesses to bail hearings at magistration by using a courtroom that has public access.
2. Ensuring that translators are made available and on the job at all times.
3. Charging people with all charges at initial booking (including JP cases) so as not to delay their time in custody by requiring a second booking on less serious charge later.
4. Avoiding excess wait times during the time period between booking and hearings.
5. Simplifying the financial affidavit form.
6. Preventing delays in processing release and standardizing interdepartmental communications, terminology, and electronic documents.
7. Making use of another courtroom to lighten dockets and speed up the process.
8. Providing defense counsel with adequate time and space to interview clients prior to the bail hearing.

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<sup>15</sup> *Id.* at 41.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 41.

We are extremely grateful for the ongoing feedback and collaboration with the Hearing Officers.

## **2. Harris County Sheriff's Office**

The Harris County Sheriff's Office ("HCSO") plays a central role in the Consent Decree's success, including by facilitating a wide range of logistics regarding booking, hearings, and release. We are grateful for their cooperation in implementing numerous improvements to the systems used in the past.

We plan to engage in further discussion regarding the possibility of adopting additional improvements:

1. Improving processes to quickly identify individuals who have not received a timely 15.17 hearing or bail review, or who otherwise have not received the process due under this Consent Decree. Periodically, Plaintiffs' counsel has identified individuals who were being detained in violation of Rule 9. The Sheriff has responded promptly to ensure the person's release. As of yet, the Sheriff does not have a process to affirmatively identifying these people if Plaintiffs' counsel does not identify them. The Parties are continuing discussions to determine what an effective process should consist in.
2. Implementing quality assurance measures to ensure that every person admitted to the jail and whose phone is seized at intake has had an opportunity prior to seizure to transcribe phone numbers from their phones so that no one is left incommunicado while in jail.
3. Improving the procedures and interdepartmental communication to reduce the time it takes to release people after making bond.

We note that the NAPD report examined adequacy of space for public defender interviews and assurances of client confidentiality at the Joint Processing Center, and the HCSO has expressed that it will continue to work to implement responses to those recommendations. We hope that Harris County further improves the availability of community reentry services so that people released will be safe and have a means of getting home or to a shelter; we are impressed with the Pretrial Services pilot program, in partnership with the Harris Center, discussed below. We are incredibly grateful and fortunate to work with such responsive county officials.

## **3. CCCL: Court Appearance and Notifications**

The Consent Decree requires Harris County to revamp the court appearance process according to the detailed rules set out in paragraphs 57-72, which represent a sea change from the manner in which court appearance had been handled in the past. These policies have now been fully implemented.

These are significant developments, which required hard work by multiple County agencies, especially the Judges and the Office of Court Management. The County, the Judges, and the Office of Court Management, together with a contractor, Ideas42, have developed a new

Electronic Court Notification System. That system includes email, text and voice notifications regarding court appearances. The system includes Spanish translations of court notifications, and translations into Chinese and Vietnamese will occur in a second phase of the project. The Electronic Court Notification system's email and notification messages were approved by the CCCL in May 2021. People who are cited and released (as opposed to being arrested) now receive electronic court notifications. Implementation for all misdemeanor cases will be completed by November 1, 2021. The electronic reset form will be implemented in September, followed by personal bonds, GOB bonds, cash then surety bond-related notifications.

Translation of key forms provided to persons charged with misdemeanors has continued to proceed more slowly than expected. The translation of the misdemeanor bond form and financial affidavit was completed earlier in the year, but due to a minor change, the forms received a second round of judicial approval. These forms were implemented and available on August 30, 2021. We view these translations as crucial to ensure fairness and accessibility in the system are grateful for the work that has gone into implementing them.

We are extremely grateful for the feedback and collaboration with the CCCL Judges and the Office of Court Management.

#### **4. Pretrial Services**

Beginning in Fall 2020, Harris County Pretrial Services experienced a leadership change (the former director was replaced by Interim Director Jim Bethke; a search for a permanent director is nearing completion). Pretrial Services began to develop a range of improvements to their work, including changes that importantly impact misdemeanor cases. We have discussed the importance of ensuring that only the least-restrictive conditions necessary are imposed and provided information about how imposing excessive conditions of release can be counterproductive, making it more likely a person will miss court and/or reoffend. Pretrial Services has itself been examining such questions to improve the recommendations made to Hearing Officers and judges. Data concerning pretrial services has been lacking in the past, and we were pleased to learn that Pretrial Services is implementing an electronic case management system.

In June, Pretrial Services launched a grant-supported pilot program to link people released on General Order Bonds who are flagged on a mental health indicator, with needed services, including housing for the homeless and mental health referrals, through the Harris Center for Mental Health and Intellectual or Developmental Disabilities. General Order Bond releases occur quickly, but this General Order Bonds Pilot program can, nevertheless help to identify people eligible for prompt release, but who are in crisis and could benefit from services, ranging from bus passes, to discharge packets, and referrals to services. The program is staffed by three diversion coordinators and two diversion navigators. The program has so far served almost 500 clients.

#### **5. Public Defender's Office and Managed Assigned Counsel**

The Consent Decree emphasizes that "zealous and effective representation at bail hearings is important to protecting arrestees' right to pretrial liberty and right against wealth-based

detention.”<sup>18</sup> One of the most important changes brought about by Rule 9 and the Consent Decree has been the assurance that a public defender is available to represent all individuals at bail hearings. Further, the Consent Decree envisions a process of continuous improvement in the public defense services provided at these hearings, including the retention of an expert in holistic defense services and development of a plan for improving indigent defense.<sup>19</sup> The County retained the National Association for Public Defense (NAPD) to: (1) evaluate its current misdemeanor indigent defense systems in Harris County, and (2) determine the need for essential support staff and holistic services to promote zealous and effective indigent defense.

The NAPD’s report was completed on July 6, 2021 and it is available online.<sup>20</sup> The NAPD began its work by conducting over six months interviews of County Court at Law judges, magistrates, public defenders, appointed counsel, prosecutors, criminal legal system leaders, county and community leaders, as well as reviewing a considerable amount of data, and considering national benchmarks for performance and also for public defense delivery systems. The report contains a number of important findings regarding the defense function at both pretrial hearings and during the misdemeanor proceedings that follow.

The report began by setting out the types of public defense representation and an overview of the misdemeanor caseloads in Harris County. Summarizing the types of counsel that represent misdemeanor clients, the NAPD found that about 41-44% of people charged with misdemeanors between 2016-2020 hired their own private counsel. About 50% of all defendants were represented by court-appointed counsel. And the Harris County Public Defender (HCPD) represented between five and six percent of persons charged with misdemeanors. The HCPD exclusively or primarily represented clients with a severe mental health diagnosis who were not charged with a DWI offense, based on County policy.

The NAPD report further found that 68% of cases filed in Fiscal Year 2020 (N=46,090) were dismissed. Among the cases not dismissed, the vast bulk resolved through negotiated dispositions. There were just 34 trials in FY 2020 cases. The percentage of clients who had their cases decided at trial ranged from .11% to .22% between FY 2016 and 2020 with the percentage of trials resulting in acquittals during that period ranging from 51% to 67%. Approximately, 14,000 persons went through magistration in 2020.<sup>21</sup>

The NAPD report emphasized that the appointment and representation of counsel must begin promptly, but that such appointment is delayed, including because the Judges have not authorized Hearing Officers to appoint counsel during magistration hearings. Thus, indigent people charged with misdemeanors must wait until their first court appearance before a CCCL Judge to have a lawyer assigned.<sup>22</sup>

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<sup>18</sup> Consent Decree at ¶37.

<sup>19</sup> Consent Decree at ¶41, 43.

<sup>20</sup> See *National Association for Public Defense Harris County Misdemeanor Assessment Report* (July 6, 2021), at <https://www.publicdefenders.us/files/Harris%20County%20Report%20July%206%202021%20FINAL.pdf>.

<sup>21</sup> *Id.*

<sup>22</sup> NAPD Report Summary, at 10.

The NAPD report described serious deficiencies in effectiveness of representation, focusing in particular on appointed counsel and representation after pretrial stage. The NAPD report found:

The governance and quality control committees have not yet become operational. Discovery is too often delayed. Requests by appointed counsel for funds for investigators and experts are less than infrequent. Training specific to appointed counsel's responsibilities is not provided. Diversion is underutilized and has substantial costs for indigents. More appointed counsel should be performing at a higher level.

As a preliminary matter, the NAPD report identified real concerns regarding appointed defense attorney workloads. The report noted: "attorneys ... have more work than can be competently completed. Case maximums have not been created. In 2020, over 100 attorneys taking misdemeanor appointments exceeded TIDC's maximum caseload standard."<sup>23</sup>

The report then made a series of detailed recommendations in response, largely focusing on merits representation, including to: (1) continue to provide representation at magistration; (2) ensure well-trained, competent, and client-centered representation; (3) ensure timely access to counsel, timely representation, and continuity of counsel; (4) ensure reasonable workloads; (5) promote and encourage the use of social workers, investigators and adequate support staff; (6) provide effective data-driven management and accountability; (7) establishing regular active supervision over counsel; (8) created a unified public defense delivery system in the County; (9) develop a comprehensive statement policies on defense services; and (10) that the MAC create and sustain and appropriate culture, including by setting out its mission, vision and organizational values.

Regarding magistration hearings, which are a central focus of our work under this Consent Decree, the report noted the need for prompt appointment of counsel at magistration. Currently, Judges have not authorizd magistrates to appoint counsel, resulting in delays.<sup>24</sup> Further, the information obtained by the public defender at magistration should be promptly conveyed to whoever represents the person throughout the rest of their case. The report suggested that an additional social worker be hired to assist with client logistics and communication. The report noted that additional space is needed for attorneys to adequately interview clients before magistration. The report further noted additional issues regarding the protection of confidential client information. The report called for further training for magistrates on several topics, including regarding the use of pre-trial conditions. The report highlighted that magistration should not occur if the defendant is not present. The report also noted that the HCPD must stay abreast of developments in immigration practices, in order to adequately advise clients, and is exploring approaches to improve that work.<sup>25</sup>

The NAPD report noted that the HCPD recently started using LanguageLine, a telephonic interpretation service, to assist with its client interviews. In contrast, the magistrates do not have access to such a service. As a result, "[s]ometimes when in-person interpreters are not present

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<sup>23</sup> *Id.* at 10.

<sup>24</sup> *Id.* at 30.

<sup>25</sup> *Id.* at 30.

clients get passed to a later docket, and, depending on the language, can be passed through multiple dockets.” The report noted that using telephonic interpretation would avoid such delays.<sup>26</sup>

As noted, the bulk of the findings and recommendations focused on the time period after magistration and appointment of counsel. In the last six-month report, we described how we watched live-streams of the misdemeanor judges’ court proceedings, available online, to review misdemeanor court proceedings. We found that the most common reasons for resets had to do with ongoing work as cases proceeded to ultimate disposition, including discovery matters, modification of pretrial conditions, and ongoing negotiations. The NAPD report found that between FY 2016 and FY 2020, the average number of days from filing to disposition substantially increased from 162 to 292.<sup>27</sup>

The NAPD report also discussed some of the reasons why case dispositions have been delayed. Some of these delays can be explained by the slow appointment of counsel, noted already. Others have to do with the effectiveness of representation. Defense attorneys rarely seek assistance of social workers or investigators. Defense attorneys rarely request the discovery and other information that had been collected at the magistration hearing. The report also noted delays in preparing material to apply for diversion programs. The report highlighted a range of areas in which effective defense representation would improve outcomes for clients and reduce delays. Further, the report noted delays originating from the district attorney’s office and law enforcement, including regarding provision of discovery.

We have had a series of conversations with the HCPD and the MAC concerning best practices and representation at misdemeanor hearings, including valuable conversations informed by the recommendations made by the NAPD. Along with the parties, we also solicited feedback from the HCPD and MAC on the training to be provided to public defenders. During this past six-month time period, Vera Institute of Justice provided a second set of trainings on Rule 9 and the Consent Decree, from August 11-20, 2021. That training included a focus on pretrial conditions of release, which the NAPD had recommended should be a focus for further training. The County is now developing an indigent defense plan in response to these findings.

## **B. Data Analysis**

Substantial work continues to be done, jointly with the Justice Administration Department (“JAD”), to prepare a data management system to permit analysis of misdemeanor cases in Harris County. We are extremely grateful to JAD for their hard work throughout these months to continue to create such a system. We note that the data management system experienced a disruption beginning in May 2021, and that for some time the monitor team lacked all access to the data hub that we had been using for our ongoing analyses. We understand that the County did not expect the issue to be unresolved for such a length of time. We were very grateful that when we brought the issue to the County Attorney’s attention, the issue was promptly resolved, with access restored in time to produce the analyses described below.

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<sup>26</sup> *Id.* at 29.

<sup>27</sup> NAPD Report at 21.

## **1. Race and Ethnicity Data**

Our last report noted that we have used a well-established statistical technique to predict a person's ethnicity based on their last names, and presented the estimated ethnic distribution of the misdemeanor population. We plan to continue working closely with Harris County to collect accurate and reliable data on ethnicity, and explore other data sources and statistical techniques to improve the accuracy of our prediction results.

## **2. Crime Trends**

The increasing murder rate in Harris County has been inaccurately attributed to misdemeanor bail reform. Understandably, the public and local officials have sought explanations for the increased murder rate in Harris County. But sensational headlines ignore the fact that, in Harris County as in jurisdictions nationwide, many other types of crime—including violent crimes—has actually declined during the pandemic. The steady declining trend in misdemeanor cases is unmistakable: fewer misdemeanor cases are filed every year in Harris County.

A greater number of people released pretrial are charged only with misdemeanor offenses, under this Consent Decree. Pretrial release in misdemeanor cases provides significant benefits to the community, saving detention costs, decreasing the spread of COVID-19, keeping families together, preventing people from losing their jobs, and ensuring that people accused of crimes have an opportunity to fight the charges. The number of people charged with misdemeanors who are arrested for another offense within a year has declined from 11,899 in 2015 to 9,153 in 2019 (and 4,610 in the first half of 2020). Below, we explore the patterns of repeat offending in more detail using several different measures of repeat offending.

## **3. Expanded Data**

Since the time of our last report, we continued to explore other avenues to expand our data. In June 2021, we met with the Houston Police Department (“HPD”) to discuss the possibility of linking the HPD's incident and calls-for-service data with the Harris County's misdemeanor case data, and we plan to continue our discussion. The police data contain detailed incident-level information, which opens up new possibilities for investigating how the patterns of crimes reported to police and calls-for-service, including those that did not result in an arrest and a criminal charge, have changed during the years surrounding the misdemeanor bail reforms.

Thanks to JAD, we also obtained information on all recorded bookings and releases, court settings and appearances, and case disposition outcomes associated with each misdemeanor case, allowing us to better understand the patterns of pretrial detention, court appearances, and disposition outcomes in recent years. However, following the period of data outage between May and July, JAD had to rebuild their database and some of these key data components, such as misdemeanor defendants' mental health status and the geocoded locations of misdemeanor offenses, remain unavailable.

In this report, our data analyses examine the following topics:

1. Number of misdemeanor cases and arrestees.
2. Demographic characteristics of misdemeanor arrestees.
3. Number of misdemeanor cases that belong to “carve-out” categories.
4. Duration of pretrial detention and holds placed.
5. Types of initial bond approval and bond amounts set.
6. Case disposition outcomes.
7. One-year repeat offense rate.

We note that analyses which *have not been completed* at this time include: Court appearance and decisions made during probable cause hearing and geographic distribution of misdemeanor offenses and persons arrested. We plan to undertake these analyses and report the results promptly in the future, as more data restoration, expansion, and validation take place.

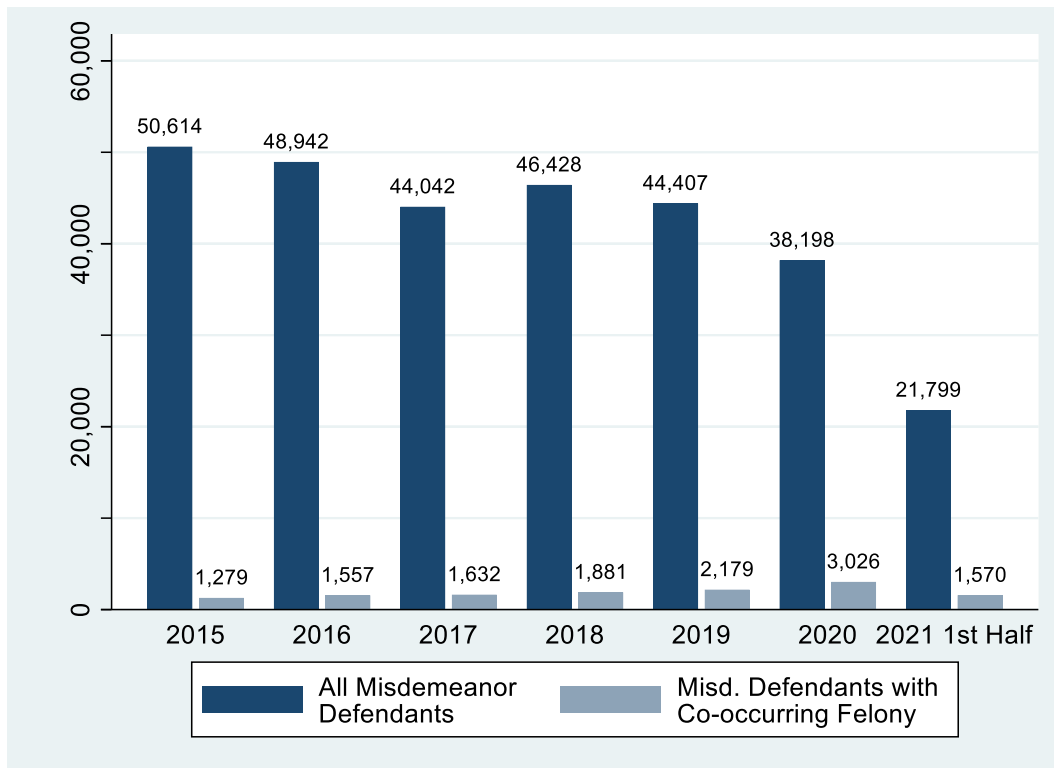
### **1. Number of Misdemeanor Cases Filed**

Our main data source is the case-level records on all Class A and B misdemeanor cases filed in Harris County between January 1, 2015 and June 30, 2021. We begin our analysis by presenting the number of people arrested for misdemeanors in Harris County in Figure 1. Here, we consider all misdemeanor cases filed against the same individual during a calendar year as a single observation.

We observe a notable downward trend in the number of misdemeanor arrestees, which fell from approximately 50,000 per year in 2015 to 38,000 in 2020. There were nearly 22,000 misdemeanor arrestees from the first half of 2021, which is close to but slightly higher than the count from the first half of 2020 (N=20,044). We similarly observe a decline in the numbers of people held on misdemeanors in the Harris County jail, with approximately 500 people held on misdemeanors only in 2016, and approximately 320 people held only on misdemeanors in Spring 2021.

Figure 1: Number of Misdemeanor Defendants by Year





We also report in Figure 1 the number of misdemeanor arrestees with co-occurring felonies, who were arrested for a misdemeanor and a felony on the same date. From the figure, it is clear that most misdemeanor defendants are arrested only for a misdemeanor offense. Specifically, less than 5 percent of misdemeanor defendants between 2015 and 2019 were arrested for a concurrent felony offense. However, the share of such offenders began to increase in 2020, now accounting for approximately 8 percent of misdemeanor defendants in 2020 and 7 percent in the first half of 2021. It remains to be seen whether this is a temporary change during the unusual pandemic year or reflects a more systematic change in the criminal environment and criminal justice system in Harris County. We cannot determine at present whether the increase is due primarily to changes in law enforcement arrest patterns or prosecution patterns, as opposed to any increase in criminal conduct.

The number of people arrested for misdemeanors, presented in Figure 1, likely understates the number of misdemeanor cases, as some individuals may be arrested multiple times during a calendar year. It is also possible that some are charged with multiple offenses from a single arrest. In Figure 2, we present the number of misdemeanor cases observed each year. Similar to Figure 1, the number of misdemeanor cases fell by more than 20 percent between 2015 (N= 62,417) and 2020 (N=45,664). We note, however, that the number slightly increased during the first half of 2021 (N=25,047) compared to the first half of 2020 (N=23,287).

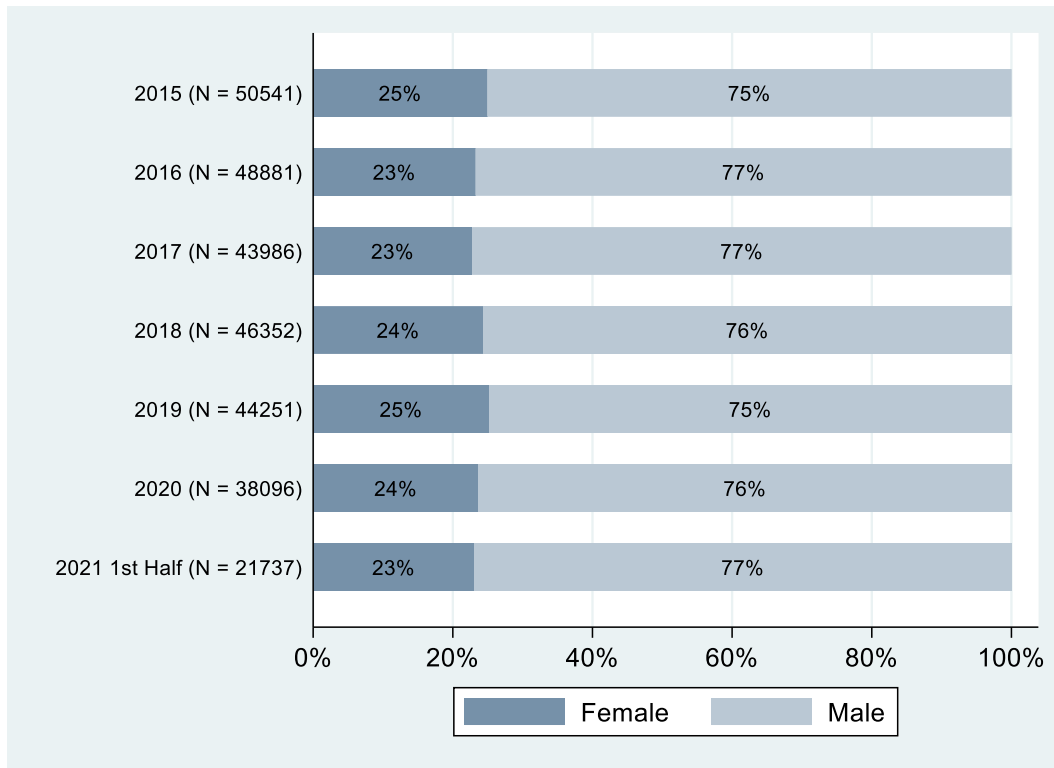
Figures 1 and 2 indicate that both the number of persons arrested for misdemeanor offenses and the number of such offenses in Harris County noticeably fell in 2020, the year heavily affected by the pandemic. We underscore that this reflects an ongoing trend: a steady decline in numbers of persons arrested for misdemeanors in Harris County. We plan to further investigate possible

explanations for this declining trend in misdemeanors in Harris County, once the data are fully restored and more detailed police data become available.

## 2. Demographic Characteristics of Misdemeanor Defendants

Next, we briefly discuss some of the key demographic characteristics of misdemeanor defendants, such as gender, race, and ethnicity. Harris County follows the U.S. Census Bureau, in adhering to 1997 Office of Management and Budget definitions, in which a person may self-identify as having both race (with categories of White, Black or African American, American Indian or Native Alaskan, Asian, and Native Hawaiian or Other Pacific Islander) and ethnicity (Hispanic, Latino or Spanish).<sup>28</sup> That data may not reflect how a person would self-identify, if they were given the option to select more than one category. Regarding ethnicity, we use the term Latinx throughout this report. As discussed in more detail below, information regarding ethnicity is not required to be filled out and is often not filled out by the Sheriff’s Office. As in Figure 2, the figures below illustrate the sex, race, and ethnic distribution at the person-level.

Figure 3: Sex Distribution of Misdemeanor Defendants



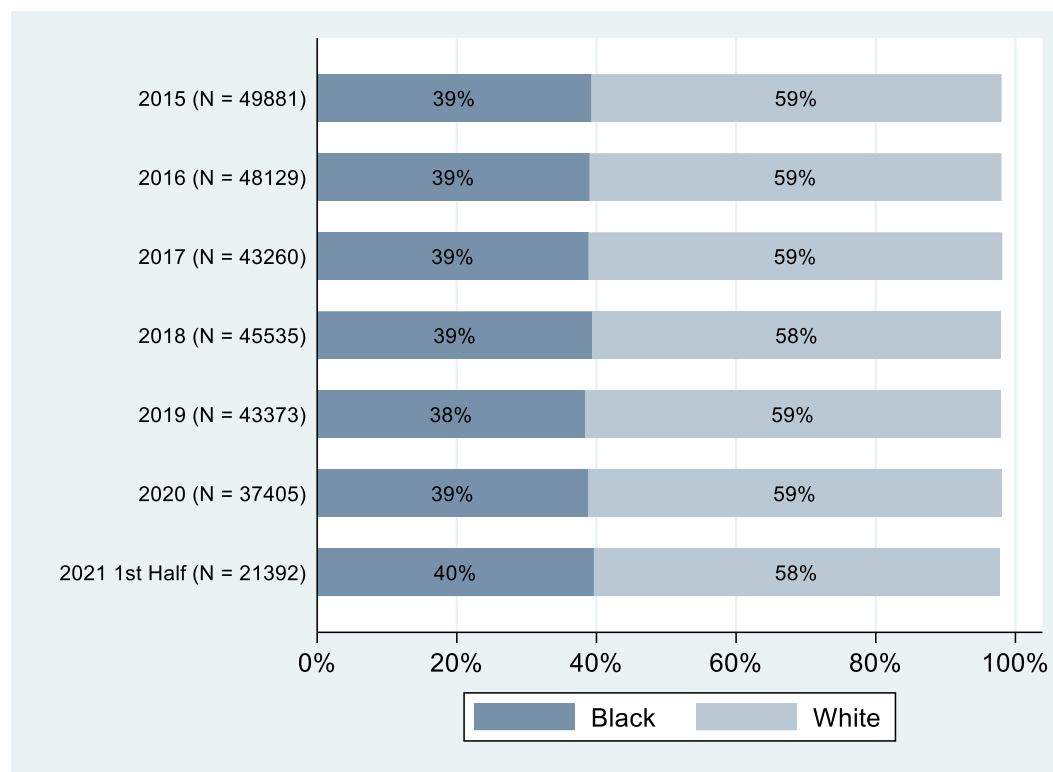
Sex information is available for virtually all misdemeanor defendants in Harris County (99.8%), however gender identity information is not recorded (for example, the HCSO does not record information about persons who identify as non-binary or transgender). We find that people

<sup>28</sup> U.S. Census Bureau, About, at <https://www.census.gov/topics/population/race/about.html>.

coded as males accounted for more than 75 percent of the misdemeanor defendant population in each of the last six years, as well as the first half of 2021. This finding is in line with the well-documented fact that males make up a much larger share of people arrested than females for most types of crime.<sup>29</sup> We also note that, despite of the substantial changes in the misdemeanor bail system in recent years, there has been very little change in the reported sex composition of the misdemeanor defendant population in Harris County.

Next, we examine the racial and ethnic distribution of misdemeanor defendants in Harris County each year since 2015. Among misdemeanor defendants whose race information is observed and recorded by the HCSO (98.4% of the total defendants), nearly 40 percent are Black and 60 percent are White. We find that the recorded racial distribution of misdemeanor defendants in Harris County has been stable over the past years. The impact of the misdemeanor bail reform and COVID-19 pandemic on the gender and race distribution appears to be minimal. However, we note that the percent recorded as Black is nearly twice the percentage of the general population in Harris County (which was 20%, according to the 2019 U.S. Census estimate).<sup>30</sup>

Figure 4: Racial Distribution of Misdemeanor Defendants

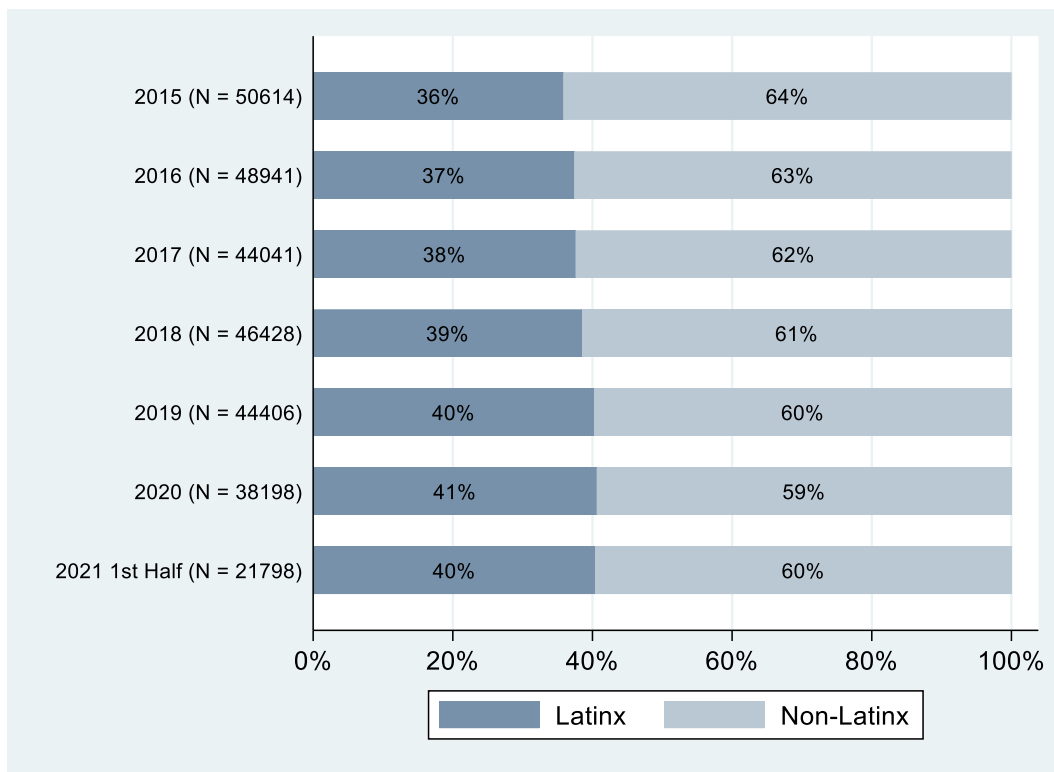


<sup>29</sup> According to the FBI Arrest statistics, in 2019, males accounted for 73 percent of the total arrestees nationwide. See <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/arrest> for more details.

<sup>30</sup> See United States Census Bureau, Quick Facts, Harris County, at <https://www.census.gov/quickfacts/harriscountytexas>.

Unlike sex and race, which are typically recorded, information on defendant ethnicity is often not recorded and missing for more than a half of misdemeanor defendants in the data. This is an important data limitation, especially given that approximately 44 percent of the population in Harris County identify as Latinx.<sup>31</sup> We plan to continue working closely with Harris County to improve the data collection process and collect accurate data on defendant ethnicity. Meanwhile, to address this gap in the historical data, we utilize national-level data on people’s last names and ethnicity, published by the U.S. Census Bureau, and predict the ethnicity of Harris County misdemeanor defendants based on their last names.<sup>32</sup> The prediction results seem to be quite accurate. For more than 140,000 people whose actual ethnicity (Latinx or non-Latinx) is observed in our data, the method correctly predicted their recorded ethnicity more than 94 percent of the time. Based on the prediction results, we present the ethnic composition of misdemeanor defendants in Figure 5. Latinx arrestees accounted for slightly more than one-third (36%) of misdemeanor defendants in 2015, but this share has gradually increased over time, reaching 40 percent in the first half of 2021. This increase may reflect the increasing Latinx share of the Harris County general population, which was almost 44%, according to the 2019 U.S. Census estimate.

Figure 5: Ethnic Distribution of Misdemeanor Defendants



<sup>31</sup> U.S. Census Bureau, Quick Facts: Harris County, Texas, at <https://www.census.gov/quickfacts/fact/table/harriscountytexas,US/PST045219>.

<sup>32</sup> We used the R package wru for this prediction. The package predicts individuals’ race and ethnicity by applying a well-established statistical technique, the Bayes’ Rule, to the U.S. Census Bureau’s Surname List from 2010, which contains information on the racial and ethnic composition associated with each last name.

### 3. Number of Cases that Belong to “Carve-out” Categories

Under Local Rule 9, all misdemeanor arrestees must “have unsecured bail amounts set initially at no more than \$100 and be promptly released on a personal bond with or without other non-financial conditions as soon as practicable after arrest”, except for those who belong to the following “carve-out” categories:

- 9.4.1 Individuals arrested and charged for protective order and bond condition violations.<sup>33</sup>
- 9.4.2 Individuals arrested and charged for domestic violence (namely, assault or terroristic threat against family and intimate partners).
- 9.4.3 Individuals arrested and charged for repeat DWI within the past five years.
- 9.4.4 Individuals arrested and charged with any new offense while on any form of pretrial release.
- 9.4.5 Individuals arrested on a capias issued after a bond forfeiture or bond revocation.
- 9.4.6 Individuals arrested while on any form of community supervision for a Class A or B misdemeanor or a felony offense.

The first three carve-out categories concern the type of offense committed (such as domestic violence and DWI), while the last three concern the individual’s status at the time of an arrest (such as pretrial release and community supervision). These categories are not mutually exclusive, and a single case may belong to more than one carve-out category. For example, an individual arrested for a repeat DWI while under community supervision would belong to the third and sixth carve-out categories at the same time.

At the time of our first report, our misdemeanor case data only contained a brief description of the offense that a defendant was arrested for. Since then, JAD has collaborated with the Office of Court Management for the CCCL (“OCM”) to re-organize and refine the case data, and the information on the number of carve-out cases each year and the carve-out categories they belong to is now available. We are extremely grateful to JAD and OCM data teams for their hard work and cooperation. At the same time, we note that our analysis of carve-out cases is not complete yet, and more work will be done in the future to improve and refine the quality of the data.

Figure 6 presents the share of misdemeanor cases that belong to each of the six carve-out categories. For example, in 2020, 5% of all people in the carve-outs categories were in the “protective order violation” category; 48% of all people in the carve-outs were in the “domestic violence” category; and so on. Some people are in multiple categories, which is why the percentages add up to more than 100%. We observe a gradual increase in the share of all filed misdemeanor cases that fall within the carve-out categories. In 2015, 17% of all cases fell within at least one carve-out category. In 2020, 36% of all cases fell within at least one carve-out category. Moreover, in spite of the steady decline in the number of total misdemeanor cases (Figure 1), the number of carve-out misdemeanor cases has risen from 10,576 in 2015 to 16,333 in 2020.

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<sup>33</sup> We note that noncompliance with conditions of pretrial release is likely more common than is reflected by the number of charges filed for alleged violations of bond conditions because not every observed violation may result in a report of noncompliance.

We note that the first half of 2021 closely resembles 2020 in terms of the share of all cases that fall within the carve-out categories (34% vs. 36%).

Figure 6: Share of Carve-out Misdemeanor Cases by Year

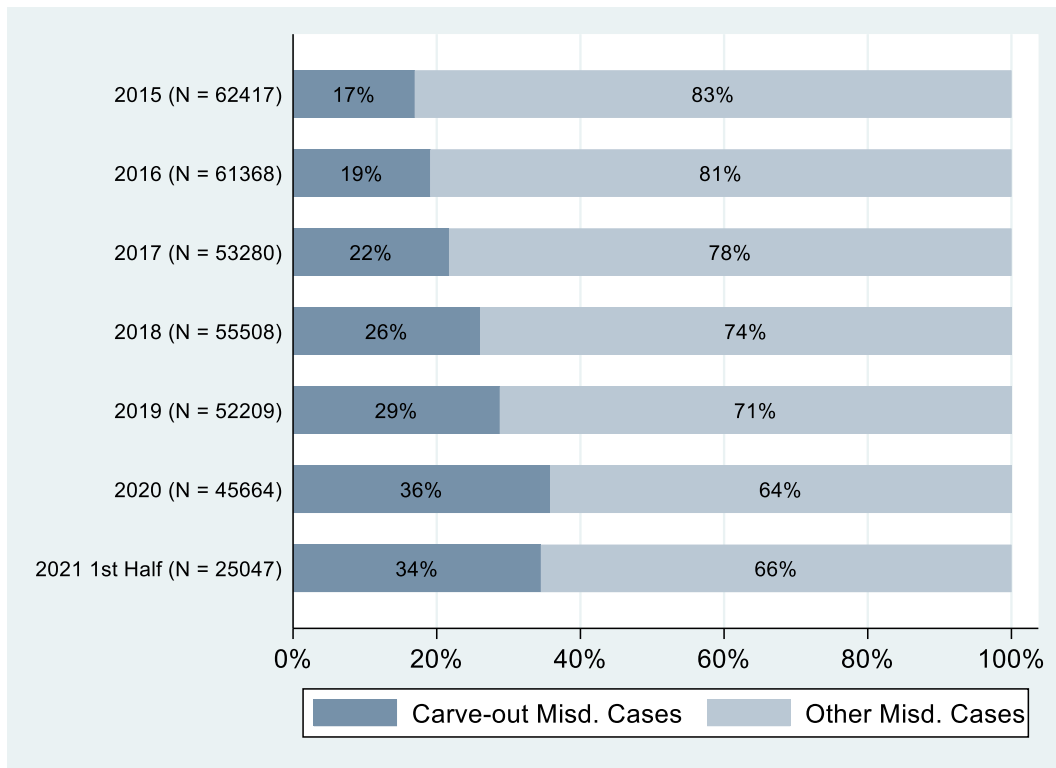


Table 1: Distribution of Carve-out Cases, by Category and Year

Carve-out Category	Year						
	2015	2016	2017	2018	2019	2020	2021 1st Half
Protective Order Violation	3%	3%	3%	3%	3%	5%	5%
Domestic Violence	44%	41%	41%	48%	46%	48%	44%
Repeat DWI	8%	7%	8%	7%	9%	9%	10%
Arrest while out on Bond	25%	33%	34%	35%	40%	38%	27%
Arrest after Bond Failure	23%	30%	32%	34%	40%	45%	50%
Arrest while on Supervision	27%	24%	23%	17%	13%	11%	10%
Number of Carve-out Cases	10576	11709	11565	14455	15015	16333	8640

Table 1 presents the share of misdemeanor cases that belong to each of the six carve-out categories. (Recall that one misdemeanor case may belong to multiple carve-out categories.) For each year between 2015 and 2020, domestic violence (9.4.2) has been the most commonly-observed carve-out category, but arrests made while on bond (9.4.4) or after a bond forfeiture or revocation (9.4.5) also accounted for a sizable number of carve-out cases. During the first half of 2021, these three categories accounted for 44 percent (9.4.2), 50 percent (9.4.5), and 27 percent (9.4.4) of the carve-out cases, respectively.

#### 4. Pretrial Detention and Holds Placed

Next, we examine the length of pretrial detention experienced by persons charged with misdemeanors by taking the time in days between initial booking and release dates. For the current analysis, we focus on the first 7 days of post-arrest detention, which is known to have a substantial impact on the case disposition and subsequent employment outcomes.<sup>34</sup> We acknowledge that some defendants may be detained more than once pretrial (for example, if they are released and then rearrested before the case is resolved), and have been working with the County to obtain information on all bookings and releases associated with each misdemeanor case. In the near future, we plan to incorporate this newly obtained data on all misdemeanor bookings and releases in the analysis to examine the change in the length of total pretrial detention in recent years as well.

We note an important data limitation regarding the booking and release date information. The data on pretrial detention from early years is somewhat incomplete, especially for the years prior to 2019. Even though the total number of misdemeanor cases has clearly declined between 2015 and 2019 (Figure 1), the number of misdemeanor cases involving initial pretrial detention has in fact *increased* during this period of time. This discrepancy is likely to be driven by the fact that, prior to 2019, some arrestees were able to bond out before reaching the Harris County Jail without leaving a booking record, and does not necessarily mean that misdemeanor defendants have become more likely to be detained in recent years.<sup>35</sup>

In spite of this limitation, the currently available data suggests that misdemeanor defendants from recent years are detained for a relatively short period of time compared to their counterparts in prior years. Panel (A) of Table 2 shows that, since 2017, more than 80 percent of misdemeanor cases involves initial pretrial detention of two days or fewer. The share of pretrial detention lasting more than a week also fell from 12 percent in 2017 to 7 percent in the first half of 2021.

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<sup>34</sup> Will Dobbie, Jacob Goldin & Crystal S. Yang, *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, 108 AM. ECON. REV. 201 (2018).

<sup>35</sup> Before 2019, law enforcement agencies would initially transport the arrestees to their local jail or substation and then transport them to the Harris County Jail, but if an individual had a bond amount set in the system, the person could post a surety bond from that location and get released before reaching the Harris County Jail. Since the opening of the Joint Processing Center (JPC) in February 2019, all arrestees are transported by the arresting officer directly to the JPC. Even after the opening of JPC, some of the defendants who are not in custody but have an active warrant are allowed to post unsecured personal bonds (if approved) without being admitted to the JPC's intake section.

To better understand the impact of the misdemeanor bail reform on pretrial detention, it may be helpful to restrict the analysis to misdemeanor cases without co-occurring felonies, as reforms would be unlikely to affect the length of pretrial detention for misdemeanor defendants also charged with a felony offense should be little affected by the reform. In panel (B) of Table 2, we report the distribution of pretrial detention length among misdemeanor defendants without a co-occurring felony. Perhaps not surprisingly, this further increases the share of short pretrial detentions (two days or fewer) and decrease the share of long pretrial detentions (more than seven days). However, the difference seems to be rather modest. Pretrial detentions lasting two days or fewer accounted for 85 percent of all misdemeanor cases in 2020, but this share increases to 87 percent when cases with co-occurring felonies are excluded.

Table 2: Distribution of Pretrial Detention Duration

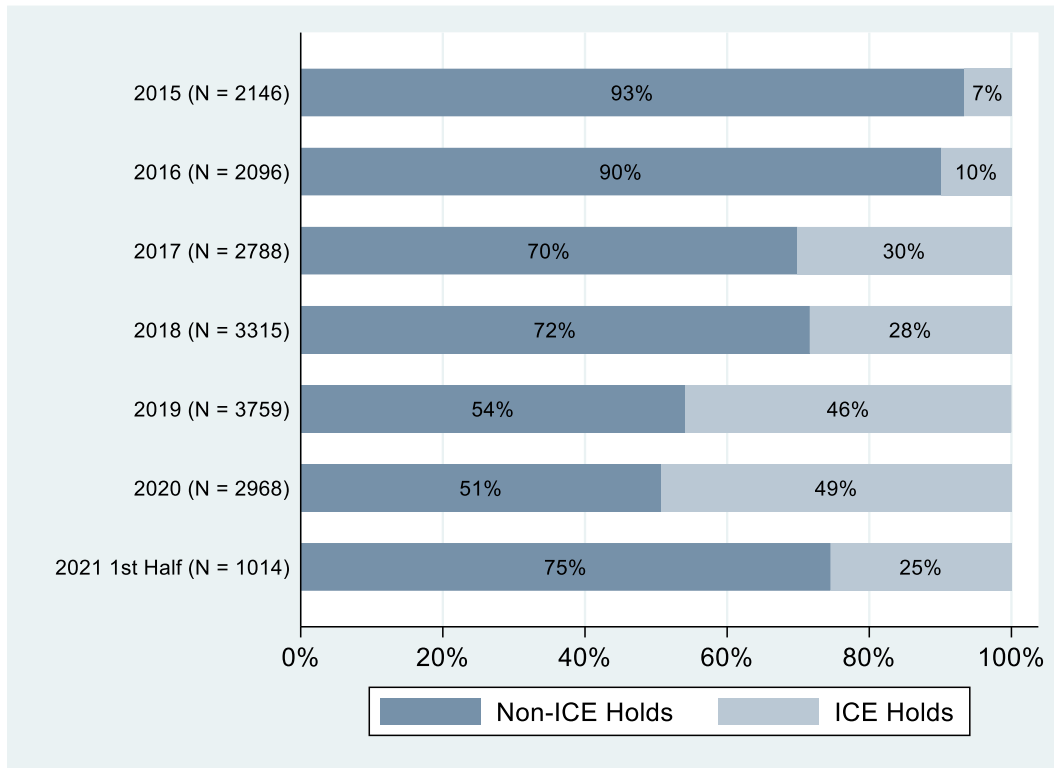
Year	Length of Initial Pretrial Detention			Obs.
	0-2 Days	3-7 Days	> 7 Days	
(A) All Misdemeanor Cases with Initial Booking/Release Dates Observed				
2015	60%	19%	20%	36927
2016	68%	15%	16%	45094
2017	80%	8%	12%	40260
2018	82%	6%	12%	39696
2019	85%	5%	9%	43832
2020	85%	5%	10%	37071
2021 1st Half	89%	5%	7%	20166
(B) Excluding Misdemeanor Cases with Co-occurring Felony				
2015	61%	19%	19%	35859
2016	69%	15%	15%	43719
2017	82%	8%	10%	38744
2018	84%	6%	10%	37963
2019	87%	5%	8%	41641
2020	87%	5%	9%	34056
2021 1st Half	90%	4%	6%	18750

Lastly, we note that a small number of misdemeanor defendants booked near the end of our study period (e.g., June 2021) may not have been released at the time of this writing. They are omitted from the current tabulation because their release dates are not observed and detention length cannot be determined yet. Once they are released and their release dates are observed in the future, the share of misdemeanor cases with longer detention period (more than seven days) will likely increase. But the magnitude of this correction should be small, given that the vast majority of misdemeanor defendants in 2020 were released within a week.



The length of pretrial detention may also be influenced by whether the defendant is subject to an existing hold, which may be placed by other agencies such as the U.S. Immigration and Customs Enforcement (ICE), Texas Board of Pardons and Paroles (BOPP), or law enforcement agencies from other jurisdictions across the country. Figure 7 shows that the number of cases with an active hold at the time of case filing has increased between 2015 (N = 2146) and 2020 (N = 2968) but somewhat declined during the first half of 2021 (N = 1014). On the other hand, we find that the share of ICE holds has gradually increased over time, and now account for nearly one-half of all active holds from 2020.

Figure 7: Share of Misdemeanor Cases with an Active Hold



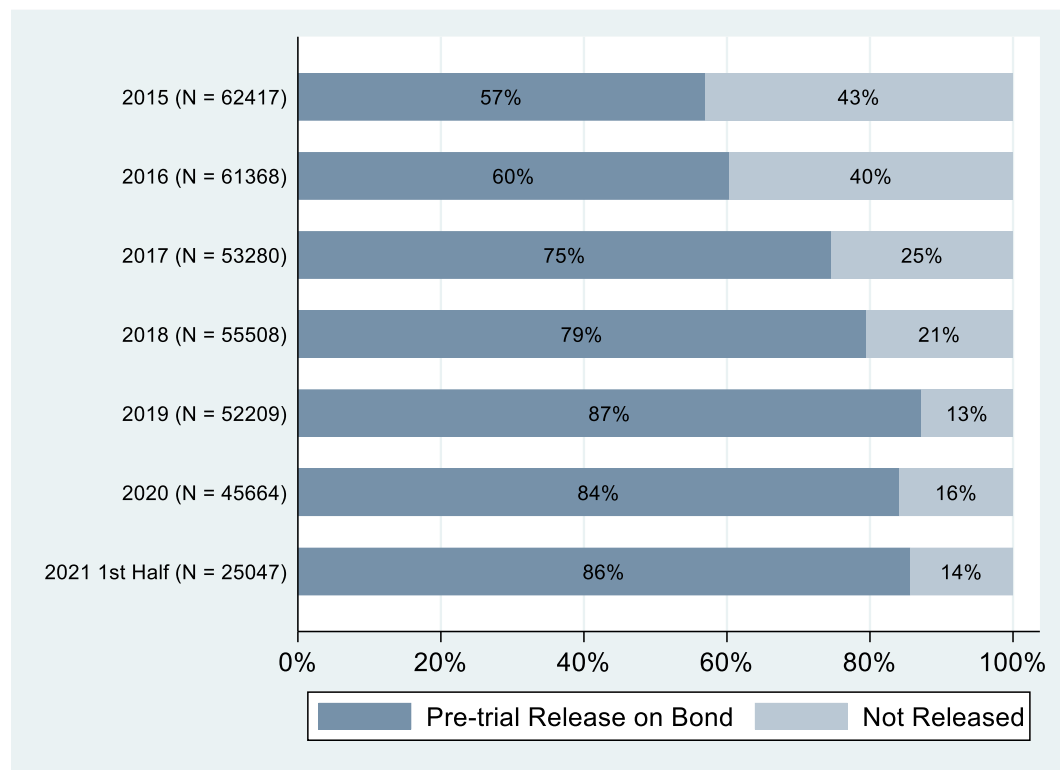
## 5. Initial Bond Decisions

As noted above, one of the most important consequences of Rule 9 is that most misdemeanor arrestees are now released on an unsecured personal bond or general order bond with an initial unsecured bond amount of no more than \$100. We now examine whether the actual bonds filed that are observed in the data are consistent with this requirement. We document the patterns of bond approvals, unsecured bond approvals, and initial bond amounts set for misdemeanor arrestees.

The share of misdemeanor cases in which defendants filed a bond and were released from jail before the first setting is shown in Figure 8. Consistent with the timing of recent bail reforms, the share of defendants who bonded out at the earliest stage of processing when benefits of release

are most impactful has substantially increased since 2017 (the year that the first preliminary injunction was in effect, in June 2017 to August 2018) and continued to rise until 2019 (the year when Rule 9 became effective). Since then, the share has remained largely stable, and defendants were able to bond out before the first setting in approximately 85 percent of misdemeanor cases in 2019, 2020, and the first half of 2021.

Figure 8: Share of Misdemeanor Cases in which Defendants Were Released on a Bond before First Setting

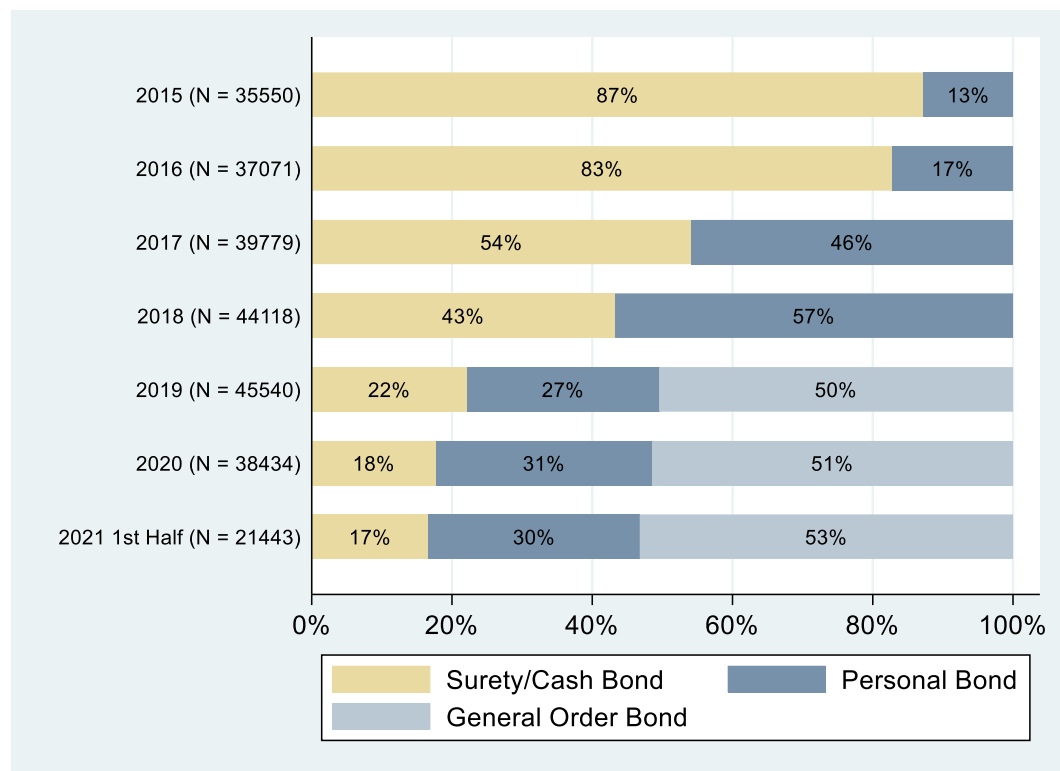


While the overall trend of pretrial release (Figure 8) is informative, it is also important to examine how the bail reforms have changed the types of initial bond approval. Potential financial burdens faced by defendants may vary greatly, depending on whether they are released on a secured surety or cash bond or an unsecured personal or general order bond.

Figure 9 demonstrates that the reforms substantially changed the types of bonds approved for misdemeanor arrestees and lowered their financial burdens. For example, in 2015, only 13 percent of the total initial bond approvals involved unsecured personal bond, and the vast majority of people released pretrial were released on either a cash or surety bond. However, the share of misdemeanor cases with secured surety or cash bonds has drastically declined since then, and unsecured personal bonds and general order bonds accounted for more than 75 percent of initial

bond approvals in 2019 and 2020. The trend continued in the first half of 2021, as personal and general order bonds accounted for 30 percent and 53 percent of all initial bond approvals.

Figure 9: Types of Initial Bond Approvals



The magnitude of financial burden imposed on misdemeanor defendants likely depends on both the type and amount of initial bond set. Even if a bond is approved, and the person is therefore ordered released, a bond amount above what the person can pay will make it impossible for defendants to secure release. Indeed, the district court found that given the prevalence of secured surety and cash bonds prior to the bond reform, it is likely that many misdemeanor defendants routinely remained in jail even though their bonds were approved because they could not afford the set bond amount. Again, Local Rule 9 required most misdemeanor defendants (barring a small number of exceptional cases) to be released with an unsecured bond amount of \$100, and it is important to examine whether this change is in line with the distribution of actual bond amounts set.

In Table 3, we consider misdemeanor cases where the initial bond amount set is observed and compute the distribution of initial bond amount set, regardless of whether the bond was actually filed or not. For this computation, we omit a small number of the cases, where the first observed bond amount is set after the probable cause hearing date or the first setting date. Also dropped from the computation are the cases in which the first observed bond amount was set more than 14 days after the case filing date. From the table, it is evident that the bond reform has drastically reduced the bond amount set initially for most misdemeanor cases. In virtually all misdemeanor cases prior to 2019, the initial bond amount set was \$500 or more—which is

consistent with the bail schedules that were in place during those years. But since then, bond amounts of \$100 or less have become more common, now accounting for nearly 70 percent of the cases in the first half of 2021. The table below includes bond amounts that are both secured and unsecured. Thus, it is likely that some (or many) of the higher bond amounts were associated with unsecured personal bonds.

Table 3: Distribution of Initial Bond Amount Set

Year	\$100 or Less		\$101-\$499		\$500-\$3000		\$3000 or More		Obs.
2015	4	(0.01%)	1	(0.00%)	33515	(60%)	22521	(40%)	56041
2016	14	(0.02%)	7	(0.01%)	34536	(61%)	22489	(39%)	57046
2017	220	(0.46%)	18	(0.04%)	34583	(72%)	13298	(28%)	48119
2018	510	(1.08%)	98	(0.20%)	40909	(86%)	6051	(13%)	47568
2019	29352	(62%)	329	(0.75%)	12932	(27%)	4448	(9%)	47061
2020	26183	(66%)	397	(1.07%)	8402	(21%)	4662	(12%)	39644
2021 1st Half	15040	(68%)	237	(1.13%)	4876	(22%)	1867	(8%)	22020

From the evidence presented so far, it seems that recent bail reforms have significantly changed the patterns of pretrial release and bond approvals, helping more misdemeanor arrestees to be released from jail on a personal or general order bond and substantially reducing their financial burden. A closely related question is whether an increased use of unsecured personal and general order bonds has led to a significant change in non-appearance. Unfortunately, Harris County only began tracking appearance information in December 2020. Prior to that date, the only data that is available is bond forfeiture, bond surrender, and bond revocation data (collectively, “bond failure”).

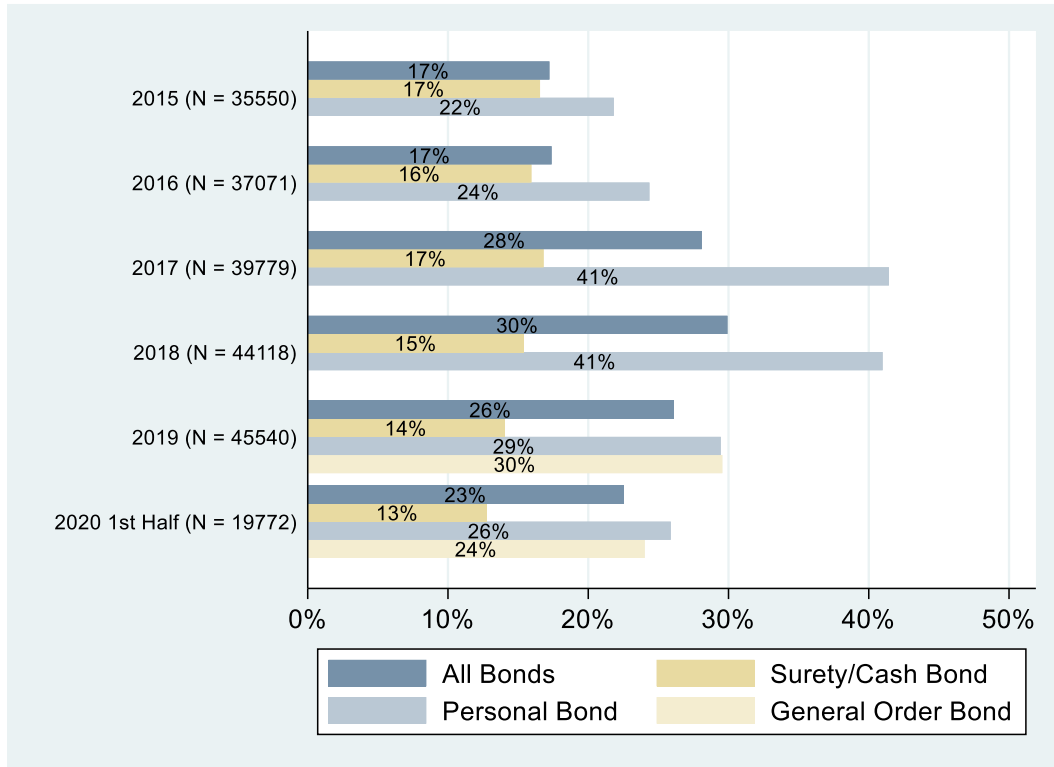
Using the only data available, we computed the share of initial bonds that “failed,” defined here as the bond approvals that resulted in bond forfeiture, bond surrender, or bond revocation within a year of the bond approval date.<sup>36</sup> We underscore, however, that bond-failure data may be a poor proxy for assessing nonappearance and failure to appear rates. Bond forfeiture, bond surrender, and bond revocation all reflect discretionary judicial decisions about whether a person missed court or violated a bond condition and, separately, whether the person’s reasons for doing so warranted a forfeiture, surrender, or revocation. Different judges will make different decisions given the same real-world facts.

In addition to reporting the overall bond failure rate, we also separately report the one-year bond failure rate specific to each bond type, namely, secured surety/cash bond, unsecured personal bond, and general order bond. Note that the bonds approved in the second half of 2020 are dropped from this computation because their one-year failure rate cannot be determined yet. Figure 10 shows the rate of bond failures within 365 days, separately computed for each type of bond. The overall bond failure rate was relatively low in 2015 and 2016 (17%). The rate then rose

<sup>36</sup> It seems that most bond failures take place within the first few months after they are issued. Among all initial bonds in our data that were approved between 2015 and 2019, approximately 50 percent of the bond failures were observed within 43 days of the approval date, and 95 percent of bond failures within 290 days.

to 28 percent in 2017 and 30 percent in 2018, and has gradually declined since then, reaching 26 percent in 2019 and 23 percent in the first half of 2020.

Figure 10: Rate of Bond Failures within 365 Days, by Bond Types



Again, we underscore that bond failure rates presented in Figure 10 reflect both conduct by persons charged with misdemeanors and decisions by individual judges whether to revoke or forfeit a bond, and as a result, this is not an objective measure of appearance or non-appearance, flight, bond violations, or new criminal activity. Beginning in December 2020, a new set of definitions were adopted as the Consent Decree’s court appearance policy was operationalized by OCM, which should facilitate our ability to assess nonappearance and failure to appear. We will no longer have to rely on bond failure data to determine the rates at which people miss court, abscond, or violate bond conditions.

## 6. Case Disposition Outcomes

An important data element newly made available, with many thanks to JAD, is the information on misdemeanor case disposition outcomes. As documented in the previous monitor reports, the Consent Decree has substantially changed the patterns of pretrial detention and bond approval in Harris County, and it is important to examine whether and how these changes translate to the changes in case disposition outcomes. We plan to further explore this new data element and present a more comprehensive analysis on the impact of the reforms on case disposition outcomes in a future report.

Before presenting the results, we note that the numbers presented below reflect case disposition outcomes observed at the time of this writing (through the first half of 2020) and does not include misdemeanor cases filed in the previous years but not disposed yet. This data limitation should be resolved eventually as more cases are disposed over time, but it is possible that disposition outcomes will be systematically different between cases that are disposed quickly and those that take longer. We thus expect the numbers presented below to change slightly once the cases that are taking longer to be disposed can be included in the analysis.

Figure 11: Initial Case Disposition

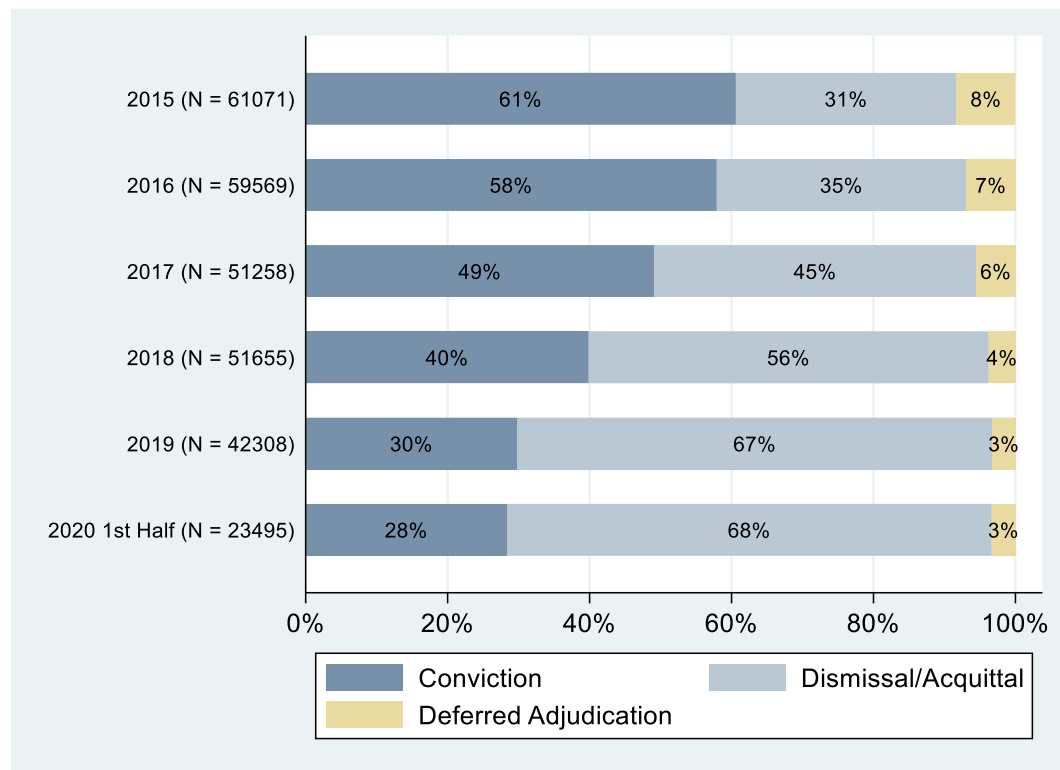
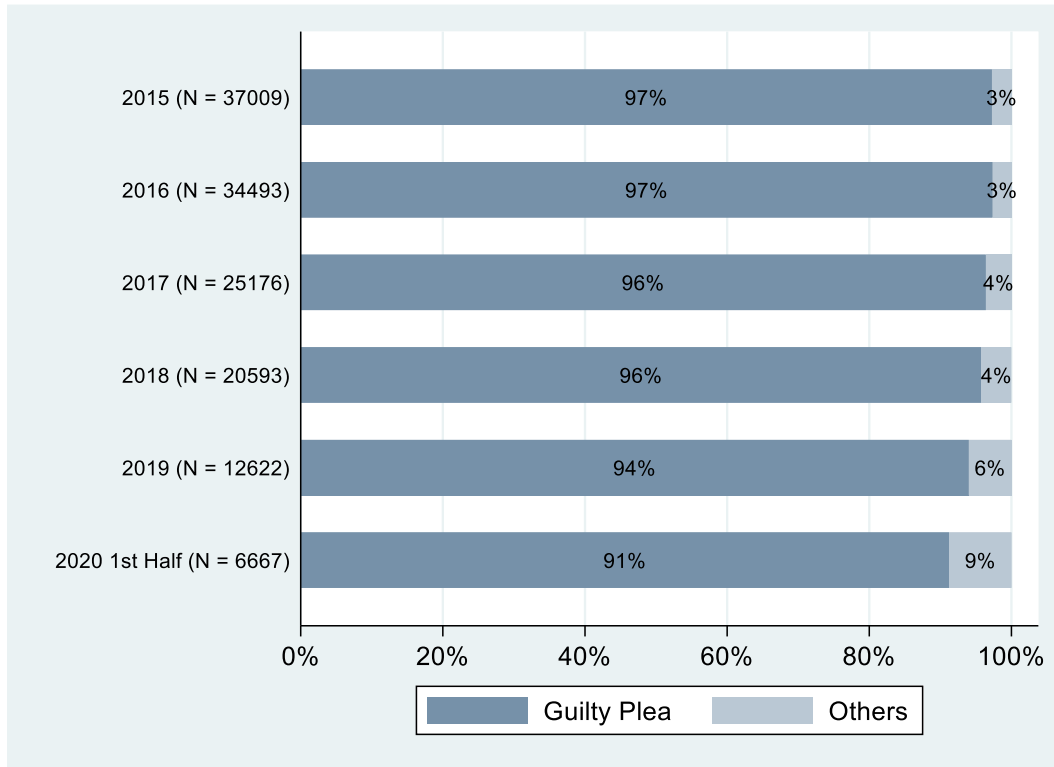


Figure 11 shows that the share of misdemeanor cases resulting in a criminal conviction has significantly declined in recent years. For example, in 2015 and 2016, approximately 60 percent of all misdemeanor cases resulted in a criminal conviction, about one-third were either dismissed or acquitted, and 8 percent of the cases resulted in deferred adjudication, a court-imposed diversion agreement which places the defendant under community supervision. (Unlike probation, deferred adjudication is not considered as a criminal conviction.) By contrast, among misdemeanor cases that were filed in 2019, about two-thirds were dismissed or acquitted, and slightly less than one-third resulted in a conviction. (In practice, acquittals are very rare, accounting for roughly 0.1 percent of all disposed misdemeanor cases between 2015 and the present.) We also note that the share of cases resulting in deferred adjudication has gradually declined since 2015.

Next, in Figure 12, we present the share of misdemeanor cases that resulted in a conviction through a guilty plea. Prior to the preliminary injunction in 2017 and implementation of Rule 9 in 2019, nearly all misdemeanor convictions came from guilty pleas (97 percent in 2015 and 2016).

Since then guilty pleas have become less common, now accounting for about 90 percent of all convicted misdemeanor cases filed in 2020. Overall, Figures 11 and 12 demonstrate that the misdemeanor bail reforms in Harris County led to a notable increase in dismissals and a decrease in guilty pleas.

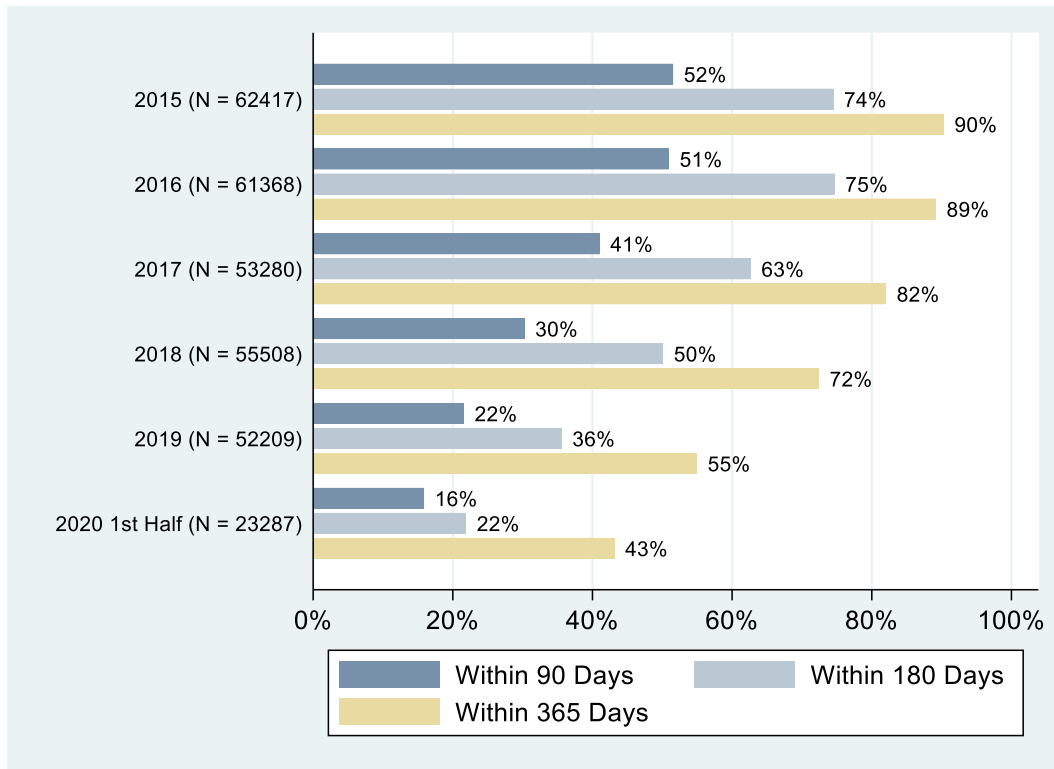
Figure 12: Share of Guilty Pleas among Misdemeanor Convictions



The changes in disposition outcomes may also affect the length of time between case filing and disposition. It is well-documented that the COVID-19 pandemic caused a major disruption in the criminal justice system, substantially increasing the backlog of criminal cases, substantially reducing the setting of trial dates, and lengthening the time between court appearances.

We compute the time in days between case filing and initial case disposition and present the share of cases disposed within 90, 180, and 365 days in Figure 13. Cases filed in recent years tend to remain open for a longer period of time. For example, the share of misdemeanor cases disposed within three months has declined from 52 percent in 2015 to 16 percent in the first half of 2020. Likewise, about 90 percent of the cases filed in 2015 and 2016 were disposed within a year, but this share fell to 43 percent during the first half of 2020. Furthermore, we note that, as of the time of this writing, the disposition outcome is not observed yet for nearly 40 percent of all misdemeanor cases filed during the first half of 2020.

Figure 13: Time in Days between Case Filing and Disposition



## 7. Repeat Offense

Next, we explore the pattern of repeat offenses by persons charged with misdemeanors using several different measures. As in the previous reports, our main measures are the share of *persons* charged with misdemeanors and then with a new offense within a year of the initial case filing date (person-level repeat-offense) and the share of misdemeanor *cases* in which a person was charged with a new crime (case-level repeat-offense) within a year of the initial case filing date.

To obtain the case-level repeat-offense rate, we follow all misdemeanor cases filed during a calendar year and compute the share of cases followed by a new criminal case filing within 90, 180, and 365 days. To compute the person-level repeat-offense rate, we follow all misdemeanor cases filed against the same person during a calendar year and consider whether any of these cases were followed by a new criminal case filing with 90, 180, and 365 days. The case-level rate should be higher than the person-level rate, as multiple cases filed against the same person on the same day will be double-counted under the case-level measure. For example, if a person was charged for two separate offenses on the same day and again charged for a new offense a month later, this is counted as two cases with a new case filed under the case-level measure but a single person with a new case filed under the person-level measure.



We note that our person-level measure of repeat offending closely resembles the one used in the influential study by Heaton, Mayson, and Stevenson, which examined the share of persons charged with misdemeanors and then charged with a new offense within eighteen months of the initial bail hearing.<sup>37</sup> Although the two measures use slightly different dates of reference (initial case filing date vs. initial bail hearing date), both measures prospectively follow each misdemeanor case for a given period of time and look for a new criminal case filed against the same person during this follow-up period.

It is important to note that just because a case is *filed* does not mean that the person is found guilty or convicted. In fact, our analysis shows that 68% of misdemeanor cases are dismissed. Our analysis shows only *new cases filed*. It does not reveal whether the person was actually guilty or convicted of the offense in question.

We also emphasize that both person-level and case-level measures consider all misdemeanor cases as the denominator, regardless of intermediate case outcomes such as pretrial release on a bond. This is noteworthy because separately computing the number of cases filed repeat offenses committed by those who did and did not bond out on a prior charge, for example, confounds the overall trend in new case filings by misdemeanor defendants with the trend in hearing officers' propensity to approve pre-trial release on a bond. As pretrial release on unsecured bond has become more common after the misdemeanor bail reforms took place, all else equal, the number of new cases filed while on unsecured bond should mechanically increase even if there were no actual change in the overall numbers of new cases filed against persons facing misdemeanor charges.

Table 4: Share of Misdemeanor Arrestees with a New Case Filed within 90, 180, and 365 Days

Year	New Case Filed within						Obs.
	90 Days		180 Days		365 Days		
2015	11%	(5592)	16%	(8198)	24%	(11899)	50614
2016	11%	(5493)	16%	(7961)	23%	(11304)	48942
2017	11%	(4798)	16%	(6890)	22%	(9841)	44042
2018	11%	(5106)	16%	(7237)	22%	(10156)	46428
2019	10%	(4623)	15%	(6587)	21%	(9153)	44407
2020 1st Half	11%	(2135)	16%	(3131)	23%	(4610)	20044

Table 4 presents the person-level rate of repeat offense within 90, 180, and 365 days. The share of misdemeanor arrestees who had a new criminal case filed within a year has changed little between 2015 (24%) and the first half of 2020 (23%). We also note that the rate of new cases filed has remained nearly constant across all three time periods considered, namely, 90, 180, and 365 days. Further, the number of misdemeanor arrestees who had a new criminal case filed has steadily decreased, as have the total number of misdemeanor arrestees in each year since 2015. As before,

<sup>37</sup> Paul Heaton, Sandra Mayson & Megan Stevenson, *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 Stan. L. Rev. 711 (2017).

persons arrested for a misdemeanor offense during the second half of 2020 are dropped from this analysis as they cannot be followed up for a year yet.

Table 5 presents the shares of new cases filed within 90, 180, and 365 days of the initial case filing date, measured at the case level. As expected, this case-level measure tends to be somewhat higher than the person-level measure, but the difference is rather modest. For example, 24 percent of misdemeanor cases filed in 2019 were followed by a new criminal case filing within a year, while 21 percent of misdemeanor defendants in 2019 had a new criminal case filed within a year. As in Table 4, the rate of new cases filed at the case-level has remained stable, if not slightly lower, in each year since 2015.

Table 5: Share of Misdemeanor Cases with a New Case Filed within 90, 180, and 365 Days

Year	New Case Filed within			Obs.
	90 Days	180 Days	365 Days	
2015	13% (7908)	19% (11880)	28% (17189)	62417
2016	13% (8045)	19% (11850)	27% (16703)	61368
2017	13% (6935)	19% (10014)	27% (14134)	53280
2018	13% (7210)	19% (10325)	26% (14318)	55508
2019	12% (6127)	17% (8978)	24% (12437)	52209
2020 1st Half	12% (2766)	17% (4058)	25% (5868)	23287

Next, we consider the rate of new cases filed by the type of new offense. First, following the crime categories used in the FBI’s Uniform Crime Reports (UCR), we present in Table 6 the share of persons charged with a misdemeanor offense, who had new cases filed in each of the seven index crimes. Those crimes are: criminal homicide, rape, aggravated assault, robbery, burglary (including breaking and entering), larceny, and motor vehicle theft.

Table 6. Share of Misdemeanor Defendants Arrested for Index Crime within 365 Days

Year	Type of New Offense							Obs.
	Murder	Rape	Agg. Assault	Robbery	Burglary	Theft	MV Theft	
2015	0.12%	0.04%	1.1%	0.9%	1.6%	3.8%	0.6%	50614
2016	0.11%	0.05%	1.4%	0.8%	1.6%	3.4%	0.6%	48942
2017	0.10%	0.05%	1.9%	0.9%	1.9%	3.4%	0.7%	44042
2018	0.14%	0.04%	2.3%	0.9%	2.6%	3.2%	0.7%	46428
2019	0.14%	0.07%	2.9%	1.1%	2.8%	3.3%	0.8%	44407
2020 1st Half	0.20%	0.06%	4.3%	1.4%	2.9%	2.9%	0.9%	20044

Two clear patterns emerge. First, the share of misdemeanor defendants re-arrested for one of the index crimes is very low, especially for criminal homicide and rape. For example, only 0.1 percent and 0.04 percent of misdemeanor defendants from 2015 were re-arrested for criminal homicide and rape within a year, respectively. On the other hand, arrests due to aggravated assault, burglary, and larceny are more common but still relatively rare, observed in 1.1 percent, 1.6 percent, and 3.8 percent of misdemeanor defendants from 2015, respectively.

Second, we find that the rates of re-arrests of persons with prior misdemeanor charges were largely stable until 2019, but the rates of arrests due to index violent crimes (namely, criminal homicide, rape, aggravated assault, and robbery) somewhat increased in 2020. Compared to 2019, the share of persons with prior misdemeanor charges from the first half of 2020 who were arrested for criminal homicide within a year rose from 0.14 percent to 0.20 percent, aggravated assault from 2.9 percent to 4.3 percent, and robbery from 1.1 percent to 1.4 percent. On the other hand, between 2019 and the first half of 2020, the share of persons with prior misdemeanor charges arrested for index property crimes (namely, burglary, larceny, and motor vehicle theft) has remained very similar.

In addition, we also examine the share of persons with prior misdemeanor charges arrested within a year for some of the key non-index offenses, namely, simple assault, drug offense, weapon-related offense, driving under the influence (DWI), and property damage and destruction.<sup>38</sup> Table 7 shows that the rates of arrests of persons with prior misdemeanor charges due to simple assault and property damage and destruction have remained very stable, but the rates of arrests due to weapon-related offense and DWI somewhat increased recently. We also note that the rate of arrests due to a drug-related offense has substantially declined since 2016, which is likely driven by the recent marijuana policy reform implemented by the Harris County District Attorney's Office.<sup>39</sup>

Table 7. Share of Persons Arrested for Other Crime within 365 Days Following a Misdemeanor Case Filed

Year	Type of New Offense					Obs.
	Simple Assault	Drug	Weapon	DWI	Property Damage	
2015	3.0%	7.2%	1.4%	1.4%	0.9%	50614
2016	2.8%	6.9%	1.7%	1.6%	1.0%	48942
2017	3.0%	5.4%	1.6%	1.8%	1.0%	44042
2018	3.1%	5.0%	1.6%	2.1%	0.9%	46428
2019	2.9%	3.7%	1.7%	2.6%	1.1%	44407
2020 1st Half	3.2%	3.8%	2.5%	3.1%	1.2%	20044

<sup>38</sup> Our choice of non-index crime categorization is motivated by and closely follows FBI's National Incident-based Reporting System (NIBRS). We are extremely grateful to JAD for linking each criminal case in the data with a matching NIBRS offense code.

<sup>39</sup> The District Attorney's Office has run the Misdemeanor Marijuana Diversion Program since 2017, which apparently allowed more than 10,000 misdemeanor marijuana offenders to avoid arrest, jail booking, and the filing of a criminal charge, and instead diverted them to an education and rehabilitation program.

So far, we have examined persons with prior misdemeanor charges who are charged with another offense within a year, regardless of the number of additional charges. Even though the share of such persons has remained stable, it is possible that the share arrested for multiple new offenses within a short period of time (“frequent flyers”) has changed. To explore this possibility, we present in Table 8 the breakdown of persons with prior misdemeanor charges arrested for a new offense within 365 days, by the number of new criminal cases filed.

Consider Panel (A) of Table 8 first. We find that the number of persons with prior misdemeanor charges arrested multiple times within a year is quite small. For example, only 1.7 percent of misdemeanor defendants in 2015 were re-arrested for three offenses, 0.6 percent for four offenses, and 0.5 percent for five or more offenses. These percentages have changed little since then. Among persons with prior misdemeanor charges from the first half of 2020, the share of those re-arrested for three, four, and five or more offenses within a year were 2 percent, 0.8 percent, and 0.6 percent, respectively. Likewise, in Panel (B), we find that the share of persons with prior misdemeanor charges arrested for a new misdemeanor offense remained nearly constant, if not lower, since 2015.

Table 8: Share of Misdemeanor Arrestees with a New Case Filed within 365 Days, by Number of New Case Filings

(A) Outcome: Number of New Offenses within 365 Days							
Year	Zero	One	Two	Three	Four	Five or More	Obs.
2015	76%	16%	5.0%	1.7%	0.61%	0.54%	50614
2016	77%	16%	4.7%	1.6%	0.69%	0.58%	48942
2017	78%	14%	4.7%	1.8%	0.63%	0.70%	44042
2018	78%	15%	4.5%	1.7%	0.63%	0.51%	46428
2019	79%	14%	4.2%	1.6%	0.61%	0.49%	44407
2020 1st Half	77%	15%	4.9%	1.9%	0.83%	0.57%	20044
(B) Outcome: Number of New Misdemeanor Offenses within 365 Days							
Year	Zero	One	Two	Three	Four	Five or More	Obs.
2015	83%	13%	2.8%	0.8%	0.31%	0.34%	50614
2016	84%	12%	2.6%	0.8%	0.31%	0.36%	48942
2017	84%	12%	2.7%	0.8%	0.31%	0.45%	44042
2018	85%	11%	2.5%	0.7%	0.28%	0.27%	46428
2019	86%	11%	2.2%	0.6%	0.18%	0.16%	44407
2020 1st Half	86%	11%	2.3%	0.6%	0.20%	0.13%	20044
(C) Outcome: Number of New Felony Offenses within 365 Days							
Year	Zero	One	Two	Three	Four	Five or More	Obs.
2015	89%	8%	1.8%	0.3%	0.05%	0.00%	50614
2016	89%	8%	1.8%	0.3%	0.05%	0.02%	48942
2017	90%	8%	1.9%	0.4%	0.08%	0.03%	44042
2018	89%	8%	1.8%	0.4%	0.09%	0.02%	46428
2019	89%	8%	1.8%	0.5%	0.13%	0.07%	44407
2020 1st Half	87%	10%	2.4%	0.7%	0.24%	0.08%	20044

On the other hand, Panel (C) of Table 8 shows that the share of persons with prior misdemeanor charges arrested for multiple felony offenses slightly increased in the first half of 2020. Compared to 2019, the share from the first half of 2020 re-arrested for three felony offenses increased from 0.5 to 0.7 percent, and the share of those re-arrested for four felony offenses increased from 0.13 percent to 0.24 percent. Similarly, the share of those re-arrested for five or more felony offenses also increased, but such cases remain extremely rare, accounting for less than 0.1 percent of the misdemeanor defendant population. We note, however, that as with new misdemeanor charges, many of these new felony charges may not result in a conviction.

The figures and tables presented so far indicate that 1) the rate of new cases filed among misdemeanor defendants has largely remained stable in recent years, and 2) the rate of new cases filed due to serious violent crimes, such as criminal homicide and aggravated assault, has slightly increased since 2019. However, we emphasize that the overall findings do not provide significant evidence that the risk of a new case filing has increased recently.

To further explore this issue, we turn to an alternative, complementary measure of repeat filings. Specifically, we compute the share of criminal offenses filed against former defendants, by counting the number of criminal cases filed each year that were charged against former defendants (those arrested less than a year from the new case filing date) and dividing it by the total number of criminal cases filed each year. Note that this measure is retrospective, as we start from the new case filing date and go backward, looking for a previous case filed against the same person within one-year period. We restrict this exercise to the seven types of index crimes, which are more likely to impose substantial costs on victims and communities.

Table 9 presents the share of index violent crime cases filed against persons with prior cases in each year since 2015. Panel (A) shows that there were 258 criminal homicide cases during the first half of 2021, which is just about one-half of the total homicide count from 2020, and 31 percent of these homicide cases were filed against individuals who had prior case-filings in less than a year beforehand. More importantly, we find little variation in the share of homicide cases filed against persons previously arrested for a misdemeanor offense less than a year prior, which has remained constant at around 14 percent since 2016. Similarly, 10 percent of forcible rape, 18 percent of aggravated assault, and 24 percent of robbery cases filed in the first half of 2021 were filed against persons who had prior misdemeanor filings. We note that these shares have been gradually declining since 2016, although the decline is steeper for forcible rape. On the other hand, it seems that the risk of repeat offense by persons who had prior felony filings has somewhat increased in 2020 and 2021.

Table 10 repeats the analysis, this time reporting the annual share of index property crime cases filed against persons with prior case filings. As in Table 9, we find that the share of index property crimes charged against persons with prior misdemeanor case filings has remained largely stable since 2016, although new charges filed against persons with prior felony case filings have somewhat increased.

Overall, we find little evidence that the risk of new case filings by persons with prior misdemeanor case filings has changed in recent years. By the time of our next report, one-year of case filing data for all misdemeanor cases from 2020 will become available. With more data available, we plan to continue expanding and refining our analysis of repeat case filings.

Table 9. Share of Index Violent Crimes Filed Against Persons with Cases in the Prior Year

Year	Obs.	Filed against		
		Former Case	Prior Misd. Case	Prior Felony Case
<b>(A) Murder</b>				
2016	432	30%	15%	19%
2017	364	26%	13%	19%
2018	434	27%	14%	19%
2019	415	29%	15%	21%
2020	530	29%	14%	24%
2021 1st Half	258	31%	14%	24%
<b>(B) Rape</b>				
2016	193	29%	18%	18%
2017	167	25%	13%	17%
2018	207	21%	13%	13%
2019	234	22%	11%	12%
2020	252	19%	11%	12%
2021 1st Half	87	18%	10%	14%
<b>(C) Aggravated Assault</b>				
2016	3472	30%	20%	14%
2017	4094	29%	20%	14%
2018	5880	30%	20%	15%
2019	6807	29%	19%	15%
2020	9772	30%	18%	18%
2021 1st Half	5529	31%	18%	20%
<b>(D) Robbery</b>				
2016	1822	45%	27%	28%
2017	1780	46%	25%	31%
2018	1839	47%	27%	31%
2019	2073	51%	27%	34%
2020	2295	52%	27%	38%
2021 1st Half	1057	50%	24%	39%

Table 10. Share of Index Property Crimes Filed Against Persons with Cases in the Prior Year

Year	Obs.	Filed against		
		Prior Case	Prior Misd. Case	Prior Felony Case
<b>(E) Burglary</b>				
2016	2810	43%	30%	21%
2017	2963	45%	32%	22%
2018	3697	44%	32%	20%
2019	4831	44%	32%	22%
2020	4381	46%	32%	27%
2021 1st Half	2143	46%	30%	27%
<b>(F) Larceny</b>				
2016	10203	28%	19%	14%
2017	9312	32%	21%	17%
2018	8983	32%	21%	18%
2019	9202	33%	22%	19%
2020	6556	38%	23%	25%
2021 1st Half	2993	40%	24%	28%
<b>(G) Motor Vehicle Theft</b>				
2016	1084	45%	29%	25%
2017	1098	45%	28%	27%
2018	1144	43%	25%	28%
2019	1325	46%	26%	32%
2020	1410	49%	25%	38%
2021 1st Half	672	50%	25%	40%

Finally, we expand on the above analyses regarding new cases filed, by displaying, in Tables 11 and 12 below, the numbers and percentages of cases in each year from 2015 through the first half of 2020, in which a misdemeanor case was followed by a new case filed, also breaking these down by whether a bond was filed for the initial misdemeanor case and the type of bond filed, if any.<sup>40</sup> These tables highlight how prior to the Rule 9 changes in early 2019, most persons facing misdemeanor charges who had a new case filed, did not receive bond. Many pleaded guilty after being denied bond and being detained in the jail. However, subsequent to the Rule 9 changes, far more persons received bond, and therefore, most who reoffended, received some type of bond. The composition of the bond types among those who had new cases filed changed a great deal as a result of the misdemeanor bail reforms, but as described, the numbers and shares have not.

<sup>40</sup> As before, these bond outcomes reflect whether a bond was filed and the type of bond filed before the first setting.

Table 11. Number of Misdemeanor Cases with New Cases Filed by Bond or No Bond Filed

Year	Bond Filed	Obs.	Number of Misd. Cases with a New Case Filed within					
			(a) 90 Days		(b) 180 Days		(c) 365 Days	
2015	No	26867	5380	(20%)	7719	(29%)	10594	(39%)
2016	No	24297	5337	(22%)	7543	(31%)	10064	(41%)
2017	No	13501	2977	(22%)	4000	(30%)	5266	(39%)
2018	No	11390	2260	(20%)	3080	(27%)	4125	(36%)
2019	No	6669	960	(14%)	1351	(20%)	1808	(27%)
2020 1st Half	No	3515	512	(15%)	688	(20%)	937	(27%)
2015	Yes	35550	2528	(7%)	4161	(12%)	6595	(19%)
2016	Yes	37071	2708	(7%)	4307	(12%)	6639	(18%)
2017	Yes	39779	3958	(10%)	6014	(15%)	8868	(22%)
2018	Yes	44118	4950	(11%)	7245	(16%)	10193	(23%)
2019	Yes	45540	5167	(11%)	7627	(17%)	10629	(23%)
2020 1st Half	Yes	19772	2254	(11%)	3370	(17%)	4931	(25%)

Table 12. Number of Misdemeanor Cases with New Cases Filed by Bond Type or No Bond Filed

Year	Bond Type	Obs.	Number of Misd. Cases with a New Case Filed within					
			90 Days		180 Days		365 Days	
2015	Cash	31032	2260	(7%)	3698	(12%)	5856	(19%)
2016	Cash	30721	2281	(7%)	3608	(12%)	5492	(18%)
2017	Cash	21549	1351	(6%)	2159	(10%)	3378	(16%)
2018	Cash	19087	1277	(7%)	1984	(10%)	2994	(16%)
2019	Cash	10095	720	(7%)	1153	(11%)	1741	(17%)
2020 1st Half	Cash	3569	306	(9%)	476	(13%)	734	(21%)
2015	PR	4518	268	(6%)	463	(10%)	739	(16%)
2016	PR	6350	427	(7%)	699	(11%)	1147	(18%)
2017	PR	18230	2607	(14%)	3855	(21%)	5490	(30%)
2018	PR	25031	3673	(15%)	5261	(21%)	7199	(29%)
2019	PR	12470	1747	(14%)	2593	(21%)	3598	(29%)
2020 1st Half	PR	5714	913	(16%)	1325	(23%)	1905	(33%)
2015	GOB	N/A	N/A		N/A		N/A	
2016	GOB	N/A	N/A		N/A		N/A	
2017	GOB	N/A	N/A		N/A		N/A	
2018	GOB	N/A	N/A		N/A		N/A	
2019	GOB	22975	2700	(12%)	3881	(17%)	5290	(23%)
2020 1st Half	GOB	10489	1035	(10%)	1569	(15%)	2292	(22%)
2015	No Bond	26867	5380	(20%)	7719	(29%)	10594	(39%)
2016	No Bond	24297	5337	(22%)	7543	(31%)	10064	(41%)



2017	No Bond	13501	2977	(22%)	4000	(30%)	5266	(39%)
2018	No Bond	11390	2260	(20%)	3080	(27%)	4125	(36%)
2019	No Bond	6669	960	(14%)	1351	(20%)	1808	(27%)
2020 1st Half	No Bond	3515	512	(15%)	688	(20%)	937	(27%)

### III. Cost Study and Project Management

This section of the Monitor Report reviews the status of two responsibilities assigned to the Public Policy Research Institute at Texas A&M University. Section A presents currently available estimations of costs per event. In Section B we review progress on PPRI’s function tracking progress of the Parties in addressing requirements of the Consent Decree.

#### A. Cost Evaluation

Since the beginning of the monitorship, PPRI has been incrementally working to build a cost model that can quantify at the defendant and case levels the costs associated with criminal processing over time, including before and after the Consent Decree. During this process, detailed budget and case count information has been extracted from official documents and through direct communications with key Harris County departments including the following:

- Community Supervision and Corrections Department
- District Attorney’s Office
- Justice Administration Division
- Office of Management and Budget
- Office of Court Management
- Pretrial Services Department
- Public Defender’s Office
- Sheriff’s Office
- Harris Center for Mental Health and IDD

Based on an iterative process of matching cost-related data to specific defendant experiences, the results presented in Table 13 offer per-person or per-case estimations of the expense associated with each possible path through the justice system. By attaching appropriate cost elements to the case records of individuals with related experience, the Monitor team is creating a powerful tool to see more clearly where changing processes associated with misdemeanor bond reform are reflected in changing system costs. As examples, we can compare cost differentials for homeless or mentally ill defendants versus those without special needs to view the potential savings that might be gained from preventive interventions; we can isolate the characteristics of the most costly criminal cases to determine if a targeted response might improve efficiencies; and we can evaluate financial impacts of new law violations following expanded access to misdemeanor pretrial release.

To standardize the per-event cost estimates presented in Table 13, a single year – Harris County fiscal year, 2019-20, was selected as a marker. Although costs will certainly vary across departments and over years, a common reference point is useful to keep relative costs in stable perspective; moreover, base cost assumptions may be updated intermittently in the future. Harris

County FY20 begins March 1, 2019 and ends February 29, 2020. This timing is also fortuitous because it pre-dates the disruption in criminal justice system and other government processes resulting from the COVID-19 pandemic.

It is important to note that the cost elements presented here are an important milestone, but further work remains before cost models can be fully articulated. Some key underlying electronic database records are not yet fully constructed: pretrial services supervision records, Article 15.17 hearing dates, court appointed counsel, defendant indigence status, and court orders to identify costly events such as competency restoration are not yet available. In addition, data related to felony processing and victim services is still needed to accurately cost future offending resulting from new law violations. Still, articulating the cost basis is an important first step toward model-building.

## **B. Project Management**

PPRI is also charged with maintaining information necessary to manage the monitorship and assure careful tracking of Consent Decree implementation. The project management function is at the operational center of the monitorship, receiving real-time progress updates from the Parties, integrating their work into a comprehensive plan, and communicating status information back to all sectors involved. We owe a debt to the Justice Administration Division team for assisting with this work and for keeping us apprised of progress being made in departments across the County. A status summary of Consent Decree requirements due in this reporting period is presented in Appendix D.

Table 13. FY 19-20 Cost per Event for Harris County Criminal Case Processes

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
DAO Case Screening/Intake	<b>\$4,951,379</b>	<b>95,023 cases filed (147,282 screened)</b>	<b>\$52 per filed case  (\$34 per screening)</b>
	<u>Numerator Detail:</u> FY20 DAO felony and misdemeanor case screening/intake staff cost	<u>Denominator Detail:</u> All felony and misdemeanor cases filed in FY20. Because there is no database record for approx. 52,259 declined charges, those screening costs are allocated to filed cases.	
Booking	<b>\$49,788,880</b>	<b>105,582 cases booked</b>	<b>\$472 per case/intake</b>
	<u>Numerator Detail:</u> FY20 JPC Operating Cost (\$34,764,198) + City of Houston JPC Contract (\$15,024,682)	<u>Denominator Detail:</u> All felony and misdemeanor cases booked in FY20 including initial and subsequent bookings	
Pretrial Screening	<b>\$5,494,734</b>		
	<u>Numerator Detail:</u> FY20 Pretrial Services annual screening cost reported in FY20-21 HCTX budget planning documents.	<u>Denominator Detail:</u> Felony and misdemeanor defendants screened in PTS 2019 Annual Report <sup>41</sup> allocated proportionally by bond types.	
GOB Bond (felony and misd.)	Weighted @ .25 screening hours	<b>11,202 people screened</b>	<b>\$33 per person/intake</b>
Other Bond	Weighted @ 1 screening hour	<b>21,859 people screened</b>	<b>\$132 per person/intake</b>
No bond set	Weighted @ .75 screening hours	<b>234 people screened</b>	<b>\$99 per person/intake</b>

<sup>41</sup> See Harris County Pretrial Services 2019 Annual Report, available at: <https://pretrial.harriscountytexas.gov/Pages/Annual-Reports.aspx>, pgs. 14-17.

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
Article 15.17 Court Hearing	<b>\$2,170,232</b>	<b>48,851 cases heard</b>	<b>\$44 per case heard</b>
	<u>Numerator Detail:</u> FY20 hearing officer cost (\$2,170,232)	<u>Denominator Detail:</u> All felony and misdemeanor cases with a 15.17 hearing in FY20	
PDO Defense at Article 15.17 Hearing	<b>\$1,351,918</b>	<b>48,851 cases heard</b>	<b>\$28 per case heard</b>
	<u>Numerator Detail:</u> Average of state FY19 and FY20 cost for 15.17 attorneys and admin support staff.	<u>Denominator Detail:</u> All felony and misdemeanor cases with a 15.17 hearing in FY20	
DAO Prosecution at Article 15.17 Hearing	<b><i>Data not provided</i></b>	<b>48,851 cases heard</b>	<b>TBD</b>
		<u>Denominator Detail:</u> All felony and misdemeanor cases with a 15.17 hearing in FY20	
CCCL Court Setting	<b>\$18,627,636</b>	<b>348,413 case settings in CCCL Court</b>	<b>\$53 per setting/case</b>
	<u>Numerator Detail:</u> FY20 CCCL court staff costs (\$9,834,158) + Sheriff's bailiff costs (\$8,793,478)	<u>Denominator Detail:</u> FY20 misdemeanor cases set in CCCL court	
Misdemeanor Trial Court Prosecution	<b>\$10,109,999</b>	<b>348,413 CCCL case settings (52,663 misdemeanor cases)</b>	<b>\$29 per CCCL case setting (\$192 per misdemeanor case)</b>
	<u>Numerator Detail:</u> FY20 DAO misdemeanor trial bureau staff cost	<u>Denominator Detail:</u> FY20 court settings for misdemeanor cases. Case cost is weighted by number of settings in order to allocate more cost to more complex cases with more settings.	

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
Court-Appointed Counsel <sup>42</sup>	<u>Numerator Detail:</u> Average cost of public defender, private assigned, and contract counsel in state FY19 and FY20	<u>Denominator Detail:</u> Average number of court-appointed cases paid in state FY19 and FY20	
Misdemeanor Attorneys	<b>\$11,230,799</b>	<b>26,299</b>	<b>\$427 per case</b>
Felony Defense Attorneys	<b>\$49,738,741</b>	<b>52,110</b>	<b>\$955 per case</b>
Misdemeanor Investigation	<b>\$133,325</b>	<b>26,299</b>	<b>\$5 per case</b>
Felony Investigation	<b>\$4,136,226</b>	<b>52,110</b>	<b>\$78 per case</b>
	<b>\$462,676</b>	<b>150 participants (est.)</b>	
Specialty Court Treatment <sup>43</sup>	<u>Numerator Detail:</u> Average FY15-20 CCCL Sober Court treatment cost paid by OCM to CSCD (\$112,676 annually) + grant funds received from the Office of the Governor (\$350,000 annually)	<u>Denominator Detail:</u> Estimated average annual enrollment in CCCL Sober Court. Costs are based on average number of participants irrespective of program completion.	<b>\$3,084 per participant</b>
	<b>\$1,645,480</b>	<b>12,591 in-jail evaluations</b>	
Article 16.22 Mental Health Evaluation	<u>Numerator Detail:</u> FY20 amount of Harris Center invoices to HCTX for in-jail Art. 16.22 evaluations <sup>44</sup>	<u>Denominator Detail:</u> Felony and misdemeanor cases with an in-jail Article 16.22 Mental Health Evaluation invoiced by Harris Center for services in FY20	<b>\$131 per evaluation</b>
	<b>\$835,433</b>	<b>1,493 evaluations</b>	
Mental Health Competency Evaluation	<u>Numerator Detail:</u> FY20 amount of Harris Center contract with HCTX to conduct mental health competency evaluations	<u>Denominator Detail:</u> Felony and misdemeanor competency and sanity evaluations under Harris Center contract in FY20	<b>\$534 per evaluation</b>

<sup>42</sup> See <https://smartdefense.pprinet.tamu.edu/>. In order to allocate cost in proportion to attorney type and case complexity Ideally, it will be possible to get actual indigent defense cost per case to replace the currently available averages.

<sup>43</sup> Cost of specialty court treatment is estimated based SOBER Court (CCCL Court 17). The same estimation will be applied to CCCL Veteran's Treatment Court; all VTC treatment costs are paid by the Veteran's Administration.

<sup>44</sup> Article 16.22 Mental Health Evaluations conducted by Harris Center for people on bond will be increased by a pro-rated amount of \$105,970 paid by Harris County Courts to support two full-time staff to locate defendants and arrange for the evaluation in the community.

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
Mental Health Competency Restoration	<u>Numerator Detail:</u> FY20 amount of Harris Center invoices to HCTX for competency restorations	<u>Denominator Detail:</u> Felony and misdemeanor defendants with competency restored	
Residential	<b>\$4,328,736</b>	<b>98 participants</b>	<b>\$44,170 per restoration</b>
Outpatient	<b>\$458,219</b>	<b>303 participants</b>	<b>\$1,512 per restoration</b>
In-Jail	<b>\$871,500</b>	<b>7,300 bed days/year</b>	<b>\$119 per treatment bed day</b>
Jail Mental Health Treatment	<u>Numerator Detail:</u> FY20 amount of Harris Center contract for mental health care provided in jail	<u>Denominator Detail:</u> Felony and misdemeanor defendants receiving in-jail mental health treatment in FY20	
Acute Segregated	<b>\$2,055,864</b>	TBD <sup>45</sup>	TBD
General Population	<b>\$5,928,463</b>	TBD	TBD
Jail Detention	<b>\$236,858,344</b>	<b>3,208,562 person-days</b>	<b>\$74 per jail person-day</b>
	<u>Numerator Detail:</u> FY20 Harris County Jail housing (\$167,911,760) + medical costs (\$68,946,584)	<u>Denominator Detail:</u> Jail person-days including felony, misdemeanor, pretrial, and post disposition defendants.	
Pre-Charge Emmett Center Mental Health Diversion	<b>\$3,502,323</b>	<b>1,721 admissions</b>	<b>\$2,035 per admission</b>
	<u>Numerator Detail:</u> FY20 Harris Center contract to operate the Emmett Center	<u>Denominator Detail:</u> Pre-charge misdemeanor diversions to Emmett Center at DAO screening in FY20	
Pre-Charge JPC Diversion Desk Mental Health Diversion	<b>\$582,135</b>	<b>91 referrals</b>	<b>\$6,397 per referral</b>
	<u>Numerator Detail:</u> FY20 Harris Center contract to operate the JPC Diversion Desk	<u>Denominator Detail:</u> Pre-charge misdemeanor diversion diversions to Emmett Center from JPC in FY20	

<sup>45</sup> Indicators of defendant mental health or housing status are not currently available pending completion of a data-sharing agreement between Harris County and the Monitor team.

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
Pre-Charge Misdemeanor Marijuana Diversion	<b>\$833,250 (\$309,750 paid by defendants)</b>	<b>3,490 registrations (2,065 paid fees)</b>	<b>\$150 per registration</b>
	<u>Numerator Detail:</u> Of an average 3,490 MMDP registrants in FY19 and FY20, an average 2,065 paid the \$150 fee	<u>Denominator Detail:</u> Average MMDP program registrations in FY19 and FY20	
DWI Pretrial Intervention <sup>46</sup>	<b>\$3,698,993 (\$1,585,519 paid by defendants)</b>	<b>2,239 registrations (507 paid full fees; 905 paid partial fees est.@ 50%)</b>	<b>\$1,652 per participant</b>
	<u>Numerator Detail:</u> Of an average 2,239 DWI-PTI diversion registrations in FY19 and FY20, an average 507 paid the full \$1,652 fee	<u>Denominator Detail:</u> Average DWI-PTI Diversion registrations in FY19 and FY20	
Retail Theft Diversion	<b>\$181,870 (\$78,650 paid by defendants)</b>	<b>794 registrations (605 paid fees)</b>	<b>\$130 per registration</b>
	<u>Numerator Detail:</u> Of an average 794 Retail Theft Diversion registrants in FY19 and FY20, an average 605 paid the \$130 fee	<u>Denominator Detail:</u> Average Retail Theft Diversion registrations in FY19 and FY20	
Clean and Green Diversion	<b>\$260,640 (\$111,120 paid by defendants)</b>	<b>623 completions (463 paid fees)</b>	<b>\$240 per registration</b>
	<u>Numerator Detail:</u> Of an average 623 Clean and Green diversion completions in FY19 and FY20, an average 623 paid the \$240 fee	<u>Denominator Detail:</u> Average Clean and Green Diversion completions in FY19 and FY20	

<sup>46</sup> DWI Pretrial Intervention program fees include: \$65 one-time probation fee + \$300 DA fee + \$300 CSCD assessment fee + 3.5 UAs @ \$7.81 ea. + 12 mos. alcohol monitoring: Interlock @ \$80/mo. or SCRAM @ \$318/mo. The DA fee supports two administrative staff at a total cost of \$145,280 in FY20.

<b>COST OF...</b>	<b>NUMERATOR</b>	<b>DENOMINATOR</b>	<b>COST PER EVENT</b>
	<b>\$4,900,709</b>	<b>Est. 5,070,215 person-days</b>	<b>Est. \$1 per monitoring person-day</b>
Pretrial Monitoring	<u>Numerator Detail:</u> FY20 Pretrial Services monitoring cost	<u>Denominator Detail:</u> October 31, 2019 daily caseload snapshot (13,891 cases) x 365 days/year = estimated number of supervision person-days.	
Supervision Conditions	<u>Numerator Detail:</u> Daily device rates are taken from a March 17, 2020 plan to transition secured bond supervision from CSCD to PTS.	<u>Denominator Detail:</u> Defendant counts are taken from the 2017 PTS Annual Report, Tables III C (pg. 21), "Conditions Required of Defendants" and IV B6 (pg. 24) "Laboratory Urinalysis"	
Status Check Only	\$0	1,041 people	No defendant cost
Weekly In-person Reporting	\$0	154 people	No defendant cost
Vehicle Breath Alcohol Analysis	\$2.65/day	1,525 people	Prior to 2019, PTS provided interlock service and was reimbursed by defendants. Now PTS pays the contracted service provider. Defendants pay a \$10/month statutory fee to compensate PTS for time reviewing reports.
Portable Breath Alcohol Analysis	\$5.95/day	801 people	Payment is arranged directly between the defendant and the monitoring device provider. SCRAM devices are no longer paid by defendants, but vendor is paid by PTS.
Electronic Monitoring	\$2.55/day (radio frequency) \$3.71/day (GPS)	504 people	PTS contracts to pay EM providers and PTS requests defendant reimbursement but no consequence for inability to pay.
Urinalysis Drug Tests	\$9.50/test	19,190 tests administered	PTS contracts to pay test providers; the department requests defendant reimbursement but no consequence for inability to pay.



COST OF...	NUMERATOR	DENOMINATOR	COST PER EVENT
DAO Victim Services	<b>\$1,918,476</b>	<b>16,701 victim contacts</b>	<b>\$115 per victim contact</b>
	Numerator Detail: FY20 Adjusted Budget amount for DAO Victims Services Division	Denominator Detail: Number of direct victim contacts between Oct. 1, 2019 and Sept 30, 2020. A count of victims by offense category will be requested to improve accuracy of victim services cost allocation.	(We anticipate acquiring cost per victim served by offense category to improve cost allocation)

DEFENDANT COSTS	SOURCE	SUMMARY	COST PER EVENT
Defendant Costs	Baughman, S. B. (2017). Costs of pretrial detention. <i>BUL Rev.</i> , 97, 1.	Baughman reviews costs of pretrial detention to detainees and to society and cites many of the following articles quantifying costs to defendants.	
Loss of Freedom	Abrams, D. S., & Rohlfs, C. (2011). Optimal bail and the value of freedom: Evidence from the Philadelphia bail experiment. <i>Economic Inquiry</i> , 49(3), 750-770.	Researchers calculated the cost of detention to defendants using a revealed preference approach based on bail-posting decisions. The typical defendant is willing to pay \$1,000 for 90 days of freedom (i.e., \$11/day) in 2003 dollars.	<b>\$15.47/day detained (2020 dollars)</b>
Loss of Earnings Due to Pretrial Detention	QuickFacts, U.S. Census Bureau, <a href="https://www.census.gov/quickfacts/fact/table/harriscountytexas,US/PST045219">https://www.census.gov/quickfacts/fact/table/harriscountytexas,US/PST045219</a>	2019 per capita income in Harris County @ \$32,765/365 days per year = Est. \$90/day in lost income for non-indigent Harris County defendants while in pretrial detention.	<b>\$90/day detained lost income for non-indigent defendants</b>

DEFENDANT COSTS	SOURCE	SUMMARY	COST PER EVENT
Loss of Housing	Pogrebin, M., Dodge, M., & Katsampes, P. (2001). The collateral costs of short-term jail incarceration: The long-term social and economic disruptions. <i>Corrections Management Quarterly</i> , 5, 64-69.	While in detention, 23% of misdemeanants detained 60+ days forfeit \$1,565 in lost and new housing deposits in 2001 dollars.  In 2020 dollars: $\$2,288 * 23\% = \$526$ if detained 60+ days	<b>\$526 per person per 60-day detention (2020 dollars)</b>
Loss of Family Benefits	Blanchflower, D. G., & Oswald, A. J. (2004). Well-being over time in Britain and the USA. <i>Journal of public economics</i> , 88(7-8), 1359-1386.  Glaze, L. E., & Maruschak, L. M. (2010). Bureau of Justice Statistics. <i>US Dep't of Justice, Parents in Prison and Their Minor Children</i> .	\$100,000/year in 1990 dollars would be required to financially compensate for the loss of a marriage; 17% of federal inmates are married.  In 2020 dollars: $(\$198,019/365) * 17\% = \$92$	<b>\$92/day detained (2020 dollars)</b>
Tangible Costs of Violent / Sexual Assault in Detention	Beck, A., Berzofsky, M., Caspar, R., & Krebs, C. (2013). Sexual victimization in prisons and jails reported by inmates, 2011–12.  Miller, T., Cohen, M., & Wiersema, B. (1996). The extent and costs of crime victimization: A new look. <i>NCJ</i> , 155281.	3.2% of jail inmates report 1 or more violent or incidents of sexual victimization  Victimizations amount to \$1,632/incident (1990 dollars) in tangible costs and an additional \$81,400 in intangibles.  In 2020 dollars: $\$3,232 * 3.2\% = \$103$ tangible costs on average	<b>\$103 per person per detention (2020 dollars)</b>
Loss of Earnings Due to Conviction	Craigie, T. A., Grawert, A., & Kimble, C. (2020). Conviction, Imprisonment, and Lost Earnings. <i>Brennan Center for Justice</i> .	Average earnings of person with misdemeanor conviction is \$26,900. Average earnings of non-convict peers: \$32,000. Cost of conviction: 16% discount on annual earnings	<b>\$5,100/year lost earnings</b>

VICTIM COSTS	SOURCE	SUMMARY
Victim Cost Per Incident	Miller, T. R., Cohen, M. A., Swedler, D. I., Ali, B., & Hendrie, D. (2020). Incidence and costs of personal and property crimes in the United States, 2017. SSRN Electronic Journal.  Cited in: Cohen, M. A. (2020). <i>The costs of crime and justice</i> . Routledge.	Victim incident cost includes medical, mental health, productivity, property, and quality of life costs (2017 dollars).
Offense Category	2017 dollars originally reported	2020 dollars
Murder	\$6,953,152	\$7,341,488
Rape, no child sex abuse	\$163,377	\$172,502
Police-reported	\$244,514	\$258,170
Other sexual assault	\$62,837	\$66,347
Robbery	\$19,277	\$20,354
Police-reported	\$25,179	\$26,585
Assault	\$17,480	\$18,456
Police-reported	\$18,661	\$19,703
Intimate partner violence	\$21,908	\$23,131
Child maltreatment	\$58,464	\$61,729
Arson	\$28,086	\$29,654
Impaired driving crash	\$82,471	\$87,077
Burglary	\$1,664	\$1,757
Police-reported	\$2,921	\$3,084
Larceny/theft	\$480	\$507
Police-reported	\$1,083	\$1,144
Motor vehicle theft	\$6,316	\$6,669
Police-reported	\$7,336	\$7,746
Fraud	\$1,912	\$2,019
FTC survey	\$2,736	\$2,888
Identity theft	\$714	\$754
Vandalism	\$390	\$412
All violent crime	\$65,760	\$69,433
Impaired driving crash	\$82,471	\$87,077
All nonviolent crime	\$1,682	\$1,776
All personal crime	\$17,191	

#### **IV. Our Work in the Next Six Months**

Much of the central architecture of misdemeanor bail reform is now in place. However, implementation of a range of policies will occur in the next time period, including studying court nonappearance, electronic notification and scheduling options, and ongoing training. We note that additional data analysis will occur in the months ahead, together with feedback on Harris County's work creating a fully functional data portal for misdemeanor cases. We look forward to upcoming community working group meetings and public meetings.

We look forward to feedback on this report and the opportunity to continue to serve in this role. We are very grateful for the opportunity to serve as Monitor in this important Consent Decree.

## APPENDIX

### A. Monitor Team Bios

#### University of Houston Law Center

**Sandra Guerra Thompson** is the Newell H. Blakely Chair at the University of Houston Law Center. She chaired committees for the transition teams of Houston Mayor Sylvester Turner in 2016 and Harris County District Attorney Kim Ogg in 2017. In 2012, Houston Mayor Annise Parker appointed her as a founding member of the Board of Directors of the Houston Forensic Science Center, Houston's independent forensic laboratory which replaced the former Houston Police Department Crime Laboratory. In 2015, she became the Vice Chair for this Board and served until 2019. In 2009, she was appointed by Governor Perry as the representative of the Texas public law schools on the Timothy Cole Advisory Panel on Wrongful Convictions. Her scholarly articles address issues such as pretrial hearings and prosecutorial ethics, the causes of wrongful convictions, forensic science, sentencing, jury discrimination, and police interrogations. Professor Thompson is an elected member of the American Law Institute and was appointed to the Board of Advisors for the Institute's sentencing reform project. Since 2019, she is an elected member of the Council of the International Association of Evidence Science.

#### Duke University

**Brandon L. Garrett** is the L. Neil Williams Professor of Law at Duke University School of Law, where he has taught since 2018. He was previously the Justice Thurgood Marshall Distinguished Professor of Law and White Burkett Miller Professor of Law and Public Affairs at the University of Virginia School of Law, where he taught since 2005. Garrett has researched use of risk assessments by decisionmakers as well as large criminal justice datasets, examining how race, geography and other factors affect outcomes. Garrett will contribute to research design, data analysis plans, and analysis of legal and policy implications of findings, as well as engagement with policymakers. Garrett's research and teaching interests include criminal procedure, wrongful convictions, habeas corpus, scientific evidence, and constitutional law. Garrett's work, including several books, has been widely cited by courts, including the U.S. Supreme Court, lower federal courts, state supreme courts, and courts in other countries. Garrett also frequently speaks about criminal justice matters before legislative and policymaking bodies, groups of practicing lawyers, law enforcement, and to local and national media. Garrett has participated for several years as a researcher in the Center for Statistics and Applications in Forensic Science (CSAFE), as well as a principal investigator in an interdisciplinary project examining eyewitness memory and identification procedures. Garrett founded and directs the Wilson Center for Science and Justice at Duke.

**Marvin S. Swartz, M.D.** is the Professor and Head of the Division of Social and Community Psychiatry, Director of Behavioral Health for the Duke University Health System and Director of the Duke AHEC Program. Dr. Swartz has been extensively involved in research and policy issues related to the organization and care of mentally ill individuals at the state and national level. He was a Network Member in the MacArthur Foundation Research Network on Mandated Community Treatment examining use of legal tools to promote adherence to mental health

treatment and led the Duke team in conducting the first randomized trial of involuntary outpatient commitment in North Carolina and the legislatively mandated evaluation of Assisted Outpatient Treatment in New York. He co-led a North Carolina study examining the effectiveness of Psychiatric Advance Directives and the NIMH funded Clinical Antipsychotics Trials of Intervention Effectiveness study. He is currently a co-investigator of a study of implementation of Psychiatric Advance Directives in usual care settings, an evaluation of implementation of assisted outpatient treatment programs and a randomized trial of injectable, long-acting naltrexone in drug courts. Dr. Swartz has done a range of work regarding diversion from jail, including among populations of co-occurring substance abuse and mental health disorders. Dr. Swartz was the recipient of the 2011 American Public Health Association's Carl Taube Award, the 2012 American Psychiatric Association's Senior Scholar, Health Services Research Award for career contributions to mental health services research and the 2015 Isaac Ray Award from the American Psychiatric Association for career contributions to forensic psychiatry.

**Philip J. Cook, ITT/Sanford Professor of Public Policy and Professor of Economics and Sociology at Duke University.** Cook served as director and chair of Duke's Sanford Institute of Public Policy from 1985-89, and again from 1997-99. Cook is a member of Phi Beta Kappa, and an honorary Fellow in the American Society of Criminology. In 2001 he was elected to membership in the Institute of Medicine of the National Academy of Sciences. Cook joined the Duke faculty in 1973 after earning his PhD from the University of California, Berkeley. He has served as consultant to the U.S. Department of Justice (Criminal Division) and to the U.S. Department of Treasury (Enforcement Division). He has served in a variety of capacities with the National Academy of Sciences, including membership on expert panels dealing with alcohol-abuse prevention, violence, school shootings, underage drinking, the deterrent effect of the death penalty, and proactive policing. He served as vice chair of the National Research Council's Committee on Law and Justice. Cook's primary focus at the moment is the economics of crime. He is co-director of the NBER Work Group on the Economics of Crime, and co-editor of a NBER volume on crime prevention. Much of his recent research has dealt with the private role in crime prevention. He also has several projects under way in the area of truancy prevention. His book (with Jens Ludwig), *Gun Violence: The Real Costs* (Oxford University Press, 2000), develops and applies a framework for assessing costs that is grounded in economic theory and is quite at odds with the traditional "Cost of Injury" framework. His new book with Kristin A. Goss, *The Gun Debate* (Oxford University Press 2014) is intended for a general audience seeking an objective assessment of the myriad relevant issues. He is currently heading up a multi-city investigation of the underground gun market, one product of which is a symposium to be published by the *RSF Journal* in 2017. Cook has also co-authored two other books: with Charles Clotfelter on state lotteries (*Selling Hope: State Lotteries in America*, Harvard University Press, 1989), and with Robert H. Frank on the causes and consequences of the growing inequality of earnings (*The Winner-Take-All Society*, The Free Press, 1995). *The Winner-Take-All Society* was named a "Notable Book of the Year, 1995" by the *New York Times Book Review*. It has been translated into Japanese, Chinese, Portuguese, Polish, and Korean.

**Texas A&M University**

**Dottie Carmichael Ph.D.** is a Research Scientist at the Public Policy Research Institute at Texas A&M University. Since the passage of the Fair Defense Act in 2001, Dr. Carmichael has collaborated in a program of research sponsored by the Texas Indigent Defense Commission to advance high-quality, evidence-based practice. Her research aims to help jurisdictions balance costs and quality in indigent defense delivery systems. Moreover, she is knowledgeable and experienced in the operation of local governments. Beyond a number of statewide projects, Dr. Carmichael has conducted qualitative and quantitative research in more than thirty jurisdictions including all of the state’s major urban areas.

Her work has informed criminal justice and court policy in at least the past six bi-annual state legislatures. Most recently, her investigation of costs and case outcomes in jurisdictions using financial- vs. risk-based pretrial release was a significant resource in efforts to pass bail reform legislation in 2017 and 2019. In addition to leading the state’s first defender caseload studies for adult, juvenile, and appellate cases, Dr. Carmichael has evaluated cost- and quality impacts of public defenders, interdisciplinary holistic defenders, the state’s regional capital defender office, Innocence Projects operated in publicly-funded law schools, and the school-to-prison pipeline.

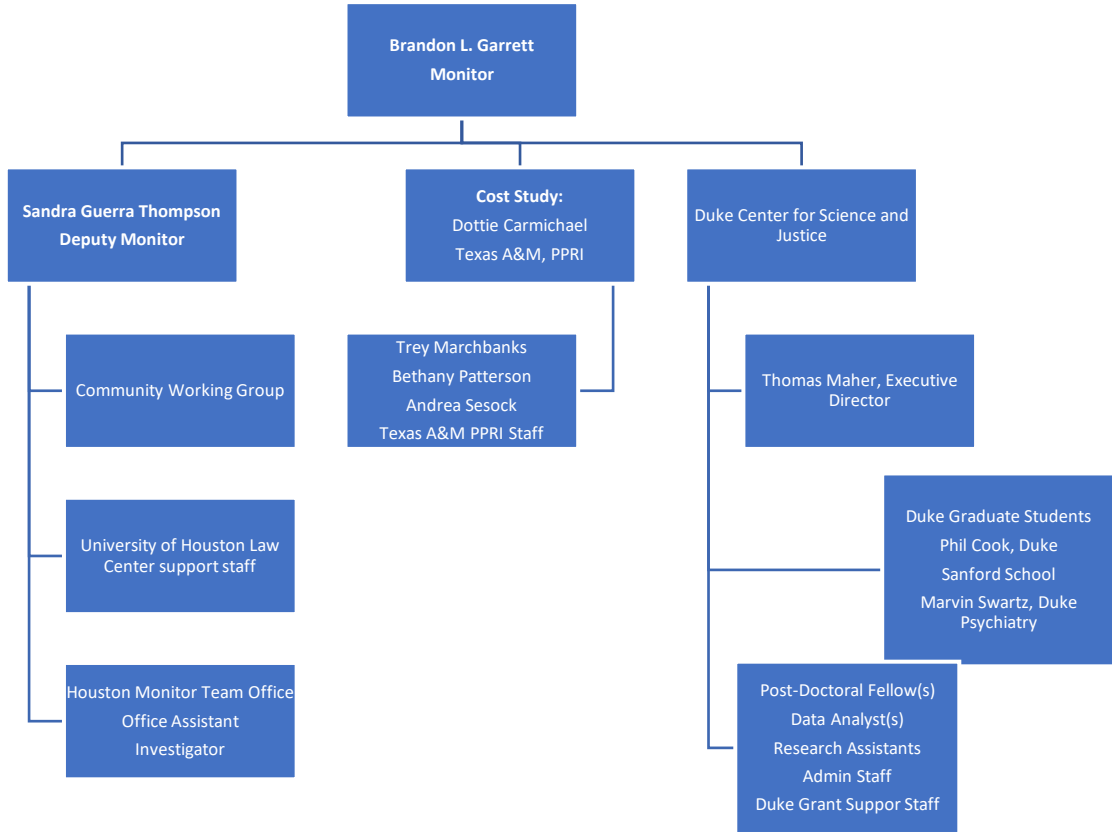
Dr. Carmichael’s research was cited in Supreme Court Justice David Suter’s majority opinion in the landmark 2008 *Rothgery v. Gillespie County* decision. She also led the PPRI research team for the 2010 *Breaking Schools’ Rules* report which was subsequently cited by President Obama announcing his “My Brothers Keeper” initiative, and by US Dept. of Education Secretary Arne Duncan and Attorney General Eric Holder announcing new programs and data requirements relating to school discipline.

**M.P. “Trey” Marchbanks III, PhD, Research Scientist** joined the Public Policy Research Institute (PPRI) in 2007. Dr. Marchbanks’ expertise is in the use of advanced statistical methodologies to answer public policy questions. Statistical capabilities include maximum likelihood estimation, time-series analysis and other advanced econometric techniques. In particular, he specializes in merging, managing and analyzing large, longitudinal databases.

In all, he has secured over \$9.7 million in extramural research funds. His work has been presented before the United Nations, appeared in numerous academic journals, and been highlighted by the *New York Times*, *Washington Post*, NPR and CNN. His work on school discipline reform was called a “landmark effort” by Attorney General Holder and “a groundbreaking longitudinal study” by Secretary of Education Arne Duncan.

**Bethany Patterson, M.S., is a Research Associate** at the Public Policy Research Institute at Texas A&M University. Ms. Patterson earned her Bachelor’s degree in mathematics and Master’s degree in economics from Texas A&M University. She has completed PhD coursework in Economics and is proficient in the latest experimental and quasi-experimental research methodology. She has extensive experience with data management and analysis with large and complex data sets across different areas including criminal justice, education, and health.

## **B. Organizational Chart**





### **C. Year 2 Statement of Work**

This Work Plan describes the second year of our work, set out in quarterly deliverables, with a budget of approximately \$586,185. As with our Year 1 Work Plan, this second Year 2 Statement of Work is divided into three Deliverables: (1) Policy Assessment and Reporting; (2) Cost Study and Project Management; (3) Community Outreach, Participation, and Working Group.

#### **Task I: Policy Assessment and Reporting**

This Deliverable describes the tasks associated with reviewing and providing input, and then reporting to the parties and the Court, regarding policies associated with the adoption of Rule 9 and the O'Donnell Consent Decree. A central goal of the Monitorship will be to ensure that constitutional rights are safeguarded permanently, through the new systems put into place. In Year 2, the Monitor will be producing reports, including: a Monitor Report at eighteen months and a second report at the year's end. The Monitor will be analyzing data from the county and reporting on these data in reports and to the parties. The Monitor will be providing feedback on a series of tasks that the parties must accomplish, as per deadlines set out in the Consent Decree.

### **Task I:1. Provide Feedback on County Plans and Assessments**

Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.

Analyze data, including jail data, court data, hearing videos, and judicial opinions.

Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).

Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.

Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.

### **Task I:2. Complete Monitor Report**

Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.

Analyze data, including jail data, court data, hearing videos, and judicial opinions.

Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).

Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.

Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.

Incorporate work into Monitor Report.

### **Task I:3. Provide Feedback on County Plans and Assessments**

Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.

Analyze data, including jail data, court data, hearing videos, and judicial opinions.

Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).

Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.

Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.

#### **Task I:4. Complete Year-end Report**

Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.

Analyze data, including jail data, court data, hearing videos, and judicial opinions.

Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).

Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.

Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.

Incorporate work into year-end Monitor Report.

#### **Project Timeline and Staffing.**

This work will be conducted between March 3, 2021 and March 2, 2022.

#### **Monitor Team Personnel:**

- **Prof. Brandon Garrett** (Duke Law School)
- **Prof. Songman Kang.**
- **Research assistants** (Duke Law School and University of Houston Law Center)
- **Prof. Philip J. Cook** (Sanford School of Public Policy, Duke University)

#### **Travel:**

- Travel: travel to Houston for Duke University Team Members.

## **Task II: Cost Study and Project Management**

The Public Policy Research Institute (PPRI) at Texas A&M University will evaluate the cost impacts of bail reform in Harris County. There are a range of costs in the pretrial context, and not only the costs of detention, recidivism, court costs, costs of non-appearance, but also the costs of physical injury in jail, harm to physical and behavioral health, to families and communities, and the criminogenic harm of pretrial detention. The Monitor team will assess each of those costs to determine what are the most cost-effective methods of realizing priorities under the Decree. This work will be led by the [Public Policy Research Institute](#) (PPRI) at Texas A&M University, a leading interdisciplinary government and social policy research organization. PPRI will also document information about community service data and lead the project management efforts of the team.

### **Task II:1. Complete Cost Data Acquisition**

PPRI will continue to work with JAD and Monitor team colleagues to acquire, merge, and prepare datasets needed for analysis and statistical modeling. We will also continue to collaborate with department representatives to assemble budget data showing the costs of key misdemeanor case processes. Finally, we will conclude the literature review to quantify cost components that cannot be derived from Harris County data, but that are nonetheless essential for understanding the comprehensive impact of bond reform. Examples include costs to defendants or families emanating from contact with the criminal justice system, pretrial detention, conviction, or sentences, or costs to victims when the bond system fails. With these tools, we can create and apply standardized per-unit costs associated with key aspects of defendant experiences such as booking, bond hearings, pretrial detention, court appearances, prosecution, defense, and case outcomes.

### **Task II:2. Produce Year 1.5 Cost Analysis Report**

Cost analysis results will be summarized in a report submitted in conjunction with the September 2021 third six-Month Monitor Report. Analyses will assess the costs of misdemeanor case processing generally as well as specific cost impacts of changes under the Consent Decree. Results will quantify the relative contributions of independent cost centers and the impact of programs or practices within and between departments. Findings will summarize major findings, offer recommendations, and propose future directions for continued investigation in support of Consent Decree objectives. Project partners and stakeholders will be kept informed of cost study findings through brief interim updates shared at stakeholder meetings. This practice will increase accuracy, transparency, and relevance of the work, and will promote timely integration of results to strengthen and calibrate the bail reform process.

### **Task II:3. Explore Community Service Data Acquisition**

The Initial Cost Analysis Report produced in Task II:2 will answer initial questions about cost of misdemeanor processing within the Harris County jail and court systems. However, a number of social service organizations offer supports to justice-involved individuals that can mitigate criminality. The PPRI team will begin to explore mapping services and data from these external agencies.

Input and recommendations will be sought from knowledgeable stakeholders and collaborators within the county such as the public defender and managed assigned counsel office, and members of the Monitors' Community Working Group who are familiar with community service options. Building on established connections where possible, we can reach out to each organization to learn more. The focus for potential data partnerships in Year Two will be with Harris Health and the Coalition for the Homeless, both of which are key providers for crisis, routine, and re-entry services for people sometimes deemed "frequent flyers" in the criminal justice system.

The deliverable will be a written brief surveying agency service infrastructure, identifying points of intersection with the justice-involved population, and assessing the requirements, likelihood, and limits of successful data sharing. With this information, the Monitor team can make informed judgments about future research on community integration as a means to address defendant needs, reduce or prevent criminal justice contact, improve lives, and save money.

### **Task II:4. Produce Year Two Cost Analysis Report**

PPRI will continue to expand analysis centering on cost aspects of the Consent Decree. Working with the Monitors, we will identify a menu of informative and useful potential targets for cost-related research based on developments in meetings/calls with key stakeholders, formal plans for system changes generated from within the county and by outside researchers, results of data analyses conducted by the Monitoring team, the academic research literature, and other sources as appropriate. Results will be integrated into the Year Two Monitor Report to be submitted March 3, 2022.

### **Task II:5. Maintain Project Management Protocol**

In their project management role PPRI will facilitate information-sharing and coordination of activities among members of the monitor team and other stakeholder implementing the Consent Decree. We will assist the Monitor with managing a rolling an agenda of topics for meetings of the Parties, maintain progress notes recording accomplishments and obstacles toward implementing Consent Decree requirements, collaborate with JAD staff to document attainment of tasks and timelines in the cloud-based Monday.com project tracking system, memorialize key work products, and regularly report progress to JAD, the Parties, the Federal Court, and the public through semi-annual status reports on Consent Decree milestones.

Costs for this continuous support function will be apportioned evenly across billing for other deliverables over the course of the year.

## **Project Timeline and Staffing**

This work will be conducted between March 3, 2021 and March 2, 2022.

- **Texas A&M, [Public Policy Research Institute](#) (PPRI)** will conduct a multi-year evaluation
- **Dottie Carmichael** (Research Scientist, Texas A&M University, PPRI)
- **Trey Marchbanks** (Research Scientist) will replace **George Naufal** (Economist, Texas A&M University, PPRI)
- **Bethany Patterson** (Research Associate), will replace **Jongwoo Jeong**.
- **Andrea Sesock** (Project Coordinator) will remain on the research team.
- Travel: to Houston for Texas A&M University Team Members

## **Task III: Community Outreach, Participation, and Working Group**

The Monitor Team recognizes that the permanence of the Consent Decree's implementation will turn on its acceptance by local community leaders and stakeholders. The Monitor Team will convene a Community Working Group, whose composition is detailed in the Monitor's Proposal to Harris County, that would advise the Monitor Team as well as assist in keeping the community informed of the County's progress in implementing the Consent Decree.

### **Task III:1. Continued Public Outreach and Participation**

Convene monthly meetings of the Community Working Group (CWG).

Continue to reach out, with the guidance of the CWG, to local organizations to introduce themselves and offer to meet with community groups interested in learning more about the Consent Decree.

Begin set up of Houston office, when feasible to do so given the COVID-19 pandemic.

Continue to maintain Monitor website, to provide all Monitorship-related documents to the public, an overview of the goals and process, a calendar with relevant dates, answers to common questions concerning pretrial process under the Consent Decree, and a way for members of the public to share information, including anonymously, with the Monitor.

### **Task III:2. Second Public Meeting, Third Monitor Report**

Convene monthly meetings of the Community Working Group (CWG).

Continue to reach out, with the guidance of the CWG, to local organizations to introduce themselves and offer to meet with community groups interested in learning more about the Consent Decree.

Begin set up of Houston office, when feasible to do so given the COVID-19 pandemic.

The Monitor Team will review County's plan for upcoming public meetings, in consultation with the Community Working Group, to ensure that fully transparent, representative, local, and robust participation is sought and achieved.

Incorporate work into upcoming Monitor Report.

Continue to update Monitor website.

### **Task III:3. Convene CWG and Solicit Additional Public Input**

Convene monthly meetings of the Community Working Group (CWG).

Continue to reach out, with the guidance of the CWG, to local organizations to introduce themselves and offer to meet with community groups interested in learning more about the Consent Decree.

Begin set up of Houston office, when feasible to do so given the COVID-19 pandemic.

Continue to update Monitor website.

### **Task III:4. Third Public Meeting, Fourth Six-month Report**

Convene monthly meetings of the Community Working Group (CWG).

Continue to reach out, with the guidance of the CWG, to local organizations to introduce themselves and offer to meet with community groups interested in learning more about the Consent Decree.

Begin set up of Houston office, when feasible to do so given the COVID-19 pandemic.

Third public meeting convened.

Incorporate work into upcoming Monitor Report.

Continue to update Monitor website.

## **Project Timeline and Staffing**

This work will be conducted between March 3, 2021 and March 2, 2022.

- **Sandra Guerra Thompson** (University of Houston Law Center)  
Office Space, Equipment and Support:
- Office supplies: paper, pens, notepads in the Houston office space. We would plan to use the office space provided pursuant to the decree because of its central and accessible location, as well as an office phone, laptop computer and printing equipment and IT support for computer use, meetings via Zoom, and phone conferences. We would need a meeting room with sufficient space for periodic Community Working Group meetings and meetings with stakeholders or researchers.
- Parking: A parking budget for downtown parking for the Monitor Team and twelve Community Working Group members (12 meetings per year).
- **Houston Office Assistant**
- **Houston Investigator**

### **Houston Conference Costs:**

- Administrative support, food, publicity, space rental
- Travel: to Houston for Prof. Thompson (from vacation home).



**Deliverables**

Deliverable I	Estimated Delivery Dates	Billable Amount
<p><u>Task 1:1.</u></p> <p>Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Analyze data, including jail data, court data, hearing videos, and judicial opinions.</p> <p>Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).</p> <p>Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.</p> <p>Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.</p> <p><u>Task II:1.</u></p> <p>The Monitor Team (PPRI) continues work to acquire, clean, link, and prepare datasets and county department budget records for cost analysis.</p> <p>Initial statistical analysis will be conducted in preparation for the cost analysis report.</p> <p>Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.</p> <p><u>Task III:1.</u></p> <p>Monitoring Plan re: outreach and participation for the second year.</p> <p>Convene monthly meetings of Community Working Group (CWG).</p>	<p>June 1, 2021</p>	<p>\$130,738.25</p>

Begin set up of Houston office.		
Continue to maintain Monitor website.		

Deliverable 2	Estimated Delivery Dates	Billable Amount
<p><u>Task I:2.</u></p> <p>Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Analyze data, including jail data, court data, hearing videos, and judicial opinions.</p> <p>Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).</p> <p>Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.</p> <p>Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.</p> <p>Incorporate work into Monitor Report.</p> <p><u>Task II:2.</u></p> <p>The Monitor Team (PPRI) produces the Cost Analysis Plan for submission with the third six-month Monitor Report.</p> <p>Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.</p> <p><u>Task III:2.</u></p> <p>Continue Community Outreach.</p>	August 20, 2021	\$150,622.25

<p>Convene monthly meetings of the Community Working Group (CWG).</p> <p>Review County’s plan for upcoming public meetings.</p> <p>Incorporate work into third six-month Monitor Report.</p> <p>Updates to Monitor website.</p>		
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Deliverable 3	Estimated Delivery Dates	Billable Amount
<p><u>Task I:3.</u></p> <p>Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Analyze data, including jail data, court data, hearing videos, and judicial opinions.</p> <p>Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).</p> <p>Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.</p> <p>Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.</p> <p><u>Task II:3.</u></p> <p>The Monitor Team (PPRI) develops a community service data acquisition plan documenting points of intersection with the justice-involved population, and opportunities, limits, and requirements for successful data sharing.</p>	November 28, 2021	\$129,641.25

<p>Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.</p> <p><u>Task III:3.</u></p> <p>Outreach to share results of third six-month Monitor Report.</p> <p>Convene monthly meetings of the Community Working Group (CWG).</p> <p>Updates to Monitor website</p>		
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Deliverable 4	Estimated Delivery Dates	Billable Amount
<p><u>Task I:4.</u></p> <p>Continue to conduct regular meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Analyze data, including jail data, court data, hearing videos, and judicial opinions.</p> <p>Review plans to develop systems and structures to deliver effective indigent defense services (e.g., investigation, mitigation).</p> <p>Review results of research by outside vendors to study topics such as causes of nonappearance, indigent defense, court forms.</p> <p>Consult with Harris County concerning data variables collected by the County, including data regarding court nonappearances; helps ensure the County develops a data website so that misdemeanor pretrial conditions are public; raw data is available for download; and reviews first of the 60-day reports generated by the County.</p> <p>Incorporate work into year-end Monitor Report.</p> <p><u>Task II:4.</u></p>	<p>March 2, 2022</p>	<p>\$175,183.25</p>

<p>The Monitor Team (PPRI) produces Year Two Cost Analysis Report reflecting informative and useful targets for research developed in collaboration with the Monitor and Deputy Monitor, and with input from key stakeholders such as the Parties and the Community Working Group.</p> <p>Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.</p> <p><u>Task III:4.</u></p> <p>Convene monthly meetings of the Community Working Group (CWG).</p> <p>Third public meeting convened.</p> <p>Continued outreach, with the guidance of the CWG, to local organizations and community groups.</p> <p>Incorporate work into fourth six-month Monitor Report.</p> <p>Updates to Monitor website.</p>		
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Total Year 2 Budget: \$ 586,185.00

## D. Consent Decree Tasks and Milestones

Section	¶	Due Date	Milestones	Status
6	36	7/1/2020  <i>Done</i>	<b>Update databases and inform stakeholders re: unsecured GOB</b> - County databases must be updated to clearly indicate that a General Order Bond is a personal bond for which the underlying amount is unsecured. The same information must be communicated internally and to other jurisdictions. The County presents the plan to the Monitor for approval.	<b>STATUS: Done</b>  County databases Completed 3/24/21.  The following items were included in the scope of the JWeb Criminal 888888 Project and completed on 03/24/2021. <ul style="list-style-type: none"> <li>• Modified the existing JWEB Criminal programs to clarify no bond has been set and the defendant must appear before the magistrate to request a bond amount.</li> <li>• Updated the bond amount field to allow blank values and add the bond exception field to clarify if the defendant must appear before the magistrate or a bond is denied.</li> <li>• Added 'unsecured' to the Bond Exception field to clarify if a bond is unsecured to fulfill part of the consent decree requirement.</li> </ul>
7	41a	12/15/20 (Extended)  <i>Nearly Done</i>	<b>Provide support staff for private apptd. counsel at bail hearing</b> - CCCL Judges will establish a process, approve, and provide funding for qualified support staff to assist private appointed counsel at bail hearings.	<b>STATUS: Nearly Done</b>  MAC Support staff were hired between Feb - May 2021. There are 19 staff members: one investigator; four social workers; seven attorneys (an executive director, a deputy director, a misdemeanor chief and trains director and four resources attorneys); one immigration attorney; a community engagement & recruiting specialist; five administrative personnel including an IT and program administrator. Began Feb - May 2021.  Status will be changed to “Done” when it’s confirmed support staff is assisting at hearings.
7	41b	11/15/2020 (Extended)  <i>Done</i>	<b>Receive written recommendations for holistic defense services</b> - The County will receive a written report with recommendations for essential holistic indigent defense services must be completed within 180 days of commencement.	<b>STATUS: Done</b>  NAPD provided their evaluation of the misdemeanor defense systems and recommendations 7/7/21, ahead of the 7/25/21 deadline.
7	41b	3/1/2021 (Extended)  <i>Nearly Done</i>	<b>Fund at least min. holistic defense staff recommended by expert</b> - Based on the expert’s written report and recommendations, in consultation with the Monitor, the County must fund the minimum number of recommended holistic defense support staff.	<b>STATUS: Nearly Done</b>  Funding for holistic defense staff is being provided as part of the Managed Assigned Counsel office grant from the TIDC (212-20-D06) in the amount of \$2.17 million approved in FY20. The NAPD report recommendations were submitted to the Commissioner’s Court 8/10/21.

Section	¶	Due Date	Milestones	Status
				Status will be changed to “Done” once Harris County Budget Management develops the full implementation with JAD, PDO, and MAC of the recommendations within the next 60 days.
7	43 and 44	12/15/20 (Extended)  <i>TBD</i>	<b>Develop written plan for essential defense counsel supports</b> - Defendants must develop a written plan to ensure defense counsel have space to confer with clients before a bail hearing, have access to essential support staff by phone or video conference, can call witnesses and prevent/confront evidence, and can promptly discover information presented to the presiding judicial officer. The plan will be reviewed by the Monitor with input from Class Counsel, and implemented within a reasonable timeline.	<b>STATUS: Working on it</b>  OCM staff report that a written plan to support defense counsel will be developed by the MAC director who began on Nov 2020. The plan will incorporate recommendations from the NAPD Holistic Defense assessment (¶ 41b) completed on 7/7/21.
8A	46	10/29/2020 (Extended)  <i>Expected 11/1/21</i>	<b>Provide court date notification forms to third party LEAs</b> - Defendants will make the court date notification forms required by ¶ 47 and ¶ 48 readily accessible to third-party law enforcement agencies that arrest or detain misdemeanor arrestees to be prosecuted in the Harris County.	<b>STATUS: Working on it</b>  Ideas42 has finalized forms with graphics 6/28/21 and approved by the monitor (¶ 48). The bond conditions form will be implemented 8/30/21.  Status will be changed to “Done” when once forms are translated, ordered, and staff trained. Implementation expected by 11/1/21.
8A	47	11/15/20 (Extended)  <i>Expected 11/1/21</i>	<b>Provide written court date notifications to arrestees and case file</b> - Defendants will provide written notice of the date/time and location of each new scheduled court appearance to misdemeanor arrestees or the lawyer if the arrestee is not present. Any such written notice will be considered a court form with a copy retained in the case file.	<b>STATUS: Working on it</b>  Ideas42 has finalized forms with graphics 6/28/21 and approved by the monitor. The bond conditions form will be implemented 8/30/21.  Status will be changed to “Done” when once forms are translated, ordered, and staff trained. Implementation is expected by 11/1/21.
8A	48a-c	11/15/20 (Extended)  <i>Done</i>	<b>Redesign court date notification forms to reduce nonappearance</b> - Defendants will update court date notification forms to incorporate evidence-based design practices to reduce nonappearance as specified in ¶ 48a. The County may engage technical assistance providers to assist. Forms may be updated at any time as needed with advice of technical assistance providers and the Monitor. Updated forms must be the exclusive forms used to provide notification of court dates.	<b>STATUS: Done</b>  Ideas42 provided finalized forms 5/5/2021 to Monitor.

Section	¶	Due Date	Milestones	Status
8A	48d-e	11/15/20 (Extended)  <i>Done</i>	<b>Submit court date notification forms to Monitor for review</b> - The County will submit redesigned court date notification forms to the Monitor for review. Defendants will work with the Monitor to ensure at least information required by ¶ 48(a) is available to arrestees. Any future amendments must be implemented within 60 days of approval by the Monitor and the updated forms must be the only ones used.	<b>STATUS: Done</b>  Ideas42 provided finalized forms 5/5/2021 to Monitor and was approved.
8B	49 and 50a-e	11/15/20 (Extended)  <i>Done</i>	<b>Submit court appearance reminder system design for Monitor review</b> - The County will consult existing research and best practices to design text- and telephone-based court appearance reminder services and opt-out process for misdemeanor arrestees with a telephone number on file. Reminders must contain information specified in ¶ 50b. If reminders are delivered by one-way text reminder system, it must study the potential efficacy of a two-way system in promoting court appearance. Proposed substance, format, timing, and frequency of text- or telephone-reminders and the opt-out process must be submitted for review by the Monitor within 180 days of Monitor appointment.	<b>STATUS: Done</b>  Ideas42 submitted court reminders to monitor to review 3/8/21. Ideas42 submitted a two-way efficacy study to monitor 5/5/21.  Text/SMS messages were approved and started going out to misdemeanor arrestees 5/12/21.
8B	50f	4/27/2021 (Extended)  <i>Nearly Done</i>  <i>Expected 11/1/21</i>	<b>Implement court appearance reminder systems</b> - The County will implement the text- and telephone-based reminder systems within 180 days of approval by the Monitor.	<b>STATUS: Nearly Done</b>  Ideas42 submitted court reminders to monitor to review 3/8/21. Text/SMS messages were approved and started going out to misdemeanor arrestees 5/12/21 but only for cite and release cases. Full implementation is expected by 11/1/21.
8C	51 and 52a-d	12/15/20 (Extended)  <i>Done</i>	<b>Engage researchers to study nonappearance</b> - The County will engage researchers to study primary causes of nonappearance in the CCCL and recommend cost-mitigating policy and program solutions. The study must meet criteria specified in ¶ 52 a-e. The County will make researchers' written findings and recommendations available to the public and upon request as soon as practicable after publication.	<b>STATUS: Done</b>  Ideas42 had asked to delay the start of the study until 5/1/21, after completion of their work on the court date notification work under ¶49 on 5/1/21. Approval was granted by the Commissioner's Court 3/30/21.



Section	¶	Due Date	Milestones	Status
8C	52e	12/15/20 (Extended)  <i>Expected 11/1/21</i>	<b>Receive recommendations to mitigate nonappearance</b> - Within 180 days of commencing the nonappearance study, researchers must provide the County initial actionable recommendations. Researcher(s) may continue study and provide additional recommendations beyond that date.	<b>STATUS: Working On It</b>  Ideas42 is currently working on obtaining and analyzing administrative data, conducting quantitative surveys with misdemeanor charges, and qualitative interviews with people that have not appeared.  Status will change to "Done" with completion of the nonappearance study, which began 5/1/21, and expected 11/1/21.
8C	55	5/14/2021 (Extended)  <i>TBD</i>	<b>Develop written nonappearance mitigation plan</b> - Within 180 days after receiving published results of study (Sec.52),the County will work with researchers to develop a written plan for mitigating causes of nonappearance including implementation timeline and proposed budget of at least \$850,000 for each of the initial three years following the study.The County will submit the plan to the Monitor for review. Monitor solicits Class Counsel's written comments/objections during a 30- day review period (per Sec.111-114). Monitor will convey Class Counsel's comments to County for response (objections or amendments) within 30 days of receipt. The Parties may submit unresolvable disputes to the Court.	<b>STATUS: Not Started</b>  Ideas42 started nonappearance study (¶ 51 & 52a-d) 5/1/21. Status will be changed to "Done" once final recommendations are received (¶ 52e).
8C	54	3/1/2021 (Extended)  <i>Nearly Done</i>	<b>Allocate \$850,000 Year 2 to support court appearance per mitigation plan timeline and budget</b> - After study concludes, absent good cause for a lesser amount, County must allocate at least \$850,000/year toward mitigating causes of nonappearance. County will consult with researchers to determine a reasonable timeline and a budget for implementing the first three years of the plan. To establish good cause, County submits purported cause to the Monitor; Monitor notifies Class Counsel; Monitor makes a determination; Either Party may file a motion to the Court if they disagree with the Monitor's determination.	<b>STATUS: Nearly Done</b>  \$850,000 allocation to mitigate causes of nonappearance was approved by Commissioner's Court as part of the FY22 budget on 1/26/21.  Status will be changed to "Done" when County receives recommendations from nonappearance study (¶ 52e) and the timeline and budget for implementation of mitigation services have been determined for the first three years (¶ 55).

Section	¶	Due Date	Milestones	Status
9	58	8/30/2020 (Extended)  <i>Nearly Done</i>  <i>Expected</i> <i>11/1/21</i>	<b>Implement court date request/notification technology</b> - The County and CCCL Judges will work with the Monitor to identify effective technology for misdemeanor arrestees or counsel to request a new court date or be informed of newly set dates without having to appear in person. Notice of new court dates must be provided via text and telephone reminders (¶ 49-50) to arrestees and appointed or retained defense counsel. A record of notice must be preserved in the case file. The County must also provide an in-person option for rescheduling a court date during regular business hours.	<b>STATUS: Nearly Done</b>  Online case reset request was implemented 6/1/21 on the main CCCL webpage and individual 16 courts web pages. Text/SMS messages were approved and started going out to misdemeanor arrestees 5/12/21 but not to all.  Status will be changed to “Done” once full implementation expected by 11/1/21.
9	59	8/30/2020  <i>Done</i>	<b>Hold weekly Open Hours Court</b> - CCCL Judges will hold an Open Hours Court in a designated judge’s courtroom at least one day each week on a predictable schedule posted in the courthouse, at the jail, on the updated form for written court notifications (¶ 47-48) and on the website (¶ 57).	<b>STATUS: Done</b>  Open Hours Courts launched 9/3/2020. The schedule is currently posted in the lobby of the Criminal Justice Center and Justice Processing Center, and on the CCCL court date scheduling website ( <i>with links from the District Court website</i> ). The requirement to post the information on the court date notification form has been met (¶ 48).
9	64	8/30/2020  <i>Done</i>	<b>Publicly post information about Open Hours Court</b> - If Open Hours Court is rescheduled from time to time, the change must be advertised on the County court date scheduling website at least 30 days in advance. Location of Open Hours Court must be advertised on the updated form for written court notifications (¶ 48a) and on the website (¶ 57).	<b>STATUS: Done</b>  Open Hours Courts launched 9/3/2020. The schedule is currently posted in the lobby of the Criminal Justice Center and Justice Processing Center, and on the CCCL court date scheduling website ( <i>with links from the District Court website</i> ). The requirement to post the information on the court date notification form has been met (¶ 48).
9	61, 62, 65, 66, 67, 68, 69	8/30/2020  <i>Nearly Done</i>	<b>Publicly post appearance, rescheduling, and warrant policies</b> - Notice of the CCCL Judges' appearance, rescheduling, and warrant policies must be provided on the updated form for written court date notification (¶ 47-48) and on the website (¶ 57).	<b>STATUS: Nearly Done</b>  CCCL judges approved appearance, rescheduling, and warrant policies specified in the Consent Decree by 8/30/20. Policies are posted on the District Clerk’s court date scheduling website (¶ 57). The requirement to post policies on written court date notification forms has been met (¶ 48).

Section	¶	Due Date	Milestones	Status
9	70	8/30/2020  <i>Done</i>	<b>Publicly post how to reset nonappearance warrants issued prior to January 1, 2019</b> - Misdemeanor arrestees with outstanding warrants for nonappearance issued before January 1, 2019 may appear or use rescheduling procedures to have the warrant recalled and receive a new court date without arrest. This must be advertised on the website (¶ 57), in the joint processing center, and as determined by the County (e.g., radio/television).	<b>STATUS: Done</b>  CCCL judges approved appearance, rescheduling, and warrant policies specified in the Consent Decree by 8/30/20. Policies are posted on the District Clerk's court date scheduling website (¶ 57). The requirement to post policies on written court date notification forms has been met (¶ 48).
9	72	12/15/20 (Extended)  <i>TBD</i>	<b>Report to Monitor on court appearance policy</b> - CCCL Judges will evaluate local policies relating to court appearance to determine whether they can authorize more misdemeanor arrestees with counsel to waive personal appearance at more hearings. A report will be provided to the Monitor and Class Counsel regarding their process used and the conclusions reached.	<b>STATUS: Working on it</b>  OCM is tracking court appearances and hearing types as of 12/5/20. OCM is waiting on FTA study (¶ 51-52) to start before a report is developed yet.
10	78 and 79	8/11/2021  <i>Done</i>	<b>Deliver Year 2 Consent Decree Training Course</b> - Defendants will implement the Training Plan on an annual basis with updates and improvements subject to review and approval by the Monitor and Class Counsel.	<b>STATUS: Done</b>  Vera Institute completed the Consent Decree refresher training in August 2021.
9	81, 82, 84, and 85	8/30/2020  <i>TBD</i>	<b>Provide data for Monitor to evaluate Consent Decree implementation</b> - Defendants will consult with the Monitor to systematically collect, preserve, and integrate data variables sufficient to permit tracking, analysis, and reporting required by the Consent Decree. Will include all existing data relating to misdemeanor cases from 2009 through the present (¶ 84); data variables specified in ¶ 85 to permit tracking, analysis, and reporting of information for each misdemeanor arrestee; and all variables required to generate reports required by ¶ 87 and ¶ 89. If collection or maintenance of any required data variables is cost prohibitive or infeasible, Defendants may submit a request for exemption to the Monitor.	<b>STATUS: Nearly Done</b>  JAD staff are currently integrating data variables from multiple Harris County offices required to permit tracking, analysis, and reporting required by the Consent Decree. Existing data for cases from 2009 through the present are currently available to the Monitor team. Status will be changed to "Done" after all variables specified in ¶ 85 are available. Examples of variables still in development include financial status of the arrestee; money the arrestee reported being able to afford; scheduled appearances that the misdemeanor arrestee appeared at; scheduled appearances that were waived or rescheduled; and conditions of pretrial release or supervision, date, and fees assessed. Great progress is being made and infeasible variables have not yet been identified.

Section	¶	Due Date	Milestones	Status
11	83	11/15/20 (Extended)  <i>TBD</i>	<b>Make Consent Decree data publicly available</b> - The County will make the raw data that the Defendants are required to collect and maintain under this Consent Decree available for ready public access in a usable format (e.g. an Excel spreadsheet).	<b>STATUS: Working on it</b>  Much of the currently available information specified in ¶ 89 is available in automated report form but is not yet public-facing.  Status will be changed to Done after raw data downloads are posted on the existing public Consent Decree website described in ¶ 90.
9	87	8/30/2020  <i>TBD</i>	<b>Begin generating 60-day data reports</b> - Defendants will begin generating reports every 60 days that post information specified in ¶ 89 on the public website (described in ¶ 90) unless they don't yet collect the data—in which case they work with the Monitor to determine a timeline for appropriate collection. Reports may be generated by the Monitor, a subject-matter expert, or a TA provider experienced in large datasets.	<b>STATUS: Working on it</b>  Much of the currently available information specified in ¶ 89 is available in automated report form but is not yet public-facing.  Status will be changed to Done after reports are posted on the existing public Consent Decree website described in ¶ 90.
9	88, 89	8/30/2020  <i>TBD</i>	<b>Develop web-based Data Platform</b> - The County will develop a web-based Data Platform that organizes, integrates, analyzes, and presents the information required by ¶ 89 into a public -facing interface. The County may engage a TA provider with expertise in data analytics to create the Data Platform.	<b>STATUS: Working on it</b>  Much of the currently available information specified in ¶ 89 is available in automated report form but is not yet public-facing.  Status will be changed to Done after reports are posted on the existing public Consent Decree website described in ¶ 90.
12	92	5/19/2021  <i>Done</i>	<b>Conduct Year 1 Public Meeting</b> - Regular public meetings will be held at least once every six months in at least two geographic locations accessible to the maximum number of residents and including HCTJ( Consent Decree website simulcast (Sec.90). Defendants and community groups will determine meeting parameters with approval by the Monitor. Knowledgeable representatives of each Defendant group and the Monitor must be present and report on CD implementation including areas of success and for improvement.	<b>STATUS: Done</b>  Public meeting was held 4/28/21.
13	93 and 94	5/2/2021  <i>Done</i>	<b>Year 2 review of posted policies</b> - Every six months, defendants will review policies posted at the JPC and the CJC and update as necessary.	<b>STATUS: Done</b>  Key policies agreed by the Defendants are currently posted at the JPC & CJC and on the HCTX ODonnell Consent Decree website ( <a href="https://jad.harriscountytexas.gov/ODonnell-Consent-Decree">https://jad.harriscountytexas.gov/ODonnell-Consent-Decree</a> ).

Section	¶	Due Date	Milestones	Status
14	115 and 118	7/21/2021 <i>Done</i>	<b>Submit Draft Monitor's Report: Year 1.5-</b> Every six months for the first three years, and annually thereafter, Monitor will provide a draft Monitor's Report (including the information specified in Sec.117) for review by the Parties. Monitor's Report will present results of reviews to determine whether the County, CCCL Judges, and Sheriff have substantially complied with the requirements of this Consent Decree. Parties will have 30 days to comment; Monitor will have 14 days to consider the Parties' comments before filing the report with the court.	<b>STATUS: Done</b>  Draft report was released to Parties 7/21/21.
14	117	9/3/2021 <i>Done</i>	<b>Publish Monitor's Report: Year 1.5-</b> Monitor will file with the Court, and the County will publish, written public reports on compliance, which will include the information specified in Sec.117.	<b>STATUS: Done</b>

### Consent Decree Tasks and Milestones in the Next Six-Month Reporting Period

Section	¶	Due Date	Milestones
7	38	3/1/2022	<b>Provide FY 22-23 PDO allocation &gt; FY 19-20 approved budget</b> - The County will provide funding and staffing at or above the Public Defender Office's FY 19-20 approved budget to meet obligations for zealous and effective misdemeanor representation at bail hearings and at other stages of the process.
8C	54	3/1/2022	<b>Allocate \$850,000 Year 3 to support court appearance per mitigation plan timeline and budget</b> - After study concludes, absent good cause for a lesser amount, County must allocate at least \$850,000/year toward mitigating causes of nonappearance. County will consult with researchers to determine a reasonable timeline and a budget for implementing the first three years of the plan. To establish good cause, County submits purported cause to the Monitor; Monitor notifies Class Counsel; Monitor makes a determination; Either Party may file a motion to the Court if they disagree with the Monitor's determination.
12	92	11/21/2021	<b>Conduct Year 1.5 Public Meeting-</b> Regular public meetings will be held at least once every six months in at least two geographic locations accessible to the maximum number of residents and including HCTJ (Consent Decree website simulcast (Sec.90). Defendants and community groups will determine meeting parameters with approval by the Monitor. Knowledgeable representatives of each Defendant group and the Monitor must be present and report on CD implementation including areas of success and for improvement.
13	93 and 94	11/2/2021	<b>Year 2.5 review of posted policies</b> - Every six months, defendants will review policies posted at the JPC and the CJC and update as necessary.
14	103	3/3/2022	<b>Monitor's Budget: Year 3</b> - The Monitor will submit a proposed budget annually. The County will fund the Monitor at a reasonable rate.

Section	¶	Due Date	Milestones
14	115 and 118	1/18/2022	<b>Submit Draft Monitor's Report: Year 2 Comprehensive Assessment</b> - Every six months for the first three years, and annually thereafter, Monitor will provide a draft Monitor's Report (including the information specified in Sec.117) for review by the Parties. Monitor's Report will present results of reviews to determine whether the County, CCCL Judges, and Sheriff have substantially complied with the requirements of this Consent Decree. Parties will have 30 days to comment; Monitor will have 14 days to consider the Parties' comments before filing the report with the court.
14	120	3/3/2022	<b>Publish Monitor's Report: Year 2 Comprehensive Assessment</b> - After 2 years, 5 years, and 7 years, the Monitor publishes a comprehensive assessment covering material outlined in Sec. 120 (county compliance with Consent Decree, whether outcomes are being achieved, whether Consent Decree should be modified, etc.). The comprehensive assessment should address areas of greatest progress and achievement, concerns, and strategies for moving forward.  To the extent that modifications to the Consent Decree are needed and the Parties agree, the Parties must move the Court to modify this Consent Decree accordingly. In the event of a disagreement that the Monitor is unable to resolve, the Parties will submit their positions to the Court for resolution.
14	116	3/3/2022	<b>Monitoring Plan: Year 3</b> - In coordination with the Parties, the Monitor will prepare an annual Monitoring Plan to be made public and published on the County's Consent Decree Website (see Sec. 90). The Plan must delineate requirements of the Consent Decree to be assessed for compliance, identify the proposed methodology, and create a schedule with target dates for conducting reviews or audits.