

Monitoring Pretrial Reform in Harris County

Monitoring Plan: Year 1

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Introduction

On March 3, 2020, Professor Brandon L. Garrett at Duke University School of Law, as Monitor, and Professor and Sandra Guerra Thompson, University of Houston Law Center, as Deputy Monitor, with the support team members at the Public Policy Research Institute at Texas A&M University, as well as the Center for Science and Justice (CSJ) at Duke University, were appointed to serve as the Monitor Team for the *ODonnell* Consent Decree.

In January 2019, after an initial preliminary injunction order, which took effect June 6, 2017, and following an appeal, Harris County, the misdemeanor judges, and the sheriff promulgated new bail rules, requiring the prompt post-arrest release on unsecured bonds of the vast majority of people arrested for misdemeanor offenses. Pursuant to the rules, everyone else is afforded a bail hearing with counsel, and most are then also ordered released. These rules provided the foundation for the global Consent Decree, which the parties agreed to in July 2019 and which Chief Judge Rosenthal approved on November 21, 2019. The resulting Consent Decree builds upon the county's new pretrial justice system, so as to bring about lasting change in Harris County. The Decree sets forth a blueprint for creating a constitutional and transparent pretrial system to protect the due process and equal protection rights of misdemeanor arrestees. Under the terms of the Consent Decree, the Monitor will serve a key role in bringing each of the component parts together to ensure a holistic and collaborative approach towards pretrial reform. This new system has the potential to become a model for jurisdictions around the country.

The submission to Court included a Proposal and Budget for Year 1 of work, which describes team members, timelines, an organization chart, and a budget for all participants. We do not duplicate that information in this Work Plan. Instead, we set out our first year of work, set out in quarterly deliverables, as was most convenient for the County and its budgeting process.

Before providing that Work Plan, however, we wanted to describe how the work of the Monitor began: with our appointment on March 3, 2020, at the outset of a COVID-19 emergency that has created enormous health and safety challenges for law enforcement, courts, the County, and the public in Harris County, as in the entire nation.

We want to emphasize that we have been incredibly impressed with the hard work by the County, the Judges, the Hearing Officers, and all of the Parties and Counsel, as they have continued to safeguard the constitutional rights protected by this landmark Consent Decree, and during a time that posed great strains on all involved. We have been working hard, albeit remotely. We regret that we could not attend the planned meetings in Houston in person at which we had hoped to introduce our role to the entire criminal justice community. Nevertheless, we have adapted to these challenges, with the help of the parties.

First, as Monitors, we sought to begin observing the misdemeanor process in Harris County. We sought to ensure that Rule 9 was continuing to be carefully followed by hearing officers and judges, particularly given the public health threat that COVID-19 created in the courts and in the Harris County jail. While getting full access to the data concerning misdemeanor bookings, hearings, jail population, and court outcomes is still (and understandably) a work in

progress, we were gratified that the County made basic preliminary data, such as jail rosters, available to us so that we could examine cases and hearing decisions each week as the COVID-19 crisis began to create new challenges for criminal system in Harris County. Nevertheless, we note that at this point, we do not yet have access to important data that we will need to adequately do our monitoring work.

We have been kept fully apprised by the Parties of changes to court procedures, as the crisis necessitated closings. We have been impressed with the judges and the County's hard work to ensure that robust hearings were held for those detained, during very challenging times. We also joined in a video-conference call with all of the CCCL Judges to introduce ourselves and describe the role of the Monitor, and the importance of adhering to the constitutional obligations of the Consent Decree during this challenging time. We emphasized that point in a letter to the judges on March 30, 2020. We were gratified by the response and by the continued hard work by all Parties to make this Consent Decree a success.

Nor, due to the COVID-19 crisis, have we been able to meet in person, early on in our work as we had hoped, with the Community Working Group. Our plans for public participation for the year will have to evolve to take account of this crisis. For now, we are planning a remote meeting with the Group, and are also completing a website to make Monitor-related documents and announcements available to the public online. We will plan to have individual calls with stakeholders as well, and have already begun to do so.

Indeed, while there are pressing deadlines under the Consent Decree, during this crisis we have been able to make real progress towards accomplishing all of the required tasks on schedule. We also note that, with PPRI at Texas A&M University taking the lead, we have made initial steps towards establishing the project management function, so far by creating documents and spreadsheets displaying deliverables and deadlines, and organizing files in common digital space.

We note, further, that while we have very much started all of our work, our budget has not yet been provided or received final approval by the County; it is, however scheduled to be considered for final approval shortly, and should be approved on April 28, 2020.

While, like most of us, we do not know how this crisis will affect our work in the weeks and months ahead, we are confident that all Parties will work hard to implement the Consent Decree to the extent feasible. This Work Plan describes the first year of work, set out in quarterly deliverables, with a budget of approximately \$659,185 for the first year. This 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 ODonnell 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 1, the Monitor will be producing reports, including: a Monitor Plan in the first sixty days, a Monitor

Report at six 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

Begin meetings/calls with the parties to discuss progress under Consent Decree. **[We note that weekly calls have begun as well as additional calls to discuss specific tasks].**

Secure access to data, including jail data, court data, hearing videos, and judicial opinions, and begin organizing material for analysis. **[We note that we have received hearing videos from 2018 and 2019, as well as daily jail rosters; the County is working on facilitating access to more complete data for analysis].**

Defendants confer and agree on the key policies to be summarized and made available at the Harris County Joint Processing Center and Harris County Criminal Justice Center. The Monitor will resolve any disputes about the length and content of the summary.

Monitor approves plans for County to retain outside researchers to study topics such as causes of nonappearance, indigent defense, court forms. **[We have already reviewed and approved a series of such plans].**

Monitor develops the Monitoring Plan for conducting compliance reviews and audits for the first year of implementation and shares it with the parties for review and comment.

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

Task I:2. Complete First Six-month Report

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

Initial analysis of data.

The Monitor provides feedback on the Training Plan developed for judges and defendants' agents; Monitor receives and evaluates report by Judges on CCCL plan.

The Monitor will receive by this time updated forms for review and approval.

The Monitor consults 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 first six-month Monitor Report.

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

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

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

Provide feedback to Parties on each of these plans and assessments.

Continue data collection and analysis.

Task I:4. Complete Second Six-month Report

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

Continue data collection and analysis.

Conduct follow-up analysis and secure access to follow-up data.

Develop surveys or other qualitative evaluation tools may be used to assess compliance and efforts, such as training programs, under this Consent Decree.

Incorporate work into second six-month Monitor Report.

Project Timeline and Staffing.

This work will be conducted between March 3, 2020 and March 2, 2021.

Monitor Team Personnel:

- **Brandon Garrett** (Duke Law School)
- **Thomas Maher** Executive Director, Center for Science and Justice (Duke Law School)
- **Post-doctoral Fellow / Data Programmer** Center for Science and Justice (Duke Law School) (**Prof. Songman Kang** will conduct data analysis work for the Center).
- **Research assistants** (Duke Law School and University of Houston Law Center)
- **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 lead the project management efforts of the team.

Task II:1. Implement and Maintain Project Management Protocol

Identify and implement a cloud-based project management system to facilitate information-sharing and coordination of activities among members of the team implementing the Consent Decree.

Share information on how to use features with O'Donnell team and solicit feedback and requests to meet needs of users. Functionality will at least include file-sharing, meeting scheduling, centralized calendaring, milestone tracking, and online meetings.

Task II:2. Produce Year One Cost Analysis Plan

Identify a menu of informative and useful potential targets for early 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.

Solicit input from parties engaged in implementing the Consent Decree to finalize the year-one cost-analysis agenda.

Continue Project Management work.

Incorporate work into first six-month Monitor Report.

Task II:3. Year-One Cost Data Acquisition

Identify data sources appropriate to answer research questions prioritized in the Year-One Cost Analysis Plan. To the extent possible, data will be extracted from existing Harris County information systems.

Identify alternative strategies to estimate costs or develop estimates where individual-level cost records are unavailable. These may include extracting average expenditures from aggregate budget records (e.g., to estimate court or prosecution costs), collecting new data (e.g., from planned

defendant surveys), or applying cost estimates validated by government agencies or in the academic research literature.

Continue Project Management work.

Task II:4. Produce Preliminary Year One Cost Analysis Report

Generate a written report summarizing results from initial analysis of cost data summarized in written Year One Cost Analysis Report.

Continue Project Management work.

Incorporate work into second six-month Monitor Report.

Project Timeline and Staffing

This work will be conducted between March 3, 2020 and March 2, 2021.

- **Texas A&M, [Public Policy Research Institute \(PPRI\)](#)** will conduct a multi-year evaluation
- **Dottie Carmichael** (Research Scientist, Texas A&M University, PPRI)
- **George Naufal** (Economist, Texas A&M University, PPRI)

Staffing changes include the following:

- **Zachariah Bratton** will replace **Heather Caspers** (Project Manager, Texas A&M University, PPRI)
- **A new hire** will replace **Bethany Patterson** (Data Analyst, Texas A&M University, PPRI)
- 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. Initial Public Outreach and Participation

The Monitor Team develops Monitoring Plan and sets out plans for outreach and participation for the first year.

Convene first meeting of Community Working Group (CWG).

Begin set up of Houston office.

The Monitor Team builds a 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. First Public Meeting, First Six-month Report

The Monitor Team reaches 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.

The Monitor Team will review County's plan for 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 first six-month Monitor Report.

Updates to Monitor website.

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

The Monitor Team further reaches out, with the guidance of the CWG, to local organizations and community groups, including to share results of first Monitor Report.

Convene experts at conference at Houston Law.

Updates to Monitor website.

Task III:4. Second Public Meeting, Second Six-month Report

Second public meeting convened.

Monitor Team outreach, with the guidance of the CWG, to local organizations and community groups.

Incorporate work into second six-month Monitor Report.

Updates to Monitor website.

Project Timeline and Staffing

This work will be conducted between March 3, 2020 and March 2, 2021.

- **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> Begin meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Secure access to data.</p> <p>Monitor approves plans re. e.g. nonappearance, indigent defense, court forms.</p> <p>Monitor develops Monitoring Plan.</p> <p>Monitor reviews indigent defense services plans.</p> <p><u>Task II:1.</u> The Monitor Team (PPRI) develops Project Management protocol and makes it accessible to facilitate information-sharing among the parties.</p> <p><u>Task III:1.</u> Monitoring Plan re. outreach and participation for the first year.</p> <p>Convene first meeting of Community Working Group (CWG).</p> <p>Begin set up of Houston office.</p> <p>The Monitor Team build Monitor website.</p>	<p>June 1, 2020</p>	<p>\$154,424.75</p>

Deliverable 2	Estimated Delivery Dates	Billable Amount
<p><u>Task I:2.</u> Continue meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Initial analysis of data.</p> <p>Feedback on Training Plan .</p> <p>Evaluates report by Judges on CCCL plan.</p> <p>Monitor reviews and approves updated court forms.</p> <p>Monitor reviews concerning data variables.</p> <p>Incorporate work into first six-month Monitor Report.</p> <p><u>Task II:2.</u> The Monitor Team (PPRI) produces Year One Cost Analysis Plan for submission with first six-month Monitor Report</p> <p><u>Task III:2.</u> Community Outreach.</p> <p>Review County’s plan for public meetings.</p> <p>Incorporate work into first six-month Monitor Report.</p> <p>Updates to Monitor website.</p>	<p>August 20, 2020</p>	<p>\$166,951.75</p>

Deliverable 3	Estimated Delivery Dates	Billable Amount
<p><u>Task I:3.</u> Continue meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Review results of research by outside vendors.</p> <p>Provide feedback to Parties on each of these plans and assessments.</p> <p>Continue data collection and analysis.</p> <p><u>Task II:3.</u> The Monitor Team (PPRI) acquires and assembles datasets required to initiate Year One Cost Analysis</p> <p><u>Task III:3.</u> Outreach to share results of first Monitor Report.</p> <p>Convene experts at conference at Houston Law.</p> <p>Updates to Monitor website</p>	November 28, 2020	\$140,348.75

Deliverable 4	Estimated Delivery Dates	Billable Amount
<p><u>Task I:4.</u> Continue meetings/calls with the parties to discuss progress under Consent Decree.</p> <p>Data collection and analysis.</p> <p>Develop surveys or other qualitative evaluation tools.</p> <p>Incorporate work into second six-month Monitor Report.</p> <p><u>Task II:4.</u> The Monitor Team (PPRI) produces Year One Cost Analysis Report</p> <p><u>Task III:4.</u> Second public meeting convened.</p> <p>Monitor Team outreach, with the guidance of the CWG, to local organizations and community groups.</p> <p>Incorporate work into second six-month Monitor Report.</p> <p>Updates to Monitor website.</p>	<p>March 2, 2021</p>	<p>\$197,459.75</p>

Total Year 1 Budget: \$ 659,185.00