**Monitoring Pretrial Reform in Harris County**

**Monitoring Plan: Year 3**

**March, 2023**

**Brandon L. Garrett, JD, Monitor**

*L. Neil Williams Professor of Law Director, Center for Science and Justice Duke University School of Law*

*210 Science Drive Durham, NC 27708 (919) 613-7090* *bgarrett@law.duke.edu*

**Sandra Guerra Thompson, JD, Deputy Monitor**

*Newell H. Blakely Chair*

*and Criminal Justice Institute Director*

*University of Houston Law Center*

*4604 Calhoun Road, BLB 122*

*Houston, TX 77204-6060 (713) 743-2134*

*sgthompson@Central.uh.edu*

**Team Members:**

**Dottie Carmichael, PhD, Research Scientist**

*dottie@ppri.tamu.edu*

**Ifte Islam, PhD, Assistant Research Scientist**

*trey@ppri.tamu.edu*

*Texas A&M University*

*Public Policy Research Institute*

*Research Scientist*

*4476 TAMU*

*College Station, Texas 78743-7746 (979) 854-8800*

**Songman Kang, PhD, Consultant**

Hanyang University

Seoul, Korea

Provided to:

**Representative of Plaintiff Class:**

**Elizabeth Rossi, Plaintiffs’ Counsel,** **elizabeth@civilrightscorps.org**

**Representatives of Harris County:**

**Rachel Fraser, Assistant County Attorney,** **Rachel.Fraser@cao.hctx.net;**

**Ana Correa, Director, Justice Administration Department,** **Ana.YanezCorrea@jad.hctx.net**

**Representative of County Criminal Court at Law Judges:**

**Allan Van Fleet, Counsel for the 16 County Criminal Court at Law**

**Judges,** **allanvanfleet@gmail.com**

**Representative of Harris County Sheriff’s Office:**

**Major Patrick Dougherty,** **patrick.dougherty@sheriff.hctx.net**

***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 provided on May 1, 2020, a work plan for our first year of work. We provided in March, 2021, a work plan for our second year of work.

This Work Plan describes the third year of our work, set out in quarterly deliverables, with a budget of approximately $580,378. As with our prior work plans, this Year 3 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

3, the Monitor will be producing reports, including: a Monitor Report at 30 months and a second report 30 days after 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. Monitor will also prepare its own findings, including for potential academic publication.

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. Monitor will also prepare its own findings, including for potential academic publication.

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 review any 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. Monitor will also prepare its own findings, including for potential academic publication.

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 review any 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. Monitor will also prepare its own findings, including for potential academic publication.

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 review any reports generated by the County.

Incorporate work into year-end Monitor Report.

**Project Timeline and Staffing.**

This work will be conducted between March 3, 2022 and March 2, 2023.

**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 Team Members.

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

The cost impacts of bail reform in Harris County are being evaluated by the [Public Policy Research](https://ppri.tamu.edu/) [Institute (PPRI),](https://ppri.tamu.edu/) a leading interdisciplinary government and social policy research organization at Texas A&M University. There are a range of costs in the pretrial context – not only costs to the system relating to detention, court appearances, prosecution, indigent defense, pretrial services, monitoring, and re-arrest/recidivism, but also costs to the defendant, families, and the community due to loss of freedom, loss of housing, loss of earnings, loss of benefits of spousal/partner assistance, and harm to physical and behavioral health due to pretrial detention. The PPRI team will assist the Monitor to understand relevant costs, assess change over time, and help identify cost-effective methods of realizing priorities under the Decree. PPRI will also document information about community service data and lead the project management efforts of the team. Tasks and deliverables are described below.

**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. A number of issues emerging during the 2021-22 contract year a have delayed progress in this work. Most notably, from May through July of 2021, internal Harris County data governance concerns interrupted JAD progress compiling the necessary data elements for Monitor analysis. Additionally, negotiations relating to Monitor use of protected health information have prevented planned analyses relating to vulnerable populations. As a result of these unexpected events, data assembly and cleaning has been set back with corresponding impacts on the cost evaluation.

During the 2022-23 contract year PPRI will collaborate to remediate these setbacks and to incorporate the heretofore unavailable or unvalidated data that is in still being developed. This includes indigent defense appointments (including court-appointed and contract attorney fees, investigation, experts, and other litigation expenses); pretrial monitoring data; court orders (e.g., for mental health evaluation and treatment or supervision conditions); and defendant address at the time of booking along with geolocation data to assess transportation costs for court and pretrial reporting. These data will be used to produce more robust estimates of per-defendant costs and to demonstrate how these costs have changed in amount and composition since the implementation of the Consent Decree.

**Task II:2. Produce Fifth Six-Month Cost Analysis Report**

Cost-related findings based on both existing and newly available data elements will be summarized in a report submitted in September 2022 as the Fifth Six-Month Monitor Report. Analyses will assess general misdemeanor case processing costs 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. The report 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 as needed 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. Continue to Support Community Service Data Acquisition**

While core PPRI analyses will assess cost of misdemeanor processing within the Harris County criminal justice systems, a number of social service organizations also offer supports to justice- involved individuals that can mitigate criminality. The PPRI team will continue to support the Monitor team efforts to understand and acquire this data and to plan future analyses.

In the 2021-22 contract year, the Patient Care Intervention Center (PCIC-TX) was identified as a source of integrated community treatment records for the criminal justice population. Moreover, the Harris County Public Defender Office (PDO) has efforts underway to access this powerful resource to make holistic service referrals that might improve pretrial outcomes for defendants. The Monitor team hopes to leverage this data integration initiative to assess whether defendant access to community services might ultimately help offset costs of case processing for county criminal justice agencies by improving current case outcomes and reducing future criminal involvement. PPRI will continue to develop opportunity for these analyses by facilitating ongoing communication and planning between the Monitor team and key parties including

PCIC-TX, the Harris County PDO, and others as appropriate.

**Task II:4. Produce Sixth Six-Month Cost Analysis Report**

For the Sixth Six-Month Monitor Report to be submitted March 3, 2022, PPRI will further 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.

**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, 2022 and March 2, 2023.

● **Texas A&M,** [**Public Policy Research Institute (PPRI)**](https://ppri.tamu.edu/)will conduct a multi-year evaluation

 **Dottie Carmichael** (Research Scientist, Texas A&M University, PPRI)

 **Ifte Islam** (Assistant Research Scientist) will replace **Trey Marchbanks (**Research

Scientist), Texas A&M University, PPRI

 **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.

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. Third Public Meeting, Fourth 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.

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.

Continue to update Monitor website.

**Task III:4. Fourth Public Meeting, Fifth 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.

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, 2022 and March 2, 2023.

● **Sandra Guerra Thompson** (University of Houston Law Center)

**Houston Meeting Costs:**

● Administrative support, food, publicity, space

● Travel: to Houston for Prof. Thompson

**Deliverables**

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| Deliverable I | Estimated Delivery | Billable |
| Dates | Amount |
| Task 1:1. | June 1, 2022 | $160,199 |
| 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 the60-day reports generated by the County. |
| Task II:1. |
| The Monitor Team (PPRI) continues work to acquire, clean, link, and prepare datasets and county department budget records for cost analysis. |
| Initial statistical analysis will be conducted in preparation for the cost analysis report. |
| Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status. |
| Task III:1. |
| Monitoring Plan re: outreach and participation for the second year.Convene monthly meetings of Community Working Group(CWG). |

11

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

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| Deliverable 2 | Estimated Delivery | Billable |
| Dates | Amount |
| Task I:2. | August 20, 2022 | $145,546 |
| 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 the60-day reports generated by the County. |
| Incorporate work into Monitor Report. |
| Task II:2. |
| The Monitor Team (PPRI) produces the Cost Analysis Plan for submission with the third six-month Monitor Report. |
| Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status. |
| Task III:2. |
| Continue Community Outreach. |

Convene monthly meetings of the Community Working

Group (CWG).

Review County’s plan for upcoming public meetings. Incorporate work into third six-month Monitor Report. Updates to Monitor website.

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| --- | --- | --- |
| Deliverable 3 | Estimated Delivery | Billable |
| Dates | Amount |
| Task I:3. | November 28, 2022 | $117,279 |
| 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 the60-day reports generated by the County. |
| Task II:3. |
| The Monitor Team (PPRI) facilitates community service data acquisition by facilitating ongoing communication and planning between the Monitor team and key parties including PCIC-TX, the Harris County PDO, and others as appropriate. |

Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.

Task III:3.

Outreach to share results of third six-month Monitor Report.

Convene monthly meetings of the Community Working

Group (CWG).

Updates to Monitor website

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| --- | --- | --- |
| Deliverable 4 | Estimated Delivery | Billable |
| Dates | Amount |
| Task I:4. | March 2, 2023 | $157,354 |
| 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 the60-day reports generated by the County. |
| Incorporate work into year-end Monitor Report. |
| Task II:4. |

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.

Project management support includes preparing meeting agendas, keeping notes, tracking Consent Decree progress on Monday.com, and reporting status.

Task III:4.

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

Third public meeting convened.

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

Incorporate work into fourth six-month Monitor Report. Updates to Monitor website.

Total Year 3 Budget: $580,378