Committee on County Affairs: Interim Charge 1

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Interim Charge 1—Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following:

- **SB 1849 (85R)**, which revised laws relating to interactions between law enforcement and individuals with mental illness or intellectual disabilities. Review and evaluate crisis prevention and pre-arrest diversion programs in both rural and urban areas. Consider models for expansion and ensure people with behavioral health needs receive appropriate services before entering the criminal justice system. Review the expansion of the community collaboratives grant program under the legislation.

NAMI Texas is a nonprofit 501(c)3 organization founded by volunteers in 1984. We are part of the nation’s largest grassroots mental health organizations and we exist to help improve the quality of life for individuals with mental illness and their families. Around the state, we have 27 local NAMI affiliate organizations and approximately 2,000 members.

**Mental Health Care for Justice-Involved Individuals with Mental Illness**

One in twenty adults live with a severe mental illness, such as schizophrenia, bipolar disorder, or major depression. Unfortunately, Texas ranks near the bottom in per capita mental health expenditure.\(^1\) Mental health concerns, suicidal ideation, and substance use are increasingly prevalent amid COVID-19; 40 percent of adults are experiencing a mental health or substance use issue, and 45 percent of adults report that their mental health has worsened due to factors associated with COVID-19.\(^2\),\(^3\),\(^4\) Roughly 1.8 million adult Texas have a substance use condition that causes significant clinical impairment.\(^5\) Individuals with an untreated mental health or substance use concerns are 8x more likely to be incarcerated.\(^3\) In 2015, an estimated 30% of jail inmates have one or more SMIs, which equates to nearly 20,000 Texans.\(^6\) The prevalence of SMI in county jails is likely currently much higher due to population growth and worsening mental health concerns.

\(^{1}\) Kaiser Family Foundation. (2015). *State Mental Health Agency (SMHA) Per Capita Mental Health Services Expenditure.* https://www.kff.org/other/state-indicator/smha-expenditures-per-capita/?currentTimeframe=0&sortModel=%7B%22collId%22:%22%22%22Location%22:%22%22sort%22:%22asc%22%7D


health workforce shortages. Of Texas’ 254 counties, 237 are designated Health Professional Shortage Areas (HPSAs). Since 2013, 21 of 164 hospitals in rural Texas have closed, and more face financial hardship that will result in additional closures.

**Jail Diversion and S.B. 1849**

While SB 1849, or the Sandra Bland Act, mandated jail diversion for persons needing mental health or substance use concerns, suicide screenings upon jail entry, and established grants for community partnerships between mental health and law enforcement agencies, the system’s capacity and resources impede the implementation of these policies. Further, there is minimal oversight, data, and reporting of jail diversion efforts. Accurate reporting, oversight, and implementation of the Sandra Bland Act will inform further legislative initiatives from a data-driven perspective.

Texas must establish uniform reporting protocols that fully capture data about law enforcement encounters with persons with a mental health or substance use concern, the jail diversion practices of law enforcement agencies, and invest in programs that divert individuals from the criminal justice system. In addition, Texas must improve access to crisis services, and strengthen community partnerships between the justice system, law enforcement, and local mental or behavioral health authorities (LMHAs/LBHAs).

**Promote Community Collaboratives in Rural and Underserved Areas**

Government Code Article 539.002, as amended by SB 1849, rural communities became eligible for grant funding to develop partnerships to treat individuals experiencing a mental health or substance use issue. Recipients are required to provide collaboration efforts between law enforcement, LMHAs, stakeholders, or private sectors, and develop jail diversion policies. However, this revenue also encompasses Healthy Community Collaboratives, awarded to the city of Dallas, Haven for Hope in San Antonio, Integral Care in Austin, and My Health My Resources in Fort Worth. Investments in community-based mental health services have been shown to improve mental health outcomes and reduce costs associated with greater utilization of law enforcement, emergency rooms, and inpatient hospitalization. To address health disparities and improve access to mental health or substance use resources, Texas must ensure that grant funding also be appropriated to rural areas and HRSAs.

**Establish Uniform Reporting Protocols for Early Identification Interviews**

Article 16.22 of SB 1849 amended the Texas Code of Criminal Procedure to require sheriffs and jailers to provide notice to the magistrate within 12 hours of receiving information or by observation that may indicate an individual is living with mental illness. Early identification interviews are essential in ensuring that individuals with mental health concerns are able to access the appropriate mental health services. However, there is no uniform system for capturing or reporting this vital information. Further, inadequate and inconsistent statewide reporting on the number of mental health screenings conducted, location of those screenings, and screening outcome hinders monitoring of law implementation and efficacy. In order to improve

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transparency in the assessment and provision of behavioral health services and jail diversion efforts, Texas should amend require the Texas Commission on Law Enforcement (TCOLE) to:

- Develop uniform state-wide data collection and reporting practices.
- Establish rules to improve the consistency and timeliness with which mental health screenings are conducted.
- Track and report data findings to relevant state agencies and the public.

**Promote Use of Integrated Crisis Response Teams**
Community-based jail diversion programs have been shown to improve mental health outcomes, reduce criminal justice involvement, and lower costs associated with unnecessary law enforcement, hospital, and crisis service utilization.\(^\text{10}\) However, police officers may not have the appropriate resources to de-escalate and divert individuals in crisis. Integrated crisis response teams partner mental health professionals with law enforcement to ensure that individuals in crisis are connected to the appropriate community-based services. Jail diversion programs for individuals living with mental illness have been shown to increase community safety and reduce recidivism.\(^\text{11}\) To ensure greater access and availability of integrated crisis response teams, Texas should require that a minimum percentage of Jail Diversion Matching Grants established in Texas Government Code, Chapter 531, be used for integrated crisis response teams.

**Improve Reporting of Pre-Booking Jail Diversion**
Article 16.23 of the Texas Code of Criminal Procedure requires law enforcement agencies to make good faith efforts in diverting individuals experiencing a mental health or substance use crisis to community-based treatment. Community-based jail diversion programs have been shown to improve mental health outcomes, reduce criminal justice involvement, and lower costs associated with unnecessary law enforcement, hospital, and crisis service utilization.\(^\text{10}\) Unfortunately, inadequate and inconsistent reporting of jail diversions prevents monitoring of diversion practices and assessment of program effectiveness. In order to improve pre-booking jail diversion, Texas should:

- Require the Texas Commission on Law Enforcement (TCOLE) to develop guidelines for compiling and reporting relevant pre-booking jail diversion data, such as the individual’s demographic data and presentation, in addition to diversion destination.
- Require law enforcement agencies to collect pre-booking jail diversion data from peace officers and report to TCOLE according to developed guidelines.

**Increase the Availability of Emergency Mental Health Resources**
SB 1849 requires officers to “make a good faith effort” to divert individuals experiencing a mental health or substance use crisis to treatment centers. However, the ambiguous and objective terminology becomes challenging to monitor, evaluate, or quantify jail diversion practices. While SB 1849 expanded the Healthy Community Collaboratives to rural and underserved areas, oversight is needed to ensure the appropriate allocation of funds. Rural communities and many LMHAs in Texas still do not have the needed facilities or resources for law enforcement to divert persons in crisis. This can result in increased utilization of emergency rooms for persons in crisis.

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crisis, specifically when jail is the only alternative. To improve emergency mental health services, collaboration, and jail diversion efficiency, Texas should:

- Identify programs available in Texas through LMHAs and LBHAs including Rapid Crisis Stabilization Beds, Crisis Stabilization Units, Extended Observation Units, Crisis Residential Units, and Crisis Respite Units.
- Oversee the allocation of grant recipients to ensure rural and underserved areas are able to receive the care they need.

**Increase the Availability of Crisis Respite Services**—A community mental health system should match the needs of the individual seeking services to the services provided. In addition to walk-in services and mobile outreach, crisis respite is an essential component of the community-based continuum of care. Crisis respite provides temporary food, shelter, medical, psychiatric, case management, and counseling services to individuals with mental health concerns, and can be used as an alternative to inpatient hospitalization or a step-down housing upon hospital discharge. Texas should invest in the Community Mental Health Crisis Services budget found in HHSC Strategy D.2.3 of the appropriations bill to improve treatment outcomes, reduce crisis service utilization, and promote engagement with community-based mental health services.

**Closing**

Texas must establish uniform reporting protocols that fully capture data about jail diversion programs for persons living with mental health and substance use, evaluate efficient and effective diversion practices, and improve fidelity in the reporting process by implementing these measures. Texas should invest in programs that divert individuals from the criminal justice system, encourage interagency collaboration, improve access to crisis services, allocate resources to underserved and rural communities, and provide additional support to implement effective strategies in the treatment for persons with mental health or substance use concerns.

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