



January 19, 2018

Dear Roger Jeffries; Judge Eckhardt; and Commissioners Daugherty, Gomez, Shea, and Travillion:

Thank you for the invitation to meet with community advocates and stakeholders regarding the serious issue of the construction of a new women’s facility at the Travis County Correctional Complex. We appreciate that you see the value in having community input in the process and believe this input will lead to the best possible outcome for residents and taxpayers in Travis County. We, the undersigned organizations, look forward to meeting soon and discussing the following proposals at that meeting. Given the seriousness of any potential impacts on public safety for all Travis County residents, we ask that our meeting be open to the public.

Our organizations strongly believe that before we invest millions in new infrastructure that potentially adds bed capacity to the Travis County jail system, serious analysis of the drivers of the jail population and formal consultation with stakeholders are urgently needed.

We are concerned about facility conditions at the Correctional Complex, but our shared commitment to building a safe and healthy community must come first. More important than upgrading aging buildings or increasing operational efficiency is prioritizing alternatives to incarceration that keep people in their communities and out of jail. Our community leaders must not be content with a projected stable jail population. Rather, we should commit to significantly reduce the number of people we incarcerate and to ultimately downsize our jail.

We appreciate the work of the Jail Population Monitoring Group, as presented to the Commissioners Court on December 5, 2017, in identifying management strategies to minimize bed days and improve operational efficiency. These efforts are important. However, more work is needed to address *policy* drivers of the jail population, both before and after arrest, with a

collective goal of significant jail population reduction. Addressing the roots of why people are arrested and jailed is crucial to any vision of public safety and public health.

The Commissioners Court and Justice Planning Department do not have the sole power to achieve this goal. However, you must play a critical role and we ask that you lead and coordinate all necessary stakeholders and policy makers in these efforts to make our community safer.

We ask the Commissioners Court to halt the construction of a new women’s jail and convene a community stakeholder process with all necessary policy makers, including the County Attorney, District Attorney, Sheriff, Austin Chief of Police, and other public safety and health representatives within the city to discuss the following issues:

- 1. Decriminalize all Cite-and-Release eligible offenses (no arrests, no charges, no booking)**

In spring 2007, the Texas Legislature passed a law enabling law enforcement to issue a citation in lieu of arrest for an individual charged with one of nine specified Class A and B misdemeanor offenses. In October 2008, then-Austin Police Chief Art Acevedo announced that APD would implement a policy allowing officers to issue citations under the law.

In December 2017, Travis County Attorney David Escamilla and Precinct 5 Justice of the Peace Nicholas Chu announced a new policy for two of the Cite-and-Release eligible offenses — Class A and B marijuana possession. Going forward, individuals charged with these offenses will not have those charges filed if they attend a drug education class, and potentially pay a fine and/or complete community service within 60 days. For those who fulfill these requirements and were initially given a citation, the new policy will result in no arrest record or criminal history. This represents an important improvement in local criminal justice.

However, for the remaining Cite-and-Release eligible offenses, including Driving with License Invalid, individuals that receive citations are still required to go to the courthouse to be booked, which includes being fingerprinted, photographed, and signing a bond. Subsequently, no current policy offers an opportunity to avoid having the charges filed.

We see three problems with this process as it stands:

1. People are still being arrested for Cite-and-Release eligible offenses, including Class A and B misdemeanor marijuana possession. According to our analysis, from October 2014 thru November 2016, there were more than 3,400 arrests by APD alone for individuals eligible for Cite-and-Release citations.

2. Individuals who receive Cite-and-Release citations often do not realize they have to go to the courthouse to be booked, which results in a Failure to Appear warrant, and a potential for an additional Class B misdemeanor, for their arrest. In 2012, this happened 30 percent of the time.
3. Even when individuals receive citations and properly complete the process, although the booking does not result in jail time, it still results in a criminal record that creates barriers to housing, employment and other services.

We can and should do more to keep individuals out of the criminal justice system entirely.

2. Rethinking prosecution of State Jail Felonies, including possession of a controlled substance

Individuals charged with possession of a controlled substance drive the jail population in Travis County. Since 2012, the number of drug possession cases filed in Travis County increased 90 percent, a rate of increase that far exceeds any other type of offense. According to the Department of Public Safety, in 2016, there were 1662 arrests for possession of a controlled substance (PG 1 < 1 gram) in Travis County and another 597 arrests for possession of 1 to 4 grams, a state jail felony offense. It is not uncommon for individuals charged with possession, especially women, to spend weeks or months in county jail awaiting trial.

Detaining people who are charged with possession during the pretrial phase is counterproductive. It deprives defendants of the opportunity to immediately address issues related to substance use, and increases the likelihood that the case will be handled through incarceration instead of treatment and other rehabilitative programming. According to the Vera Institute, pretrial detention of even a few days can have life-altering effects for women and their families, putting jobs and housing at risk. This is one reason why defendants charged with possession have the highest recidivism rate.

We urge Travis County to institute diversion policies and programming for individuals charged with a felony possession offense that could more adequately address substance use treatment needs. According to best practice standards, policies and programming should emphasize:

- Pre-arrest diversion, linking people with community-based services in lieu of incarceration;
- Rapid release from county jail on personal recognizance bonds for those who are arrested and charged with possession, regardless of the number of prior offenses;

- Partnerships with community organizations to provide treatment and programming to defendants during the pretrial phase, diverting these individuals not only from county jail, but also from community supervision ; and
- Case dismissal upon completion of programming, and automatic expunction for first-time offenses.

3. Investing in community alternatives to arrest for mental health and substance use disorders

According to the Prison Policy Initiative, the underlying conditions in women’s lives that lead to substance use and justice system involvement suggest that treatment in the community, rather than incarceration, is a more effective response. Providing an opportunity to address these underlying causes through behavioral health, substance abuse, or other treatment, is critically important. For example, research suggests that many women use drugs to self-medicate in response to victimization and trauma. A 2005 study found that 98 percent of women in jails had been exposed to trauma during their lifetime and 74 percent had issues with alcohol or drug use. Data presented by the Jail Population Monitoring Group to the Commissioners Court on December 5, 2017, revealed that the number of women with mental health needs in the Travis County Jail has doubled over the last five years and over three-fourths of people in the jail population have substance use disorder needs.

Because community-based services lead to better outcomes for individuals with behavioral health and substance use needs, we must invest in public health and community-based diversion programs rather than building specialized facilities. We recognize there are existing programs identified by Travis County as offering alternatives to arrest, but we lack the evidence to show their efficacy. For example, the Expanded Mobile Crisis Outreach Team (EMCOT) works with individuals in crisis who encounter law enforcement and are in need of psychiatric intervention. Although law enforcement and Austin Travis County Integral Care (ATCIC) boast arrest diversion rates of 99 percent, the community does not have access to that data. Our experiences in the community suggest that clients with especially complex care and community needs often fall through treatment gaps and receive limited follow through from ATCIC. In short, the community must have access to outcome data to evaluate the success of diversion programs for ourselves.

Relatedly, the direct and collateral consequences of incarceration can be uniquely devastating for women’s families and reproduce trauma among dependents. The vast majority of women who come into contact with the Texas criminal justice system have dependent children, and the incarceration of a parent is destabilizing and traumatic. Upon community re-entry, incarcerated women face difficulties securing work, housing, and financial support, all of which also affect

the health and safety of their dependent children. Travis County should allow parents to remain in their communities where they can continue supporting their families. Additionally, Travis County should seek to minimize by policy the number of pregnant women serving time in Travis County jail. Best practices dictate that alternatives to incarceration should be utilized to the greatest extent possible for pregnant women, yet 18 pregnant women were in Travis County jail as of December 1, 2017. No child should be born into incarceration.

Reducing the jail population in favor of investing in community safety is a moral and fiscal duty. It is our sincere belief that we can and should do better in Travis County, where we will pave the way toward a vision of public safety that is sustainable and based on our most creative thinking — if only we are willing to seize the opportunity.

Respectfully,

Counter Balance ATX
Excellence and Advancement Foundation
Grassroots Leadership
Lonestar Justice Alliance
MEASURE
Texas Advocates for Justice
Texas Appleseed
Texas Criminal Justice Coalition
Texas Fair Defense Project