TEXAS JAIL PROJECT

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Public Comment: HHSC Legislative Appropriations Request (LAR) Fiscal Year 2028-29

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Texas Jail Project (TJP) is a non-profit, non-governmental organization working statewide on improving county jail conditions. Our mission is to organize for and with people, incarcerated pretrial in Texas county jails to shrink mass incarceration. Our vision is to replace punitive systems with communities of care. We help communities navigate the pretrial criminal punishment system at the intersection of the public mental health system while serving as de facto civilian oversight for conditions of confinement in 244 county jails. The county jail system is admittedly the largest warehouse of people with serious mental illness - caging over 76,000 people every month - 76 percent of whom are pretrial, i.e. legally innocent. TJP is the only organization of its kind in Texas focused on vulnerable populations in jail such as people with serious mental illness and/or people with Intellectual and Developmental Disabilities, pregnant people and veterans. We serve as a voting member on the Administrative and Rules Advisory Committee of the Texas Commission on Jail Standards and on the data committee of the Texas Judicial Commission on Mental Health.

Mandating Continuity of Care for LMHA Clients Post-Release from County Jails

A legislatively mandated State Auditor's Report released in 2024 on the state of the forensic waitlist in Texas, stated that in a 5 year lookback between 2018 and 2023 there were 15,652 people placed on the list for competency restoration. There were 168 individuals identified as people who "timed out" or in other words, were removed from the waitlist after serving the maximum period of commitment. **Individuals**

who "timed out," including those who are indigent, are required to be released even if their competency has not been restored. There is no mandate to connect these individuals to appropriate "level of care" at the time of release. 341 people were placed on the forensic waitlist multiple times on the same charge and some people reappeared up to six times on the same charges. TJP recommends that HHSC improve continuity of care for justice involved populations by mandating LMHAs to reconnect their clients and "timed out" individuals to services, prior to release from jail so as to maintain meaningful continuity of care.

Funding to Implement Continuity of Care for Justice Involved Populations: Strategy D.2.1 (Pg 162) and/D.2.4.

Recommendations:

- Increase appropriations within Strategy D.2.1, Community Mental Health Services or Strategy D.2.4 Community Mental Health Grants, to provide continuity of care upon release from county jails to LMHA/LBHA clients who were a positive CCQ match at the time of booking into the jail. **Currently, individuals are unenrolled from LMHA services when incarcerated for over 30 days with no discharge policy to reconnect them with services prior to or upon release from jail.**
    - Mandate continuity of care protocols prior to discharge from county jails, for LMHAs that are contracting with county jails to provide supplemental services inside the jails
    - Implement data collection and reporting of LMHA clients who were disconnected from services due to incarceration
    - Create robust standards for continuity of care upon entry into county jail and upon release from county jail
- Increase appropriations within Strategy D.2.1, Community Mental Health Services, to provide continuity of care upon release from county jails to people who "timed out" on the forensic waitlist. Since these people are the responsibility of the state while on the forensic waitlist, we believe they should be considered LMHA clients. Ensuring continuity of care for this population closes a crucial gap in the public safety systems since these individuals are at the highest risk of re-entering the jail system on similar or higher level charges where chances are that a crime was committed and a victim created.
- Require HHSC to report under Output measures
    - the number of persons discharged from county jails who were LMHA clients at the time of being booked into jails, receiving continuity of care per year funded by GR,
    - the number of persons discharged from county jails who "timed out" on the forensic waitlist
    - the number of persons discharged from county jails who "timed out" on the forensic waitlist **and** were connected to continuity of care services by the LMHA funded by GR
    - the number of LMHAS that are contracted to provide mental health services inside county jails
    - the number of persons receiving crisis services inside county jails per year funded by GR.

Needs addressed:

The Texas county jail system has become the largest warehouse of people with serious mental illness in the state of Texas. Behavioral health clients of the state who have one interaction with the pretrial detention system are much more likely to be sucked back into the criminal justice system due to lack of upstream protocols to deflect or divert them from jails.

Currently, LMHAs do not provide continuity of care to their own clients who are held in county jails unless they have a supplemental services contract with a county to specifically provide services inside the county jail. Thus a patchwork system of private mental health providers, LMHAs and county doctors coupled with a limited jail formulary, creates a perfect storm for behavioral and mental health clients. Even when LMHAs do have supplemental services contracts with county jails, there is no statute ensuring continuity of care for their own clients who are unenrolled from services after 30 days of incarceration thus leaving them in a worse off situation and priming them for the revolving door.

Prioritizing and mandating robust continuity of care services after the first (and successive) interactions with the county jail system, provides fiscal savings not only in the legal system but also in the mental and behavioral health system, since repeated interactions with the criminal punishment system coupled with successively longer periods of interaction, make it harder and harder for this population to succeed in any programs.

Housing and Residential Intermediate Care for Individuals with Serious Mental Illness

Recommendations:

- Provide a dedicated Exceptional Item to implement the Intermediate Care Pilot Program proposed in Rider 56 — Appropriate Care Settings for Individuals with Severe and Persistent Mental Illness and Co-Occurring Conditions Study, including the creation of intensive residential settings for adults with severe and persistent mental illness and co-occurring conditions (e.g. TBI, IDD) who no longer meet inpatient criteria but cannot be safely placed in typical community settings.
- Appropriate new funding to Strategy D.2.5 to develop, launch, staff, and oversee the Intermediate Care pilot.
- Direct HHSC to use Rider 56 findings to:
    - Define Intermediate Care program requirements, eligibility, and clinical supports;
    - Develop scalable models that could operate in community-based residential settings, enhanced nursing facilities, or rehabilitated state hospital buildings;
    - Ensure Intermediate Care sites avoid IMD classification and meet federal funding requirements;
    - Assess potential use of vacant buildings on state hospital campuses under Strategy G.2.1 Mental Health State Hospitals.
- Require HHSC to report Intermediate Care performance, cost, utilization, and implementation progress in future LAR submissions.

Needs Addressed:

Rider 56 (89th Legislature) directed HHSC to develop a proposal for a pilot Intermediate Care program designed to serve adults with severe and persistent mental illness and co-occurring conditions who are not appropriate for standard community placement yet no longer meet criteria for inpatient psychiatric care. This group, characterized by extended state hospital histories, repeated incarcerations, and multiple psychiatric crises, currently has no appropriate placement in Texas's behavioral health continuum, resulting in prolonged state hospital lengths of stay, recurring emergency department usage, and frequent contact with the criminal legal system.

Individuals meeting rider 56 eligibility criteria represent some of the highest-acuity and highest-cost service users in the state's behavioral health and criminal justice systems. Although the Legislature required HHSC to complete the study, no funding was appropriated to implement the pilot, leaving a substantial gap in care for this high-acuity population.

Funding implementation through Strategy D.2.5, consistent with Rider 56's placement in the GAA, will allow HHSC to operationalize the program design, establish facilities that avoid IMD classification, and address one of the most persistent barriers to state hospital flow and community stabilization. Implementing the Intermediate Care pilot is essential to reducing discharge delays, improving outcomes for individuals with complex needs, and strengthening the overall behavioral health continuum of care. Implementing the Intermediate Care pilot advances Gaps 1, 5, 6, 10, 12, and 13 in the Texas Statewide Behavioral Health Strategic Plan and complements the Children's Behavioral Health Strategic Plan's emphasis on maintaining a full continuum of outpatient, residential, and inpatient care for high-acuity populations.

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