

Kim K. Ogg
Harris County District Attorney



COMMUNITY ACTION PLAN

Bail Reform

**A Policy/Program Plan Based On
2017 Community Transition Committee Recommendations.**

Committee Members:

Juan Guerra, Co-Chair

Jay Jenkins, Co-Chair

Tarsha Jackson

Carolyn Henry, M.S.

Jack Carroll

Anthony Muharib

Gerald Wheeler, PhD

Since taking office, Kim Ogg and the new Administration at the Harris County District Attorney's Office (HCDAO) have been guided by a core set of principles that have shaped policy change and resulted in the implementation of new program initiatives. Because difficult decisions arise every day during the administration of justice, the District Attorney and her staff rely upon these principles in seeking fair and equal justice for the people of Harris County. These guiding principles can be found on the HCDAO website under "The Office" tab.

Overview

Reforming the Harris County bail system has been a primary initiative for the District Attorney. The HCDAO filed an Amicus Brief in *O'Donnell vs. Harris County, Texas, et al.* and, along with more than 70 prosecutors and former U.S. Attorneys and State's Attorneys, signed on to support an Amicus Brief in the *O'Donnell* appeal. Specific HCDAO guiding principles which apply are:

- **To use taxpayer money efficiently;**
- **To treat those accused of criminal offenses with dignity and fairness;**
- **To actively seek input and participation by the diverse communities of the greater Houston area;**

District Attorney Ogg told the New York Times on August 9, 2017, "Eliminating economic status as the determining factor in depriving unconvicted individuals of their liberty is essential to the integrity of our justice system. Harris County's wealth-based bail system has for decades inflicted punishment on poor people before guilt has been proven, while releasing those with money into our communities even when the offenders were dangerous. As the chief prosecutor, we must level the playing field in order to preserve the public's trust and safety." This position means that the HCDAO will advocate with judges and the legislature the necessary law and policy changes required of the Judicial and Legislative branches of government to create a risk, not wealth-based, approach to bail.

Action

Reporting and Information Systems

The HCDAO agrees with the Transition Committee about the need for improved identification of low-risk, misdemeanor offenders who are lawfully eligible for bail; however, the Harris County Sheriff's Office (HCSO) has already moved to do this. Because of a recent vote by the judges to change local rules, all bail recommendations are now made by Harris County PreTrial Services, leaving the HCDAO out of the process. And while the role of the HDCA in matters involving bail is changing, it remains the responsibility of prosecutors to present evidence in support of high or low bonds, in favor/against pretrial bonds to magistrates and trial court judges. The HCDAO is currently advocating for assistance from the Harris County Criminal Justice Coordinating Council to consider public safety concerns in the bail process by revisiting the current application of the Arnold Foundation PreTrial Assessment "tool" as now applied to a new bail schedule, also recently adopted by the Board of Judges.

Additionally, the HCDAO has, for the first time, employed a dedicated Data Analysis/Program Assessment staffer to assist in measuring and quantifying the effects of new policies and to better evaluate the results. That includes the effects of bail reform and will address sustainability of major overhauls in justice system. Academic and grant-funded research will aid in the transformation of the Harris County bail system and can reduce the cost of data analysis and insure unbiased impact study.

Pretrial Release for Mentally Ill

The Ogg administration champions the cause of reducing the population of mentally ill offenders incarcerated in the Harris County Jail. Increased mental illness training for ADAs, including the Intake Division, has already begun and will be a re-occurring requirement for prosecutors. The DA's office is actively building relationships with third parties, including non-profit organizations and experts, to educate ADAs on best practices. The Ogg Administrations agrees that identification of mentally ill suspects for evaluation, treatment and release under appropriate circumstances should be made as quickly as possible. Collaborative referral processes with state and county mental health hospitals and systems must be and are being actively discussed.

Locating private and public funders is a necessity that the District Attorney is willing to engage as support for more residential and out-patient treatment programs is essential to moving this public health crisis away from criminal justice and towards health care. Further detail will be outlined in the Mental Health HCDAO Community Action Plan.

Improving Bail Process:

As the bail lawsuit progresses, the HCDAO is communicating with all affected agencies to assure any newly implemented policies are clearly communicated to ADAs. Besides a new risk-assessment tool and bail schedule, public defenders are now present at every critical stage in representation, including all magistrate hearings on misdemeanor charges.

The Ogg Administration will work with all of the Harris County Law Enforcement agencies towards a citation/summons process for appropriate misdemeanor crimes; assisting Pretrial Services in creating mechanisms for pretrial notifications to defendants in summons cases will be crucial; monitoring Failure to Appear rates will be authorized and insured for the purpose of determining the success or failure of major policy shifts.

It is a fact that some defendants merit precautions known as conditions of bail; examples are Magistrate's Order for Emergency Protection (MOEP). The HCDAO actively request issuance of MOEPs on all domestic violence cases. The current local rules require a request from the complainant for a MOEP when the criminal charge is a misdemeanor. That request can be made by the responding law enforcement officer who makes the scene, and is generally noted by the Intake prosecutor on the charging documents. The HCDAO will advocate for greater consistency in misdemeanor domestic violence cases and urge prosecutors to seek MOEPs in most family violence cases. A current proposed in-house initiative by HCDAO staff is to have MOEP issued in other languages—currently a technological limitation. The Ogg Administration will work towards obtaining funds to provide such services to the international victims' community in Harris County at the recommendation of the Committee.

Immigration status is not considered in bail recommendations by the HCDAO unless the suspect has previously bond forfeited or failed to appear post release in this or another jurisdiction.

The HCDAO seeks to establish open dialogue with all government agencies and third parties that impact criminal justice in Harris County including law enforcement, academic institutions, the bail bonding industry, and non-profit agencies in the effort to create a fairer, operational bail system that truly provides public safety for all.

The Harris County District Attorney's Office and DA Kim Ogg are dedicated to continued community involvement in the criminal justice system and the application of fair and equal justice to all of Harris County. We would like to thank all the participants of Transition Team for their time and dedication to improving our criminal justice system. The communities voice will always be part of the Ogg administration.

The Harris County District Attorney's Office is comprised of 329 prosecutors, 90 investigators and 277 support personnel who are dedicated to making our community safer through evidence-based prosecution. This means guaranteeing a fair process with the goal of obtaining a just result for the victim, the accused and the community in every case.

To accomplish these goals, we promise:

- *To use taxpayer money efficiently;*
- *To make decisions about criminal cases based on evidence, not relationships;*
- *To strive for equality in our use of prosecutorial discretion;*
- *To treat all crime victims with dignity and fairness;*
- *To also treat those accused of criminal offenses with dignity and fairness;*
- *To recognize mental illness as a public-health concern;*
- *To collaborate with other governmental and law enforcement agencies so that we can solve and prosecute crimes more effectively;*
- *To utilize the expertise of specialty division prosecutors for crimes requiring subject matter knowledge;*
- *To actively seek input and participation by the diverse communities of the greater Houston area;*
- *To utilize technology to improve case management, service to our constituents, and employee accountability;*
- *To be mindful of our duty to see that justice is done, and as representatives of the people, to be transparent in our actions;*
- *To act with professionalism in every situation.*