

**Kim K. Ogg**  
**Harris County District Attorney**



**COMMUNITY ACTION PLAN**

**Equality in Justice**

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

**Committee Members:**

Dr. Lydia Johnson, Chair

Hon. Jolanda Jones

Janis Bane

Jeff Reichman

Katherine Neill

Tammie Campbell

Gareth Morgans

*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**

The spirit and ideology of the proposed mission statement is fully supported by DA Kim Ogg and each particular point falls within HCDAO greater mission of justice. Some of these same goals are expressed in the HCDAO guiding principles.

- **To make decisions about criminal cases based on evidence, not relationships;**
- **To strive for equality in our use of prosecutorial discretion;**
- **To be mindful of our duty to see that justice is done, and as representatives of the people, to be transparent in our actions;**

Equal justice means insuring due process for all who are impacted by a crime, including the victim, the accused and the community. Sentences must be appropriate and proportionate to the crime committed and proved by sufficient, credible evidence. Public safety remains the ultimate goal, yet must never come at the expense of injustice. It is also important to distinguish equality from fairness and recognize that they require separate consideration in prosecution. Unlike the federal criminal justice system which concludes a case through use of sentencing guidelines and whose prosecutors are guided by oversight from a centralized US Department of Justice—local District Attorneys work differently: they are independent evaluators of the evidence in a case charged with individual application of the law to each situation and individual investigated and charged with a crime. Absolute rules and prohibitions regarding punishment and the disposition of cases, resulting in a one-size fits all rule for certain offenses, are discouraged by the Ogg Administration. Instead, independent evaluation of every case is encouraged.

## **Action**

### **Expansion of Pre-trial Services**

Even as the Transition Teams worked to create reports outlining their findings, the Ogg Administration announced the most expansive misdemeanor marijuana diversion program in Texas. The program is expected to divert 10,000 offenders per year and to save approximately \$27 million annually (on averages based upon 2006 – 2016 HCDAO case filing statistics and financial estimates calculated upon an average number of dollars spent by local law enforcement, crime labs, the Harris County jail, costs of prosecution and courts). Through redirection of these resources, the Ogg Administration is working in conjunction with law enforcement leaders to investigate, solve and prosecute crimes against people and property. As of August 2017, over 2,000 individuals in possession of misdemeanor amounts of marijuana have avoided jail and the permanent criminal records which limit education, employment and housing opportunities for life. The mandatory driver's license suspensions costing minor drug offenders their jobs and viability in the workforce, have also been avoided. Initial Failure to Appear rates of diverted marijuana offenders are now the focus of program improvement, with program participant calls and text reminders being used to increase program compliance.

The HCDAO is also working to expand pre-charge and pre-trial diversion programs to other misdemeanor offenses. The goal of a diversion program is to hold non-violent law violators accountable for their actions, while avoiding the impact of a permanent criminal record and keeping them in the work force. Public safety remains a primary consideration in the expansion of such programs. Pursuant to the Transition Committee Report findings, the HCDAO is committed to:

- Ongoing evaluation of the desired equal application of current PreTrial Diversion programs through documentation of program participants' race, gender, criminal history, and other objective data;
- Ethnicity, not just race, will be participant data that is specifically collected and maintained so as not to "under count" important ethnic data such as "Hispanic" ethnicity within a larger race classification of "white";

- Regular review and standardization where applicable in the Pre-Trial Diversion offender eligibility criteria being used, with consideration of changes, additions and deletions recommended by the Transition Team and by the HCDAO Misdemeanor Division Chief. The Ogg administration has substantially increased the number of pre-trial diversions given in 2017.
- Eliminating the waiting period for expungement in all cases except those in which a prosecutor articulates an express reason which is evidence-based and necessary to public safety and the Defendant has agreed as part of the PreTrial Diversion agreement;
- HCDAO will end the practice of maintaining files on cases where expunction has been ordered by the Court, except in cases where the prosecutor has articulated an express reason which is evidence-based and necessary to public safety and the Defendant has agreed as part of the PreTrial Diversion agreement;

### **Continuing Education for Prosecutors**

Under the new administration, wider latitude in the use of prosecutorial discretion is encouraged among the line prosecutors. This increased responsibility means prosecuting attorneys need increased educational resources in continuing legal education (CLE). As recommended by the Transition Team, prosecutors will regularly be offered CLE accredited training on ethics in prosecution.

In addition to CLE training, the HCDAO is working hard to engage the community directly through participation in community-driven forums and events, including top leadership as well as line prosecutors. The HCDAO established a Community Outreach Division whose director assembled and trained a speakers' bureau, thereby insuring more interaction between line prosecutors and the community. To better serve the public the DA's office must always maintain accessibility to crime victims, lawyers of those accused, and community residents who are ultimately impacted as taxpayers. The goal is always a safer community through fair and just prosecution.

Finally, the HCDAO is committed to working with third party non-profit and service organizations to help expand the community's knowledge and understanding of the law and the enduring impact effective prosecution has on everyone. Partners that will be included in CLE and non-CLE training include:

- Mental Health Organizations
  - Local Law Schools
  - Homeless Service Organizations
  - Exoneration organizations -Anthony Graves Foundation
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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 community's 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.*