

Kim K. Ogg
Harris County District Attorney



COMMUNITY ACTION PLAN

Officer Involved Shootings/Civil Rights

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

Committee Members:

Hon. C.O. "Brad" Bradford, Co-Chair

Paul Looney, Co-Chair

Dr. Linda Bell Robinson

Frances Valdez

Michael Harris

Frank Garcia

Glen Austin

Judge Kristin Guiney

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

Under the Ogg Administration, evidence-based prosecution is the foundation for all operational actions related to criminal cases filed by the HCDAO. The term "evidence-based" translates to use of objective information in the use of prosecutorial discretion, as opposed to decision-making founded upon relationships or influenced by public opinion. By utilizing the grand jury system as the intended check and balance for all felony charging decisions made by prosecutors, the community will be empowered to increase their participation in the criminal justice system through grand jury service. This, along with the Ogg Administration's dedication to transparency, is intended to increase trust in our criminal justice system. Officer-involved shootings are one of the most visible means of assessing the equal application of the law to law enforcement itself. Specific HCDAO guiding principles which apply are:

- **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.**

Action

Grand Juries

As the ultimate factfinders in the grand jury and in jury trials of those accused of crimes, the community plays a key role in the criminal justice system. Grand juries serve as preliminary

decision makers, and therefore prosecutors have a duty to present complete and unbiased evidence to achieve sound decisions as to whether probable cause in fact exists to support the charges alleged by prosecutors. Grand jury reform of the former “key man” system in favor of “random selection” of grand jurors was accomplished through legislative reform prior to the Ogg Administration. It is worthy, however, to note that for decades it was a major issue in previous elections of the District Attorney, the judges of Harris County and other elected officials. Certain recommendations about grand juries made by the Transition Team have already been adopted by the Ogg Administration, independent of whether or not the assumptions under which the Transition Team worked were verified. Those policy and program recommendations effective immediately are:

- To avoid conditioning grand juries in favor of police, grand jurors will not be invited by the District Attorney to participate in law enforcement “ride alongs” or police training experiences as part of their grand jury experience;
- Police officers will not address grand juries as part of grand jury orientation or in any capacity other than as a witness or the subject of a grand jury inquiry;
- Prosecutors will present all relevant and material evidence to grand juries and avoid “document dumps” in civil rights cases. Grand Jurors will have the option to request more information as in other cases.

Charging Decisions and Plea Bargains

The Ogg administration has encouraged increased use of professional discretion for prosecutors, and at the recommendation of the Transition Team will make all necessary policy changes to insure:

- Law enforcement officers will be eligible for Pretrial diversion in appropriate cases-- as would any accused, allowing prosecutors in the Civil Rights and Public Corruption Divisions to give equal consideration to alternative punishment options as would be available to other individuals;
- The charge of Official Oppression will be used only when the evidence merits the charge, and grand juries will be presented with all possible charging options;

- Individuals shot by police in civil rights cases will no longer be referred to as “opponents” rather by their given name this policy change was already implemented in August 2017;
- The Civil Rights Division requires some additional training and legal acumen but will remain subject to prosecutor rotation;
- Officer involved shootings will be handled by prosecutors assigned to the HCDAO Civil Rights Division, with prosecutor pro tems requested in the event a conflict of interest occurs;
- Video evidence in officer involved shootings will be made available to the public or released to the media via request, so long as not detrimental to the investigation or prosecution of the case; transparency will be the rule-- no longer the exception.
- Officer involved shootings will be presented to grand juries expeditiously, although a rush to judgment must not be allowed;
- The destroying or tampering of evidence by any person at the crime scene or subsequent to the event will be prosecuted.

Advocating for Broader Reforms

The HCDAO understands the central role it holds as the guardian of justice in the criminal justice system. DA Ogg also accepts the responsibility to advocate for policy advancement in other branches of the criminal justice system. The Transition Teams have suggested several advocacy points for DA Ogg, and many fall within the existing guiding principles of the HCDAO:

- Examine and study best practices in other jurisdiction to improve Harris County’s system;
- Work directly with the community, law enforcement, and third parties to educate the community about the criminal justice system and their rights and roles as participants;
- Support the advancement of body camera, dashcams, and body microphone policies among local law enforcement to maximize the interconnectivity of technology between law enforcement agencies and the HCDAO;
- Support independent storage of video and digital evidence by law enforcement agencies; and

- Work with the Texas Dept. of Public Safety and research institutions to efficiently track data on officer-involved shooting and civil rights prosecutions.
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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 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.*