

EVALUATION REPORT

Jail Administrator's Position Harris County, Texas Jail System

**Prepared by: Eric Batton, Lieutenant
Harris County Sheriff's Office**

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**TO: Ron Hickman, Sheriff
Harris County, Texas**

**Todd R. Montefusco, Assistant Chief
Criminal Justice Command**

**FROM: Eric Batton, Lieutenant
Criminal Justice Command**

**SUBJECT: Jail Administrator's Position
Harris County, Texas**

OVERVIEW

Harris County operates the third largest county jail system in the United States. Harris County's complex criminal justice system involves 34 municipalities, services approximately 50 law enforcement agencies, 43 Criminal Courts, 28 Civil Courts, 4 Probate Courts, 9 Family Courts, 1 Civil Tax Court, 4 Family Child Support Courts, 3 Juvenile District Courts, 1 C.P.S. Court and operates three separate jail facilities. Legal and operational challenges of the County Jails have taxed the system and raised concerns within County government about the most effective use of its resources to enhance public safety.

In 2010, the question was raised by Commissioner Steve Radack as to the feasibility and legal authority of the county to authorize the creation of a county department to manage the daily operations of the County Jail, should the Sheriff agree to the creation of the department. These same questions were once again raised recently in May 2015. This report is generated in response to the aforementioned question and subsequent follow up inquiries received regarding the possible creation of a Jail Administrator's position, outside the Sheriff's Office, to oversee the daily operations of the Harris County Jail System.

LEGAL AUTHORITY

As stipulated in a letter of opinion from the Office of the County Attorney, Vince Ryan, dated February 10, 2010, (Opinion No# VR-0001) the responsibility of supervision of the jail is constitutional obligation of the Sheriff under current state law (Tex. Loc. Gov. Code § 351.001). The power to appoint a Jail Administrator or a County department is a provision that does not currently exist in the Texas Local Government Code unless the Sheriff declines to act as the administrator over the jail, as stipulated in the Texas Local Government Code § 351.034(c). The County Attorney summarized the following;

“Based on the facts presented, we find no provision under the law that authorizes Harris County Commissioners Court to directly assume control of the County Jail, or to create a County department to run the County Jail, even with the agreement of the Sheriff. Absent specific enabling legislation that provides otherwise, The Harris County Sheriff has exclusive power under sections 291.005(e) and 351.041 of the Texas Local Government Code to be the keeper of the County Jail and to hire employees to operate the County Jail under his supervision.”

The immediate concern for the Sheriff is whether or not he is divested of all liability regarding jail operations. There is no mention of any exceptions in the Texas Local Government Code that would absolve the Sheriff of his constitutional responsibilities. Current legislation does not provide Harris County an unobstructed conduit to transition to a Jail Administrator model for managing the jail; however current practices and structure of the Harris County Sheriff’s Office (HCSO) is complimentary to the structure that has been implemented by the Bexar County Sheriff’s Office that operates the Detention Division with a “Jail Administrator”. In 1987, Bexar County transferred jail operations from the Sheriff to the County Commissioners for oversight, and was maintained by a Jail Administrator who answered to the Commissioners Court. Only two years later in 1989, this oversight was again transferred from the Commissioners Court back to the County Sheriff. Even under their current structure, the administrator is

still answerable to the County Sheriff who oversees the administration and operation of the jail. Without an enabling act that creates the legislative pathway, the “Jail Administrator” model is untenable to pursue as an option of exploration. Finally, the Sheriff is constitutionally obligated by state law and lawful orders of the court to incarcerate suspected criminal offenders who are remanded to his custody (Tex. Loc. Gov’t Code Ann. § 351.041(a) (Vernon 1999)).

JAIL RESOURCES

According to the U.S. Department of Justice National Institute of Corrections (N.I.C.), the role of the funding authority is critical to the operations of the local jail. Funding authorities, who include county commissions, municipal councils, tribal councils and other local governing bodies, affect the success of jail operations through,

- the types and levels of resources they allocate to the jail;
- their level of knowledge about the jail’s purpose and functions;
- the quality of their relationships with jail officials

Given the public safety implications and high-liability nature of incarceration, it is also one of the most critical responsibilities. As a result of the unique circumstances involved with jail administration, many officials understand the jail is a high priority for consideration. Unfortunately, many instances indicate that funding authorities learn about the challenges of their own jail after a high-profile incident has absorbed them in litigation and negative media attention. The jail is an integral part of the criminal justice system, and the needs addressed by the jail are dynamic and are influenced by the policies, practices and philosophies of the criminal justice system in conjunction with the various agencies using the jail facilities. A mutually agreed upon approach between the funding authority, members of the criminal justice community and the Sheriff should define the demographics of (i.e...Violent offenders, etc.) those being incarcerated within the jail system and how these individuals are being managed. In the end, this joint effort will better prepare officials to meet the diverse challenges of operating the jail system in the most efficient and effective manner possible. As a result of the myriad of

complexities associated with these questions, and the proposed solutions to resolve them, this topic is constantly being questioned and evaluated on a continual basis by the Harris County Criminal Justice Coordinating Council (HCCJCC). Through its diligent efforts, the HCCJCC has already managed to cause a noticeable impact in the streamlining of the Harris County criminal justice system while also increasing the efficiency of the County's jail system.

HARRIS COUNTY JAIL and PROJECTED GROWTH

A jail population study conducted by Sam Houston State University, Department of Criminal Justice and Criminology, forecasts the jail population of Harris County from 2014-2024. The data compiled indicates that if civilian population totals were to remain constant, Harris County would experience a gradual decline in the jail's average daily population (ADP) by 2017. Based on the current population of 4.25 million, the average annual ADP is 8,972 between the years of 2011-2013. According to the projected population predictions conducted by the Texas Center for Health Statistics, it is estimated Harris County's population is expected to increase to 4.9 million by 2020, which translates into an average ADP of 10,344. Aggressive population increase by 2025 projects a population of 5.38 million and catapults our ADP over 11,300. Unfortunately, the estimates made in this study are marginally under forecasted. The Harris County Budget Management population study projects that with the current population trends Harris County is experiencing, they anticipate the County's population to exceed five million by the year 2020.

THE UNIFIED vs METROPOLITAN FORM OF GOVERNMENT:

Currently, there are seven states (Vermont, Rhode Island, Connecticut, Delaware, Hawaii, Maine and Alaska) that have "unified" systems, and their jails are part of the Department of Corrections. Kentucky has "elected" jailers in all but two of their 43 counties (Fayetteville-Lexington and Jefferson-Louisville) that have a "Metropolitan" form of government and their Jail Administrators (JA) are hired by the City Mayor. West Virginia has regionalized all of its jails and organized them under a jail board which is a

subsidiary of the State's Department of Corrections. Pennsylvania statutes define nine classifications of counties based on population, and this classification determines how jails are administered by 61 Pa.C.S.A., Pt. II, Ch. 17. Cities that elect to operate under a home rule charter are treated as counties of the second classification, entitling them to operate county jails under a County Jail Oversight Board. An example of this would be the city of Philadelphia as one of the cities that has a home rule charter (See 61 Pa.C.S.A. Pt. II, Ch. 17 subchapter B).

The forms of local government in which these jurisdictions operate under differ in structure from Harris County, in that:

- **“Unified”** jail systems are historically structured by a state board of corrections and are operated under jurisdictions that have consolidated their government functions and implemented regional or decentralized jail models.
- **“Metropolitan”** forms of government such as Miami-Dade incorporate a two-tier structure, are consolidated and both the “County Commission” and the Mayor govern the county. The County government provides major metropolitan services for all County residents. In Miami-Dade the Mayor appoints the “Chief Director of Corrections”.

LEGAL PATHWAY

If Harris County chose to continue exploring the possibility of establishing a Jail Administrator who would ultimately be independent of the Sheriff's statutory responsibility, a consideration would be to pursue an enabling act in the Texas Legislature resembling the model implemented in the State of Nebraska. (Using “Should” at the beginning instead of “If” makes this sentence a question instead of a statement) Nebraska law offers discretion to local jurisdictions to manage county jails as they see fit. Jails may be administered by the county Sheriff or by the County Board of Corrections. A brief justification of this approach appears in the Nebraska Revised Statutes:

Neb.Rev.St. § 23-2801:

“It has been the declared policy of the State of Nebraska in the exercise of its police powers to foster and promote local control of local affairs. Highest ranking in this hierarchy of local matters is the supervision of law enforcement. The state provides a system of law enforcement and local officers to carry out the functions thereof on a day-to-day basis within such system. When shifting populations modern day trends make particular divisions of responsibilities obsolete, it is incumbent on the Legislature to remedy such a situation when it arises on the county level. It is in the interest of the people of the State of Nebraska that the Legislature establishes a new structure of responsibility over the county jails and correctional facilities in certain heavily populated counties and gives other counties the discretion whether or not to employ such structure. Such a structure would enable county boards to constitute themselves as county boards of corrections while the sheriffs of such counties would be released to pursue more fully their primary duties as law enforcement officers.”

Neb.Rev.St. § 23-2802 defines the “County Board of Corrections”:

“In each county having a population of one hundred fifty thousand or more inhabitants, the county board shall also serve as the county board of corrections and in counties of less than one hundred fifty thousand inhabitants the county board may choose to serve as the county board of corrections. Any such county board of corrections shall have charge of the county jail and correctional facilities and of all persons by law confined in such jail or correctional facilities. Such county board of corrections shall comply with any rule prescribed by the Jail Standards Board pursuant to sections 47-101 to 47-104.”

JAIL ADMINISTRATOR QUALIFICATIONS

The criteria for a Jail Administrator typically require a person to possess a minimum of a four year college degree in administration of justice, business management or related field, and a specific skill set in managerial experience of Jail operations. A candidate for the position should be able to provide leadership and administer jail programs to ensure safety and security inside a County Jail. They are responsible for the administration of custodial, treatment, education, personnel, and business programs necessary for the operation of a jail facility, and interacting with federal, state and local agencies to coordinate inmate services; and reducing the facility's exposure to liability.

Their executive direction develops and implements new approaches to department administration. The ability to plan and direct specific departmental activities in conjunction with correction management, staff reviews and evaluate the work of program personnel to ensure conformance with general guidelines, methods, techniques, managing budgets, expenditures, policies and laws. Supervisory functions include approving leaves, conducting service ratings, counseling employees, disciplining employees, participating in employee grievance procedures and the hiring and training of personnel. Due to critical or sensitive function of the office plays an active and ongoing role in the formation and interpretation of department policy.

COMPARABLE AGENCIES

COOK COUNTY SHERIFF'S OFFICE

The Cook County Sheriff's Office is the second largest Sheriff's Office in the United States maintaining an Average Daily Jail Population (ADP) of over 9,000 inmates. The Sheriff maintains oversight of the detention facilities with the assistance of 3200 sworn peace officers to deliver the care, custody and control of the inmate population within the Cook County Department of Corrections. It should be noted Cook County utilizes only sworn peace officer personnel within the housing facilities of their jails.

MARICOPA COUNTY SHERIFF'S OFFICE

The Maricopa County Sheriff's Office is the fourth largest Sheriff's Office in the United States. To date the agency maintains an ADP of 8,025 inmates housed in seven different facilities, and currently has on staff 1,800 of the 2,000 required Detention Officers to maintain care, custody and control of the inmate population.

SANTA CLARA COUNTY SHERIFF'S OFFICE and the COUNTY DEPARTMENT OF CORRECTIONS

The Santa Clara Sheriff's Office has 1,200 employees, over 500 in law enforcement operations, 700 DOC officers and Deputies, and maintains an average daily population (ADP) of approximately 4,500 inmates. In 1987, the Santa Clara County Sheriff's Office transferred its Jail operations from the Sheriff to a County Department of Corrections under Chapter 1. General - California Government Code Section 23013, operated by the County Board of Supervisors establishing:

“The board of supervisors of any county may, by resolution, establish a department of corrections, to be headed by an officer appointed by the board, which shall have jurisdiction over all county functions, personnel, and facilities, or so many as the board names in its resolution, relating to institutional punishment, care, treatment, and rehabilitation of prisoners, including, but not limited to, the county jail and industrial farms and road camps, their functions and personnel.

The boards of supervisors of two or more counties may, by agreement and the enactment of ordinances in conformity thereto, establishes a joint department of corrections to serve all the counties included in the agreement, to be headed by an officer appointed by the boards jointly.”

Problems immediately encountered by this transition resulted from functions that were performed in the jail that required the carrying of firearms, such as transportation of prisoners. As a result of this need, the director of the County's Department of Corrections (DOC) conferred limited peace officer status on the custodial officers. However, pursuant to California law 831 it expressly denies peace officer status to "custodial officers". According to California law section 830.1, which designates who is classified as a peace officer, the Supreme Court of California ruled the director exceeded his power in granting peace officer status to custodial officers.

The finding of the California Supreme court ruled, "*although section 23013 of the Government Code supplies the authority for the county to appoint a director to run the county jails, and the director may impliedly utilize peace officers as is necessary in carrying out his or her duties, it does not authorize the director to confer peace officer status on custodial officers.*" The court's opinion stated the California Legislature has made it clear that the "exclusive power to bestow peace officer status on state, county and city employees, is given much discretion." "*Counties may determine how to utilize employees who are designated as peace officers by state law and may determine whether and under what circumstances certain classifications of peace officers may carry firearms, but does not indicate that the Legislature intended to leave to local discretion the question of who shall be a peace officer.*"

The County Board of Supervisors projected the creation of the DOC would have an overall operational cost savings of 15%, and the savings would be attributed to the lower salary of "custodial" staff versus the pay of a deputy sheriff. While the proposal was a successful conversion it was only for the first two years after its inception. Even though entry level staff salaries were lower, the corrections supervisory staff salaries were in parity with the supervisor pay of Sheriff's Office personnel.

After years of struggling to create a synergetic and cooperative operation of the two separate but related organizations, the Sheriff of Santa Clara County resumed oversight of the county's jail operations in 2010. Consolidating the county agencies required the Sheriff to bifurcate operations with the County Department of Corrections. Currently, the Sheriff of Santa Clara has assigned the responsibility of Chief of Corrections to the

Undersheriff who oversees the County's Department of Corrections (DOC). A significant factor attributed to the failure of Santa Clara's model was the DOC's lack of authority to provide armed personnel to facilitate secure inmate movement outside of the jail facilities.

LESSONS SHARED FROM THE SANTA CLARA COUNTY SHERIFF'S OFFICE

The complications implementing this transition had wide ranging impacts on the operational efficiencies of both the Sheriff's Office and the DOC. Some of the more prevalent complications shared by Steve Cushing, Undersheriff (Retired) of the Santa Clara County Sheriff's Office is as follows:

- Rapid hiring procedures were instituted after the creation of the DOC and led to a lower quality of employee and increased liability.
- Redundancy of administration and duplication of services increased the county's funding obligation.
- Conflicting procedural objectives hindered effective unified operations (i.e... separate Departmental General Orders and Standard Operating Procedures).
- Once the DOC. was dissolved it saved the tax payers an estimated four million per year.
- Complete dissolution of the DOC was hampered as a result of the legislation being voted on during a general election making it part of the County Charter.

Harris County Jail Staffing

The Harris County Jail has approximately 2,900 employees overseeing just under 9,000 inmates on a daily basis. The differences noted from the agencies above come in the form of structural or architectural differences, as well as the ratios of guards to prisoners. Where Maricopa County has an open yard and tent concept overseen by guards in watch towers, we and Cook County utilize some version of a pod system that requires fixed position personnel. We have three facilities where we house prisoners of varying risk classifications and use jail deputies and detention officers where Cook

County has eleven buildings and uses only jail deputies. Cook County is authorized 3,500 jailers but is currently 200 employees short and has approximately 9,200 inmates.

JAIL ADMINISTRATOR- ADVANTAGES vs DISADVANTAGES:

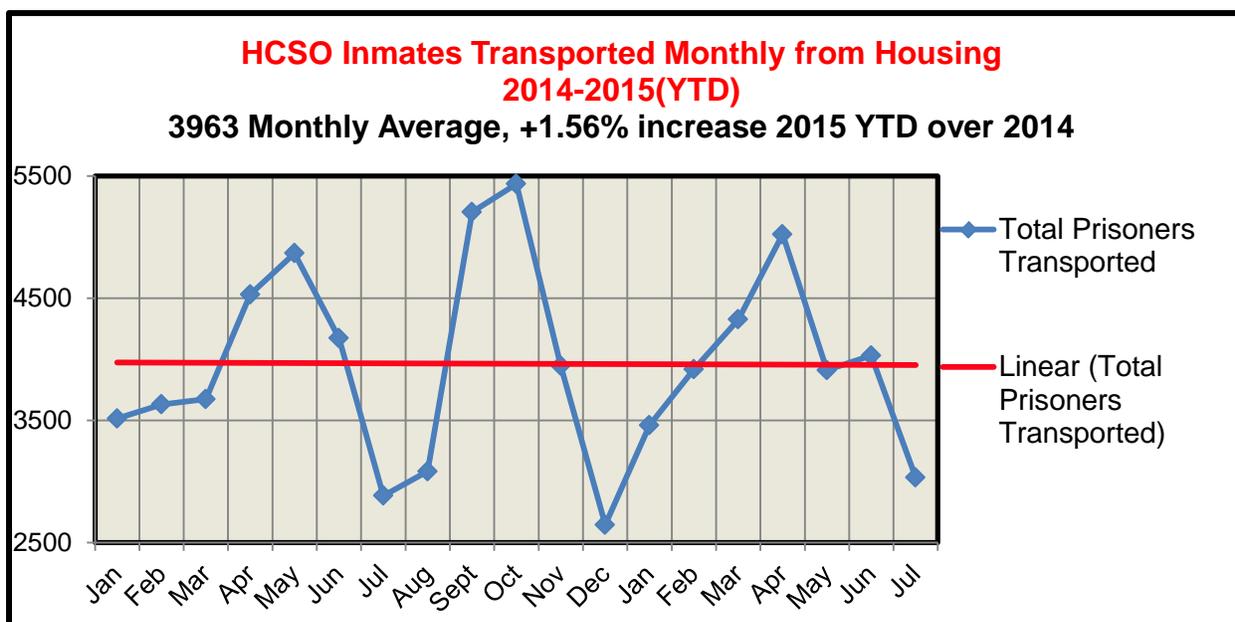
Through the research conducted, the following list of comparisons below identified some benefits and initial challenges to consider, should Harris County choose to pursue a Jail Administrator model as an option. These are neither intended to encourage nor discourage the option, but are provided in the interest of supplying unbiased data to be measured during the exploration process.

ADVANTAGES of (JA)	DISADVANTAGES of (JA)
Direct Accountability to Commissioners	Direct Accountability to Commissioners
JA and their staff is uniquely qualified in Jail operations	Does "Qualified Immunity" extend to JA?
Sheriff is focused on L.E. operations	Sheriff still required to conduct criminal investigations in the jail (MOU's)
Separate county jail to increase operational functions of the HCSO	Increased government and the front end costs associated with its formation
	Competing interests to effectively manage operational objectives
	Inmate movement to and from court appearances are performed by Sheriff's deputies (154,926 for 2014)
	Commissary is a statutory responsibility of the Sheriff
	Inmate movement requires armed deputies from secured to unsecured areas
	Responsible for "Deaths in Custody"

HCSO TRANSPORTATION and INMATE MOVEMENT

Problems immediately confronted by a County Jail Department (i.e....DOC) would resemble the problems encountered by Santa Clara County. Inmate movement and transportation is an essential function of jail operations. The primary intent of the following information showcases the interrelated responsibility between the Housing Bureau, and the necessary transport and movement duties the Sheriff's Office performs that are associated with jail operations and armed deputies.

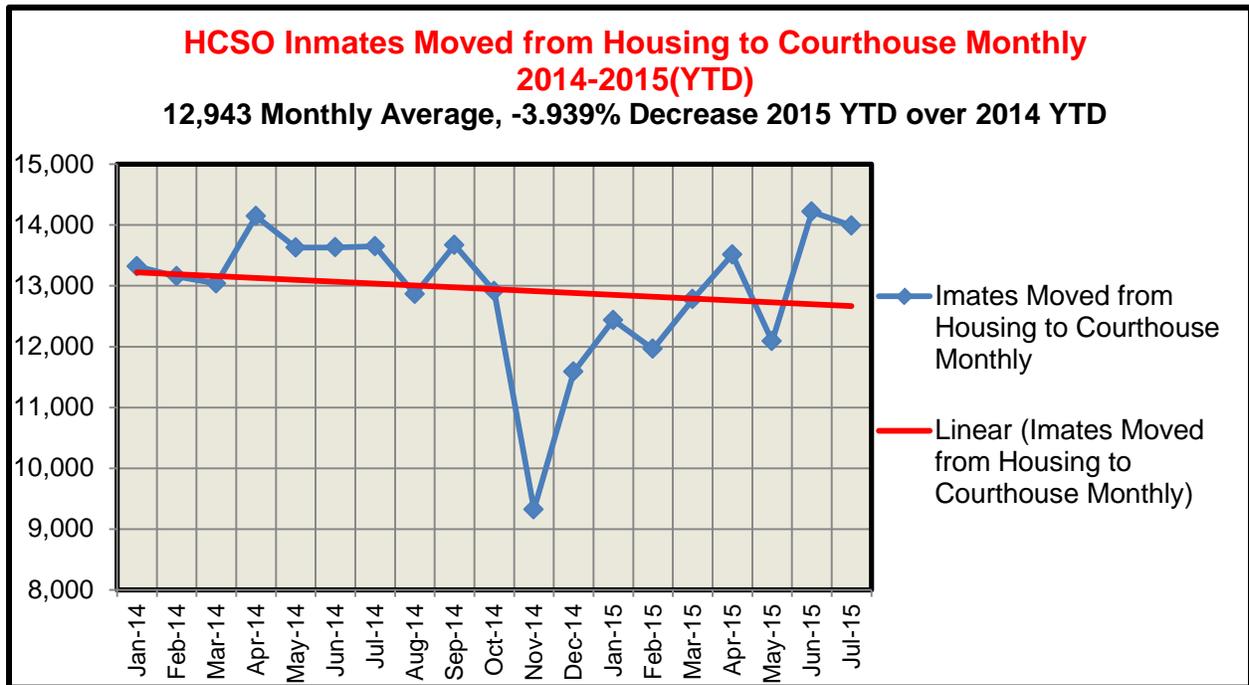
In 2014, the HCSO Transportation Division facilitated a total of 47,592 prisoner transports consisting of inmate movement to Death Row, Hospital transports, Education, Out of County warrants, State Jail and TDC prisoners, State Mental Hospital prisoners, Clinic and Special appointments, Special Alcohol Drug Rehab Program (SAFP) and Inmate Workers. To date, in 2015, the HCSO has facilitated a total of 27,702 inmate transports. Comparison to similar months from January to July of 2014, the HCSO transported 27,276 inmates, revealing an inmate movement increase of 426 inmates transported.



Destination	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15
Hospital	192	158	151	173	155	139	107	105	170	128	154	155	135	160	179	219	189	203	208
Clinics	403	413	402	507	480	450	503	470	564	488	413	447	414	438	478	516	468	484	542
Workers	324	337	353	370	346	356	360	358	320	380	297	269	331	356	321	368	277	387	399
Education	2016	2070	2148	2786	3258	2640	1224	1611	3508	3802	2598	1258	2182	2494	2840	3346	2484	2384	1272
State Jails/TDCJ	538	627	601	641	608	570	660	517	614	610	468	492	368	443	493	551	468	535	569
State Mental Hosp.	24	20	17	39	19	12	25	16	18	20	13	20	25	23	13	14	20	29	28
Out of County	6	5	1	12	2	0	5	3	5	6	1	0	3	1	0	0	2	5	7
Death Row	2	0	0	1	0	1	0	2	1	0	2	3	1	0	0	1	0	0	2
SAFP	10	2	1	1	0	5	0	1	5	1	1	2	2	3	2	7	3	4	6
Total	3515	3632	3674	4530	4868	4173	2884	3083	5205	5435	3947	2646	3461	3918	4326	5022	3911	4031	3033



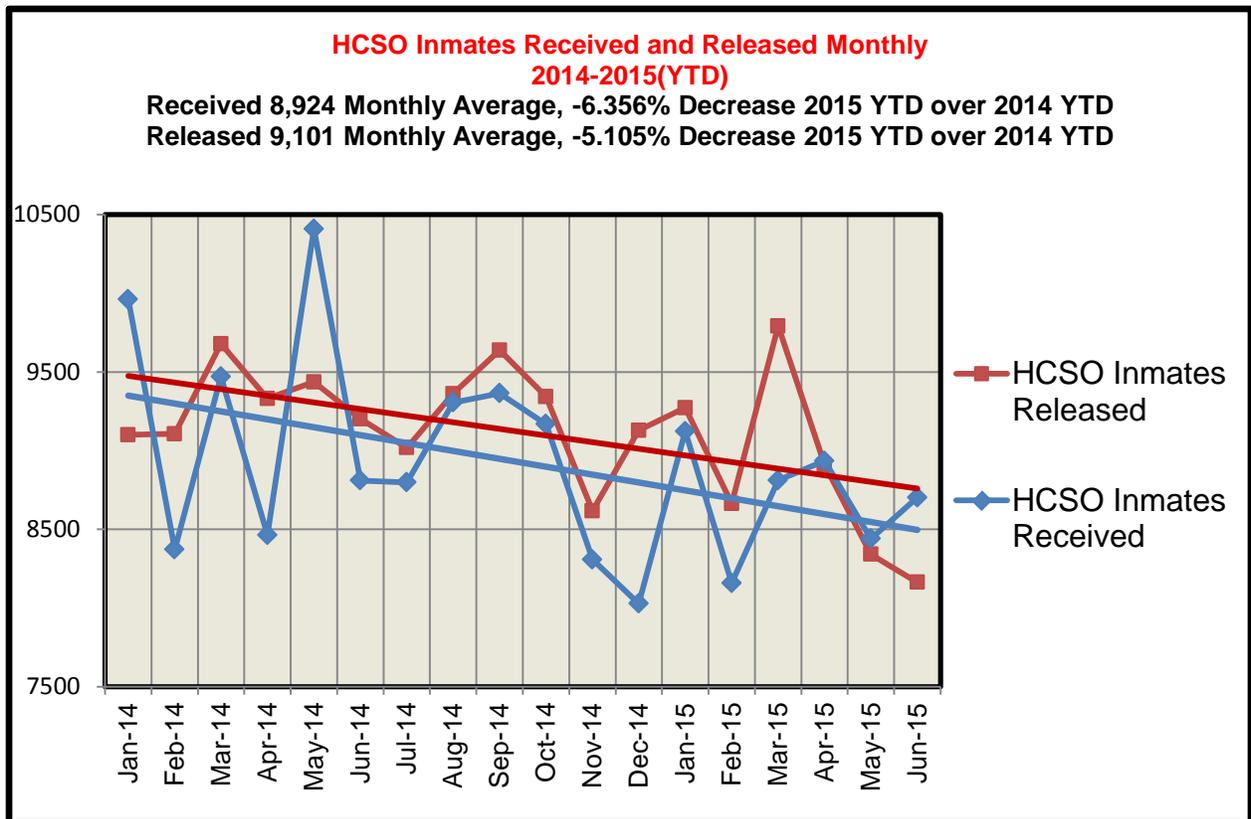
In addition, in 2014, the HCSO also directed an average movement of 12,911 inmates per month from the Housing Bureau to the Courts Division totaling an annual movement of 154,926 inmates. Current data for 2015 indicates 27,702 inmates have been moved from the Housing Bureau to the Courts Division thus far; based on this current trend, the Sheriff's Office may expect to experience a potential 4% decrease from 2014. However, the aforementioned notwithstanding, in 2015 the number of inmates arrested in court increased 8.301% over 2014 YTD thereby negating the possible 4% decrease in the number of inmates the HCSO moved to the Courts Division during the previous year.



	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15
Arrested in Court	644	635	533	694	625	604	638	573	567	613	324	515	690	613	935	682	505	662	649
Total Inmates Moved	13,320	13,155	13,039	14,146	13,630	13,631	13,651	12,863	13,671	12,913	9,322	11,585	12,435	11,962	12,778	13,515	12,088	14,219	13,991



In 2014, the Processing Center **received 108,464** inmates into the County Jail with a daily average of **297** people per day, and **released** a total of **110,969** with an **average release of 304** per day. The first five months of data collected for **2015** reveals the Processing Center has **received 52,173** inmates with an **average of 290** per day, and has **released 53,145** with an average of **295** per day. From January to June of 2014, the HCSO **received 55,489** inmates with an average of **308** per day and **released 55,858** with an average of **310** per day. Comparing data for the same time frame of January to June of **2015** indicates the HCSO has **received 52,173** with an average of **290** per day and **released 53,145** with an average of **295** per day.



	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15
Inmates Recieved	9962	8372	9471	8464	10409	8811	8799	9306	9365	9169	8308	8028	9123	8159	8812	8935	8441	8703
Inmates Released	9101	9107	9679	9332	9437	9202	9019	9362	9639	9344	8618	9129	9273	8664	9793	8909	8342	8164

ECONOMIC COSTS

Understanding the County's chief concern to improve efficiency and lower the liability of the stakeholders, there is a need for sound local level policies and practices that enable effective use of limited justice system resources. A part of this preparation will include a fiscal impact analysis related to the severance and development of a new county detention department. This analysis will provide data to determine if the estimated costs will translate into a force multiplier that will have a net positive effect on local government and directly impact the desired goals to be achieved. The new unit would require independent but related positions such as personnel, payroll, finance, backgrounds, and training to name a few.

CONCLUSION

Through extensive research with the National Institute of Corrections (N.I.C.), the University of Houston, and Sam Houston State University Correctional Management Institute, available data specifies the position of a jail administrator as a position employed in the capacity of, and answerable to, the County Sheriff. Furthermore, there was no available data through these institutions providing an accurate list of agencies that have implemented the (JA) model. Additionally, data was not available to provide an analysis relating to increased budgetary savings, efficiency, nor distinct advantages or disadvantages of a jail administrator contrasted with the elected Sheriff maintaining oversight of jail operations.

In my interview with Mike Jackson, Correctional Program Specialist with the National Institute of Corrections and Large Jail Network Coordinator he surmised, "It's not the model of jail management that achieves the desired outcome; it's the leadership, implementation of best practices and staff philosophy that brings about the desired successes. Inasmuch, the leadership and staff of a jail system must possess the mind set to succeed with whatever model they have been given. Additionally, the support of the funding authority, law enforcement, probation department, the courts, and all other associated local entities must work in concert in an effort to ensure common and mutually shared goals are continually being met in order to best serve the overall needs of the jurisdiction's criminal justice system."

This study identifies several jurisdictions that have developed a Jail Administrator model with the legal authority to operate the county jail. Miami-Dade and Las Vegas are successful examples of a Jail Administrator model; however they operate under a Metropolitan form of government and are not a viable option for Harris County. Unified jail systems, such as in the State of Maine, are operated in conjunction with a state board of corrections. Through reorganization and combining 16 separate systems, their government functions consolidated services in an effort to merge costs to deliver services. Incorporation of a unified model would also necessitate a reconfiguration of government in Harris County to achieve operational effectiveness.

If the primary objective for Harris County is to separate the jail system from the Sheriff, in order to operate as an autonomous and independent entity, then Harris County will need to pursue tailoring legislation to provide a clear authority with a statute to establish such a department. Jail operations and commissary authority are just two of the areas that would have to be adjusted to create this authority.

Regardless of the jail's organizational placement, the Commissioners Court will still be left with the strenuous obligation of providing the budget and confronting the legal issues arising from the county's jail operations. Issues such as deaths in custody and complaints stemming from prisoner treatment or medical issues would be brought directly to Commissioners at some point.