

**Joint Committee on Access and Forensic Services
DRAFT Meeting Minutes
Wednesday, July 29, 2020
9:00 a.m.
Meeting Site:
Microsoft Office Teams Live**

Agenda Item 1: Opening remarks and introductions

The Joint Committee on Access and Forensic Services (JCAFS) meeting was called to order at 9:02 a.m. by Mr. Stephen Glazier, Chair. Announced that agenda items #10 a. i. and #10 a. ii. would follow agenda item #2 and agenda item #14 would follow agenda item #3 from the posted public agenda. Mr. Glazier welcomed everyone to the meeting. Each member introduced themselves.

Mr. John Chacón, Advisory Committee Coordination Office (ACCO), Health and Human Services Commission (HHSC), announced that the meeting was being conducted in accordance with the Texas Open Meetings Act, and noted that a quorum was present for the meeting.

Table 1 notes Committee member attendance.

Table 1: JCAFS member attendance at the Wednesday, January 29, 2020 meeting.

MEMBER NAME	YES	NO	MEMBER NAME	YES	NO
Allison, Jim - Representing County Judges and Commissioners Association of Texas		X	Smith, Shelley – Representing the Texas Council of Community Centers	X	
Alsup, Bill – Texas Municipal League.	X		Taylor, Sally MD – Representing the Texas Hospital Association as a physician	X	
Carr, Shannon - Representing the Austin Area Mental Health Consumers, Inc.	X		Wagner, J.D. - Representing the Texas Association of Counties	X	
Cogbill, Sherri – Representing Texas Department of Criminal Justice (TDCJ)	X		Wilson, Sheriff Dennis – Representing the Sheriffs' Association of Texas	X	
Evans, David – Representing the Texas Council of Community Centers	X		Simpson, Jennie PhD– Forensic Director, Ex-Officio	X	

MEMBER NAME	YES	NO	MEMBER NAME	YES	NO
Glazier, Stephen M. – Representing the Texas Hospital Association	X		VACANT		
Johnson, Windy – Representing the Texas Conference of Urban Counties	X		VACANT		
Johnston, Judge Robert – County Judges and Commissioners Association of Texas.		X	VACANT		
McLaughlin, Darlene M.D- Texas Municipal League.	X		VACANT		
McLaughlin, Darlene MD – Representing the Texas Municipal League	X		VACANT		

Yes: Indicates attended the meeting in-person

No: Indicates did not attend the meeting

P: Indicates phone conference call

Agenda Item 2: Approval of minutes from January 29, 2020, committee meeting

Mr. Stephen Glazier asked for a motion to approve the minutes from the January 29, 2020 committee meeting.

MOTION:

Ms. Windy Johnson moved to approve the minutes from the January 29, 2020 committee meeting as presented. Judge JD Wagner seconded the motion. The Committee members approved meeting minutes by a roll vote from members with nine approves, no disapproves and no abstentions.

Agenda Item 10a.i. and ii.: Subcommittee reports

- i. Access Subcommittee
- ii. New beds Subcommittee

Regarding the **Access Subcommittee**, Steve Glazier provided a report from the Access Subcommittee and referenced a handout entitled "Bed Day Allocation Methodology and 2020 UR Protocol Wording". Highlights of the report included:

- Mr. Stephen Glazier stated that the first item of business for the Access subcommittee is to approve the Bed Day Allocation Methodology. He stated that it is the same methodology that was approved for the past two years.

The Access subcommittee recommends that the Bed Day Allocation Methodology remain the same.

MOTION:

Mr. Bill Alsup made a motion to approve the Bed Day Allocation Methodology. Sheriff Dennis Wilson seconded the motion. The Committee members approved the Bed Day Allocation Methodology by a roll vote from members with ten approves, no disapproves and no abstentions.

- Mr. Stephen Glazier stated that the second item of business for the Access subcommittee is approve the Utilization Review Protocol. Mr. Glazier stated that the Access subcommittee's first recommendation is the continuation of collection of data for the Hospital Bed Allocation Report (HBAR), but replace the report with the new JCAFS data dashboard as the primary tool for reporting and analyzing state hospital utilization. He stated that in addition to the data on the current data dashboard the Access subcommittee is recommending that two data points from the HBAR be added. Those data points are: LMHA's above and below their bed day allocation and readmissions by LMHA.
- Mr. Glazier stated that the Access subcommittee's second recommendation is that the responsibility for utilization review activities be assigned to the JCAFS Access subcommittee.
- Mr. Glazier stated that the Access subcommittee's third recommendation is for the 2020 Utilization Review Protocol to include a reassessment of the studies one in 2017, 2018, and 2019 to see if the recommendations during each of those years were effective and, if the recommendations were not implemented, does the subcommittee want to make the recommendations again. He stated that in 2017 the subcommittee looked at utilization of bed days that were allocated to LMHAs. In 2018 the subcommittee looked at readmission rates and in 2019 the subcommittee reviewed length of stay for forensic patients.
- Mr. Glazier stated that the Access subcommittee's fourth recommendation is to compile a list of successful and promising strategies to use as a statewide resource.

MOTION:

Mr. Judge JD Wagner made a motion to approve the 2020 Utilization Review Protocol with amendments. Dr. Darlene McLaughlin seconded the motion. The Committee members approved the Utilization Review Protocol by a roll vote from members with ten approves, no disapproves and no abstentions.

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- Dr. Sally Taylor further recommended that in the 2020 Protocol the subcommittee review both civil and forensic length of stay as they review the 2019 utilization studies.

Regarding the **New Beds Subcommittee**, Sheriff Dennis Wilson provided a report from the New Beds Subcommittee. Highlights of the report included:

Sheriff Wilson stated that New Beds subcommittee has had discussions about the forensic population and has asked HHSC the question: "What is the plan for moving the forensic population out of the county jails and into the state hospitals?" This continues to be a burdensome issue to the county jails with liability falling on county governments.

Agenda Item 3: Introduction of Health and Human Services Commission (HHSC) Forensic Director

Mr. Stephen Glazier, Chair, introduced Dr. Jennie Simpson as the new HHSC Forensic Director. Dr. Simpson referenced a PowerPoint entitled "Introduction and Vision". Highlights of the introduction of Dr. Simpson included:

- Mr. Glazier provided a brief overview of Dr. Simpson's background. She is a graduate of the University of Texas at Austin and has been working in Washington D.C. with the Department of Justice and Substance Abuse Mental Health Services Administration (SAMHSA) as a forensic mental health expert.
- Dr. Simpson introduced herself. She provided a high-level overview of her vision for forensics and diversion in Texas. She stated that she wanted to make clear that she was going to start with presenting her vision, but that she looks forward to working with the committee and with colleagues to building "our" vision for moving forward.
- Dr. Simpson stated that she worked in Washington D.C. for 20 years. She stated that she worked as a Senior Policy Advisor for the U.S. Department of Justice, Bureau of Justice Assistance and as a Senior Advisor for Criminal Justice, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. She stated that she brings a national perspective and expertise regarding issues at the intersection of criminal justice and behavioral health with a specific focus on diversion along with experience in research, practice and policy at this intersection. Dr. Simpson stated that she is not a clinician. She stated that her expertise is in policy and systems change in diversion. She stated that she is aware that the Health and Specialty Care System (HSCS) has hired a new Chief of Forensic Medicine. She stated that she is looking forward to working with him to combine his clinical expertise with her policy background.
- Dr. Simpson provided her vision for a comprehensive and coordinated system of forensics and diversion. She stated that her first priority is work

upstream to prevent individuals from entering the criminal justice system. She stated that her vision will include a statewide effort, use multi-system coordination through state and local governments and all three branches of government. Dr. Simpson stated her vision includes the use of the Sequential Intercept Model (SIM) as a framework to build a full continuum of care. She stated that her vision recognizes that interventions must be tailored to Texas, including the needs of rural citizens.

- Dr. Simpson provided the five key principles to her vision. The first principle is: A full continuum of care- from diversion to competency restoration to reentry and supervision is needed for an efficient and effective forensic mental health system. The second principle is: The social determinants of health are also drivers of justice-involvement and should inform prevention, intervention, and diversion strategies. The third principle is: peers are valuable contributors to the behavioral health workforce and should be part of all efforts that address forensic and diversion services. The fourth principle is: disparities should be evaluated in forensic and diversion efforts to ensure state resources improve health and reduce justice-involvement. The fifth principle is: the stigma of mental illness, as well as justice-involvement should be actively addressed through cultural change in the behavioral health and criminal justice systems.
- Dr. Simpson provided an overview of what “we know what doesn’t work”. She stated that National Competency to Stand Trial processes incur significant costs for states and local governments and do not improve long-term health and social outcomes for individuals with mental illnesses and substance abuse disorders. She also provided an overview of what “we know what works” and how to tailor what works to Texas. Dr. Simpson stated that there is a significant body of research that shows that interventions at Intercept 0, 1, and 2. She stated that she has reviewed the previous recommendations made by the JCAFS committee and can see that the JCAFS members know what works. She provided a comparison of some of the previous JCAFS recommendations and how they match with interventions that work.
- Dr. Simpson stated that she sees the challenges that exist in Texas as opportunities. She states she will begin her work by focusing on the development of a strategic plan which prioritizes transition points and cross system coordination and building partnerships internally, with other state agencies and externally with criminal justice stakeholders and advocacy organizations. She stated that she will also focus on scaling evidence-based and best programs and practices and will prioritize the importance of collecting data that reveal performance outcomes, efficiencies, and effectiveness of programs that ensure the best use of tax payer dollars. Dr.

Simpson also stated that she will focus on the importance of providing training and technical assistance.

- Dr. Simpson concluded her introduction by sharing five considerations for JCAFS members. The five considerations were: 1) How does HHSC achieve a coordinated and comprehensive strategy for forensics and diversion? 2) What is the role of HHSC and other state agency partners in the diffusion and uptake of evidence-based and best practices at the local level? 3) What key activities are necessary to support uptake of evidence based and best practices at the local level? 4) What is the role of HHSC in these key activities? 5) What resources are needed to support statewide systems change?
- Dr. Simpson closed by stating that she wants to listen to and looks forward to working with stakeholders.

Agenda Item 14: Possible work projects for 2021 and discussion on 87th Legislative Session

Mr. Stephen Glazier presented recommendations for the Transformation of Forensic and Diversion Services in Texas and referenced a handout entitled "Recommendations for the Transformation of Forensic and Diversion Services in Texas". Highlights of the discussion included:

- Mr. Glazier stated that there is a big gap between where Texas is now and what Dr. Simpson presented in her presentation. He stated that the committee needs to identify some of the actionable steps that we need to take that that would help move forensic services in Texas to where they need to be. Mr. Glazier stated that the JCAFS committee will need to include their recommendations in its' annual report due November 1, 2020 and can include its' recommendations in the JCAFS legislative report that it will submit on August 31, 2020.
- Mr. Glazier reviewed the proposed recommendations that could be included in the 2020 JCAFS Legislative Report. The first proposed recommendation is: 1) Create an Office of Forensic Services that is responsible for the coordination and contractual development and management of all forensic services funded by the state, 2) Develop a comprehensive state-level strategic plan for the coordination and oversight of forensic services in Texas, 3) Expand and contract for diversion programs around the state, 4) Expand, Improve and contract for OCR programs around the state, 5) Implement the JCAFS recommendations for the state hospital forensic program, 6) Implement the JCAFS recommendations for jail outreach programs, and 7) Contractually require a forensics and diversion coordinator from each LMHA.
- The committee discussed and reviewed the recommendations. Denise Oncken, Dr. Sally Taylor and David Evans expressed their support of the

recommendations. Dr. Taylor recommended that the recommendations include a broad review of how the civil and forensic commitments are intersecting and affecting each other. She also recommended that the language regarding the Office of Forensic Services include the office's ability to make statutory recommendations regarding issues such as court ordered medications for individuals in jail before they are found incompetent. Mr. David Evans stated that attention needs to be given to improved processes for coordinating contracts between HHSC and the LMHAs. Sheriff Wilson stated the Sheriffs Association would like to see a point of contact be identified for sheriffs to be able to contact regarding individuals on the forensic waitlist that are in their jails. Dr. McLaughlin stated that consideration also needs to be given to the closure of private psychiatric facilities and the impact that those closures are having on the demand for LMHA services. Mr. Glazier stated that these types of issues are good examples of why the state needs an Office of Forensic Services so that attention can be given to forensic issues and ongoing changes that are occurring across the state. Mr. Glazier stated that the committee can look at including language in its' report that addresses the issues that have been mentioned by the members. He stated that the recommendations presented in this meeting address broad issues. Ms. Sherri Cogbill stated that there may be some duplication between the TCOOMMI continuity of care services that are provided and what is being recommended in recommendation #7. She asked to be able to participate in further discussions regarding the development of this recommendation. Mr. Glazier stated that she and all members would be welcome to join in on the drafting of the JCAFS committee report that will be presented during the next JCAFS meeting on October 21, 2020.

- Mr. Stephen Glazier asked for a motion to approve the recommendations for the Transformation of Forensic and Diversion Services in Texas to be included in the HHSC's 2020 JCAFS Legislative Report. Ms. Sherri Cogbill recommended that the recommendations not be submitted to HHSC as written due to her concerns about recommendation #7. Dr. Sally Taylor stated that she would be satisfied with the recommendations if wording could be added to recommendation #6 regarding partnering LMHA's with jails or working with agencies providing mental health treatment in jails and wording added to recommendations regarding the intersection between civil and forensic commitments.
- Mr. Stephen Glazier and Mr. John Chacon with the ACCO reviewed options for approving the recommendations, while also allowing members to make additional edits prior to the recommendations being submitted to HHSC for inclusion in its' JCAFS Legislative report. Ms. Sherri Cogbill stated that she

would be comfortable with the process that was presented allowing members to make edits prior to submission to HHSC.

- Mr. Stephen Glazier clarified that the recommendations that have been presented will be edited and sent to all committee members for review and approval. If the edited recommendations are approved they will then be submitted to HHSC for inclusion in its' JCAFS Legislative report.

MOTION:

Dr. Darlene McLaughlin moved to approve the recommendations for the Transformation of Forensic and Diversion Services in Texas with edits authorizing Mr. Stephen Glazier, Chair, to have the authority to compile the edits from committee members and re-send the recommendations to JCAFS members for review prior to submission to HHSC for inclusion in its' JCAFS Legislative Report. Sheriff Dennis Wilson seconded the motion. The Committee members approved the recommendations for the Transformation of Forensic and Diversion Services in Texas with edits by a roll vote from members with nine approves, no disapproves and no abstentions.

Agenda Item 4: Update on the Joint Committee on Access and Forensic Services (JCAFS) proposed rules

Mr. Jim LaRue, HHSC JCAFS liaison provided an update on the Joint Committee on Access and Forensic Services proposed rules and reference a handout entitled "The existing rules in Texas Administrative Code (TAC) Title 25, Chapter 411, Subchapter A, relating to Joint Committee on Access and Forensic Services". Highlights of the update and committee member discussion included:

- Mr. LaRue stated that the JCAFS proposed rules were posted for informal comment between February 28, 2020 through March 13, 2020. No comments were received. Mr. LaRue stated that the proposed rules will be presented during the HHSC Executive Council meeting on August 20, 2020. He stated that the Executive Council and the public will have an opportunity to make comments at that time. Mr. LaRue stated that after the Executive Council and the Office of the Governor complete their reviews, the rules will be posted for formal comment for 31 days. He stated that JCAFS members and members of the public will be able to submit their comments during the formal comment period. He stated that if a JCAFS member wants to make any additions or changes to the rules, including the addition of new members, they may do so during the formal comment period.

Agenda Item 5: Joint Committee on Access and Forensic Services (JCAFS) member vacancies.

Mr. Jim LaRue, HHSC JCAFS liaison provided an update on the Joint Committee on Access and Forensic Services member vacancies and referenced a handout entitled

“JCAFS-Member Organizational Information”. Highlights of the update and committee member discussion included:

- Mr. LaRue stated that the JCAFS has 4 vacant positions. He stated that each of the four vacancies are designated for representatives of the Behavioral Health Advisory Committee (also referred to as the BHAC) which include (1) Chair of the Committee, (2) Representative who is a consumer of or advocate for mental health services, (3) Representative who is a consumer of or advocate for substance abuse treatment, and (4) Representative who is a family member of or advocate for persons with mental illness and substance abuse. Mr. LaRue stated that HHSC is currently in the process of filling the vacancies listed for an advocate for mental health services and a family member or advocate for mental health and substance abuse treatment. He stated that once approval is received from the HHSC Executive Commissioner those two vacancies will be filled. He also stated that he will continue to work with the BHAC to fill the two-remaining vacant JCAFS positions.

Agenda Item 6: Schedule for election of JCAFS officers

Mr. Jim LaRue, HHSC JCAFS liaison provided an update on the schedule for the election of JCAFS officers. Highlights of the update and committee member discussion included:

- Mr. LaRue stated that as per the adopted JCAFS bylaws, the one-year term the JCAFS Chair and Vice-Chair will expire in October 2020. He stated that the committee will need to hold an election for the Chair and Vice-Chair positions during the next JCAFS meeting on Wednesday, October 21, 2020. Mr. LaRue stated that he will send an email to the JCAFS members in August 2020 calling for nominations to be sent to him. He stated that once he receives the nominations he will confirm with the members that are nominated if they accept the nomination prior to the meeting. Mr. LaRue stated that the current Chair and Vice-Chair are both eligible to serve one more one-year term in their current positions.

Agenda Item 7: Timeline for HHSC and JCAFS deliverables

Mr. Jim LaRue, HHSC JCAFS liaison provided an update on the timeline for HHSC and JCAFS deliverables and referenced a handout entitled “Timeline for JCAFS and HHSC Deliverables”. Highlights of the update and committee member discussion included:

- Mr. LaRue stated that HSC 533.051 (e) requires two legislative reports to be completed which are due by December 1st of each even numbered year. He stated that the first report is completed by HHSC in conjunction with the JCAFS. He stated that this report will need to be submitted to HHSC leadership by August 31, 2020 so that it can be reviewed and approved before it is submitted to state leadership on December 1, 2020. Mr. LaRue

stated that the second report that is required in the statute is completed by the JCAFS committee. He stated that this report will need to be completed by November 1, 2020 so that it can be finalized and submitted to the HHSC Executive Commissioner, Lt. Governor and Speaker of the House by December 1, 2020.

- Mr. LaRue presented a timeline which showed the specific actions that will need to be taken by the committee to meet the deadlines for the legislative reports. Mr. LaRue informed the committee that their finalized recommendations will need to be submitted to him by August 25, 2020 so that they can be included in the HHSC JCAFS legislative report.

Agenda Item 8: Texas Forensic Implementation Team (TFIT)

Mr. Jim LaRue, HHSC JCAFS liaison and Dr. Lynda Frost, from Lynfro Consulting provided an update on the Texas Forensic Implementation Team (TFIT) and referenced a handout entitled "Texas Forensic Implementation Team (TFIT) Description for the JCAFS". Highlights of the update and committee member discussion included:

- Mr. LaRue stated that HHSC would like for the JCAFS to be aware of a forensic initiative that has been taking place over the past year with the Substance Abuse Mental Health Services Administrations (SAMHSA) GAINS Center. Mr. LaRue stated that in 2019, Texas competitively selected by SAMHSA as one of 6 states to participate in a Competency Restoration Community of Practice. He stated that the Community of Practice gives Texas and the other states that were selected an opportunity to collaborate with other states regarding ways to improve our competency restoration procedures in Texas.
- Mr. LaRue stated that 16 leaders were selected as members of the Texas Forensic Implementation Team (TFIT). He stated that representatives were specifically selected that have a direct involvement in various aspects of the competency restoration system in Texas.
- Mr. LaRue stated that since 2019 the TFIT has focused on 4 priority areas. He stated that the priority areas are (1) Proficiency in early identification, assessment and treatment of defendants who are suspected of having a mental illness or an IDD diagnosis, (2) Address deficiencies in the Competency to Stand Trial examination and quality assurance, waitlist management, treatment, and case disposition, (3) Increase opportunities for competency evaluators, attorneys, judges and competency restoration providers to receive training related to competency restoration trends and best practices, and (4) Expand resources for diversion from the criminal justice system.

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- Mr. LaRue stated that in 2020, Texas has continued to be a part of the SAMHSA's GAINS Center's Community of Practice as it expanded to 9 states. He stated that this summer the GAINS's Center has providing training workshops and technical assistance to each of the states in the community of practice. He stated that the TFIT team is scheduled participate in a strategic planning meeting with the GAINS Center on August 26, 2020.
 - Dr. Frost stated as a member of the TFIT she has been struck by the amount of overlap that there is between the JCAFS and the TFIT. She stated that she wanted to highlight a couple of areas that one of the TFIT workgroups has identified as potential action steps to improve forensic services in Texas. First, the value of interagency and cross-agency coordination and planning. Second, the importance of the quality of evaluations of competency to stand trial, the training of evaluators and ways to help localities identify skilled evaluators within their price constraints. She stated that the TFIT workgroup would like to recommend that HHSC conduct a study on the evaluations of competency to stand trial in Texas. She stated that the study would include an examination of current procedures and possible improvements relating to training, certification and creation of a registry of qualified evaluators. She stated that the study would also include a review of the role of quality assurance and peer review in maintaining a quality system, potential cost savings in the system, data on disparities and possible biases between evaluators for competency evaluations performed during the previous biennium, extent to which evaluations conform with best-practices for competency evaluations and the cost of services associated with low-quality evaluations. Dr. Frost stated that she also wanted to make the JCAFS aware of an upcoming technical assistance opportunity on August 12th.

Agenda Item 9: JCAFS coordination with Behavioral Health Advisory Committee Housing Subcommittee

Ms. Windy Johnson provided an update on the Behavioral Health Advisory Committee Housing Subcommittee. Highlights of the update and committee member discussion included:

- Ms. Johnson stated that the Housing Choice Committee has been meeting regularly. She stated the committee has been working on recommendations on housing for individuals who have histories of substance abuse and criminal justice involvement and looked at gaps and barriers for housing for individuals with mental health conditions.
- Ms. Johnson stated as the Housing Choice Committee looked at gaps and barriers for housing for individuals with mental health conditions the committee focused on tenancy support services to help individuals in identifying and securing housing. She stated that the committee is recommending that life skills training be provided for individuals who need

assistance and maintaining housing such as budgeting and maintenance skills and person-centered discharge plans which provides a continuum of housing services. She stated that committee is also recommending increased funding for the national and state housing trust fund which would improve access to affordable housing. Ms. Johnson stated that the committee is recommending that HHSC should look at partnering with state and private hospitals to develop affordable housing, looking at supporting legislation to provide tax credits to MCO's investing in housing, providing funding for two dedicated staff for each LMHA with one staff providing rental assistance and the other staff dedicated housing coordination. She stated that the committee recommends encouraging MCO's to hire housing transition specialists and encouraging collaboration between state agencies, community-based organizations and MCO's to expand housing options. She stated that HHSC could assist TDHCA in applying for funding for housing vouchers to support tenants with disabilities in maintaining housing. Ms. Johnson stated that HHSC could support MCO's use of value-based payment agreements. She stated the use of Medicaid to support tenancy support. She stated that local governments could incentivize the development of affordable housing through models such as the Habitat for Humanity.

- Ms. Johnson stated that the committee looked at gaps in permanent supportive housing. She stated that the committee is looking at the development of variety of pilot programs for such as pilot programs for transitional housing, step-down and step-up housing for individuals who have a mental illness and developing ways to address barriers to housing such as ways to help individuals who do not have insight into their illness and their need for housing. Ms. Johnson stated that the committee looked at ways to improve the Home and Community Based Services (HCBS) such as increasing the number of HCBS staff, staff training and reducing the number of days required for individuals to be eligible for HCBS services.
- Ms. Johnson stated that the committee looked at ways to improve housing opportunities for individuals with a history of criminal justice involvement and/or substance abuse. She stated that the committee is looking at finding ways to increase educational outreach opportunities for developers, home owners and community organizations as well tenants to address concerns regarding issues such as liability and tenant rights.
- Ms. Johnson stated the committee is looking at ways to recommend increased funding to address gaps in the housing continuum such as gaps in transitional housing, group homes, housing for persons who are required to register as sex-offenders and funding for housing navigators to help individuals find housing. She stated that the committee is also encouraging the use of data sharing.

Agenda Item 11: Update on HHSC Survey of Texas Sheriffs

Mr. Robert Dole, HHSC, provided an update on the HHSC Survey of Texas Sheriffs. Highlights of the update and committee member discussion included:

- Mr. Dole stated that HHSC sent a survey to the Sheriff's Association in February 2020 to understand how the challenges of rural mental health are affecting law enforcement. He stated that the survey specifically focused on the costs for law enforcement related to transportation and incarceration. He stated that 16 sheriff's offices representing a third of the LMHA's participating in S.B. 633 responded to the survey.
- Mr. Dole stated that the survey's revealed that there is a lot of variance in how counties track costs related to crisis services associated with rural mental health. He stated that the survey showed that the sheriffs use contracts with LMHA's to provide telehealth and medical services when providing crisis services in rural counties. He stated that the survey showed that sheriffs are using the state rate of 57.5 cents per mile for when transporting individuals one way to mental health facilities and that sheriffs typically use two deputies when transporting. Mr. Dole stated that the survey showed a great deal of variance in the costs associated with incarcerating people with mental illness in county jails. He stated that the survey showed the costs varies from \$32 to \$63 per day. He stated those costs did not include the cost of the psychotropic medications. Mr. Dole stated that the survey showed that the responding had difficulty differentiating the costs associated for emergency room visits for individuals with mental illness and individuals who did not have a mental illness due to the cost differences that exist between facilities across the state.
- Mr. Dole stated that the sheriff offices indicated in the survey that mental health issues are growing in all parts of the state and that counties are bearing the increased costs related to medication, staffing and training. He stated that it was noted by HHSC staff during the survey process that the staff working sheriffs office's care a great deal about the individuals that are under their charge and strongly desire positive outcomes for individuals with mental health conditions in the county jails.
- Mr. Dole said that the S.B. 633 report will be published on the HHSC website on December 1, 2020.
- Sheriff Dennis Wilson made a comment regarding the costs associated with incarcerating an individual with mental illness in a county jail that was reflected in the Survey of Texas Sheriffs. He stated that he believes the costs reflected in the survey are low. He stated that he believes the costs run between \$75 - \$100 per day. Sheriff Wilson also stated transportation itself is not a problem for sheriffs. He stated that the issue is with state hospitals having beds that they can move individuals from jails into.

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- Mr. Dole responded to Sheriff Wilson’s comments about estimated costs per day for incarcerating individuals with mental illness by stating that cost estimates received from the survey represented a small sample of the 254 counties in Texas. As a result, the S.B. 633 report will include cost estimates provided by the Texas Commission on Jail Standards. Mr. Dole stated that he agreed with Sheriff Wilson regarding the barriers of transportation individuals to mental health facilities.

Agenda Item 12: Review of JCAFS data dashboard

Mr. Logan Hopkins, Director of Data Analytics for the State Hospital System, HHSC, provided an update on JCAFS data dashboard and referenced handout and spreadsheet entitled “JCAFS Data Dashboard”. Highlights of update and committee member discussion included:

- Mr. Hopkins stated in reviewing the dashboard it can be seen that the census numbers have been reduced from 2269 to 1966 due to 303 beds being taken off-line. He stated that the beds taken off line include 18 maximum-security beds and 296 non-maximum security (MSU) beds. He stated that regarding the number of individuals on the MSU forensic waitlist which go through June 2020, the system is on track to add 40 fewer individuals to the MSU forensic waitlist in FY20 than in FY19 and remove 22 more individuals from the MSU forensic waitlist in FY20 than in FY19. Mr. Hopkins stated regarding the non-MSU the data shows the system may add an additional 138 individuals to the waitlist in FY20 than in FY19 and remove 104 more individuals from the non-MSU waitlist in FY20 than in FY19. He stated that regarding the number of 365 individuals are lower in FY20 than in FY19.
- Mr. Hopkins stated that there is a lot of movement on the forensic waitlist even though the overall numbers are going up.
- Mr. Stephen Glazier asked Mr. Hopkins about the reason for the 303 beds being taken off-line. Mr. Hopkins stated the reason for the beds being taken off-line was due to COVID-19 and the need for isolation quarantine units in the hospitals.
- Mr. Stephen Glazier commented that the number of individuals on the both the MSU and non-MSU waitlist is increasing from 902 in January 2020 to 1140 in July 2020 and the length of stay for forensic patients is also increasing.
- Dr. Sally Taylor asked Mr. Hopkins if there was a plan for bringing some of the beds that were taken off-line due to COVID 19 back on line.
- Mr. Hopkins stated that there is not a plan to bring the beds back on-line until there is no longer a need for isolation quarantine units.

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- Ms. Rachel Samsel stated that the hospitals are trying to keep movement of beds going while managing infection control and patient and staff safety issues.

Agenda Item 13: New and ongoing state hospital issues

Ms. Rachel Samsel, HHSC, provided an update on the new and ongoing state hospital issues. Highlights of the update and committee member discussion included:

- Ms. Samsel stated that the state hospitals are admitting both civil and forensic commitments and that they are operating COVID 19 isolation units. She stated that the state hospitals are working closely with the Texas Commission on Jail Standards and the county of jails to ensure the safe transfer of individuals between the state hospitals and the jails.
- Ms. Samsel stated that current state hospital COVID 19 data is being posted on the HHSC website. She stated that the data includes the number of patients that have been infected and recovered, the number of staff infected and the number of deaths.
- Mr. Stephen Glazier, Chair, asked if the state hospitals are accepting admissions of individuals who are positive with COVID 19.
- Ms. Samsel stated that the state hospitals are not accepting admissions of individuals who are currently positive with COVID 19.
- Ms. Samsel provided an update on current state hospital construction. She stated that construction at Kerrville State Hospital is expected to be completed in September 2021 which will add 70 MSU beds to the system. She stated that it is expected that new MSU patients will begin moving in in November 2021. Ms. Samsel stated that renovations a 40 bed non-MSU unit at San Antonio State Hospital are expected to be completed in September 2020 with new admissions starting in November 2020. She stated that demolition work is occurring at Rusk State Hospital and Austin State Hospital. She also stated that progress is being made with the construction of the new psychiatric hospital in Houston which will add at least 240 new beds in 2022.
- Ms. Windy Johnson asked Ms. Samsel if there has been any discussion of stopping any of the construction occurring at the state hospitals due to state budget cuts.
- Ms. Samsel stated that she is not aware of any discussion regarding stopping state hospital construction due to budget cuts.
- Ms. Samsel reported that regarding the new state hospital waiver process resulting from S.B. 562 the state hospitals have reviewed 605 packets in FY20 and waived 105 individuals from a MSU facility to a non-MSU facility. She stated that 6 of the individuals that were waived from a MSU facility

were admitted directly into a State Supported Living Center and 24 individuals with Not Guilty by Reason of Insanity (NGRI) were waived from a MSU facility. She stated that so far success has been seen in moving people off the MSU waitlist.

- Ms. Samsel that with the arrival of Dr. Felix Torres, new Chief of Forensic Medicine with the state hospitals in the near future increased work will be done to collect data regarding the steps in the forensic process.

Agenda Item 15: Public Comment

- **Mr. Jeff Mikolajek**, representing himself as an advocate for his son, provided public comment. He stated that there is a lack of help for people in the community that have a serious mental illness. He stated that there is a huge waste in tax dollars due to people, like his son, having to be hospitalized repeatedly due to inadequate mental health services in the community. He stated that many people, like his son, have a condition called anosognosia, which causes them to be unable to understand that they have a mental illness and need medication or therapy. Mr. Mikolajek stated that if people that have this condition could be required to receive their medications, thousands of people could receive the help that they need and not have to be re-hospitalized which would save hundreds of thousands of tax dollars. He stated that we also need Assisted Outpatient Treatment for individuals after they are discharged from the hospital to help them function well.
- **Mr. Shaun Haugen**, representing himself as a volunteer on behalf of the National Alliance for the Mentally Ill Central Texas Advocacy Committee, provided public comment. He stated that he would like to advocate for more funding towards development of new hospitals in Texas for people with mental illness. He stated that there are not enough beds for people who need access to mental health treatment. He stated that as a result, many people with mental illness are charged with a crime and sent to jail. Mr. Haugen stated that if people are given proper treatment early on in their illness we could avoid the setbacks that occur in the deterioration of a person's brain suffering from a serious mental illness. He stated that when people have a mental illness they should receive the state of art brain treatment that meets each person's needs. He stated that Kerrville State Hospital should be used as a model system for a step-down facility. He stated that legal guardians should be used to help individuals who have anosognosia.
- **Mr. Eric Kunish**, representing himself as the chair and volunteer on behalf of the National Alliance for the Mentally Ill Central Texas Advocacy Committee, provided public comment. Mr. Kunish stated that it is known

that there are not enough beds in the state hospital system. He stated that step down, transitional living, or appropriate placement and supports available for most vulnerable members of the community. He stated that we need to create a true continuum of care that makes it easier to access care when a person needs it before they become involved with the criminal justice system. Mr. Kunish stated that we need transparency and accountability by the LMHAs and psychiatric facilities. He stated that if a person is terminated from services from a FACT or ACT team through the LMHA, for refusal to engage, it should be documented, and efforts made to advocate for the person. He stated that we cannot wait another session for step-down and transitional facilities, for improvements to be made to the HCBS-AMH program, and for LMHA's and psychiatric facilities to be held accountable to those they serve.

- **Ms. Marilyn Hartman**, representing herself as an advocate from the National Alliance for the Mentally Ill Central Texas, provided public comment. She stated that Texas has a crisis in caring for those with the most severe cases of mental illness, a crisis that has resulted in too many cycling through incarceration, hospitalization, emergency departments, and/or chronic homelessness. She stated there are not enough state hospital beds causing the forensic waitlist to grow. She stated that Community Hospital beds are primarily for civil commitments and, of those, the less severe cases. Ms. Hartman stated that the LMHA's seem to prioritize those cases that are most easily treatable and fall short on those cases that are most severe. Ms. Hartman stated that there is a lack of continuum of care outside of institutions. She stated that Texas needs more state hospital beds, keeping up with population growth, more jail diversion, with appropriate sites of diversion and treatment, Assisted Outpatient Treatment (AOT) to keep people, particularly those with anosognosia, on their medications, step-down facilities with every state hospital redesign, and ideally with every state hospital. She also stated that Texas needs small group homes with 24/7 trained staff, more permanent supportive housing, person-centered to individual cases, more transitional housing with definitive plans of transition out to appropriate placements, accountability and transparency from LMHA's and all other elements of our system caring for those with serious mental illness and in cases of mental illness, in HIPAA laws and Medicare and Medicaid lifetime limitations.
- **Ms. Linda Mikolajek**, representing herself as an advocate for her son, provided public comment. She stated that her 37-year-old son has a serious mental illness and has experienced homelessness, repeated incarcerations and hospitalizations at Austin State Hospital (ASH). She stated that in April 2020 her son received an emergency detention order and was committed to Austin State Hospital despite having FACT team wraparound services in the

community. She stated that her son has had several hospitalizations at ASH since August 2017. She stated that he has had difficulty staying on his medications in the community which has resulted in him becoming homeless and being re-arrested. Ms. Mikolajek stated that her son has been in a revolving door cycle, repeatedly arrested for trespassing. She stated that in April 2020 he was arrested for attacking his neighbor and threatening their life. She stated that we need to create a true continuum of care that makes it easier to access care before the criminal justice system becomes involved. She stated that although her son is in the hospital now she is concerned about him having a safe discharge plan that is based on his behavioral health needs. She stated that we need more ASH beds so that people are not discharged prematurely. She also stated that we need step down, transitional living and appropriate, supportive placements in the community. Ms. Mikolajek stated that there needs to be an accountable, transparent, true continuum of care with a real range of options so that we can stop the revolving door of trauma for people like her son. She stated that she fears that if her son is discharged again without the appropriate supports, and supervised housing, he will end up living in his car, back in jail or dead.

- **Ms. Dawn Burris**, representing herself as an advocate for her brother, provided public comment. She stated that prior to this year her brother had not had any issues with mental illness. She stated that he had been married for 25 years, had a stable job for over 10 years, has two grown children, and has never had legal or substance abuse problems. Ms. Burris stated that recently began experiencing delusions and paranoia which turned into an event with the police in Cedar Park, local emergency room and then 2 weeks of treatment in Georgetown's Behavioral Health Center. She stated that after he completed his treatment he returned to work and seemed to be doing well. Ms. Burris stated that her sister-in-law started noticing him having symptoms of paranoia. She stated that on 7/21/20 she called 911 due to her brother becoming agitated. She stated that he lashed out physically while four officers were present. She stated that although she told the officers that her brother needed psychiatric help and that she did not want to press charges they said that they had no choice but to arrest him for domestic violence. Ms. Burris stated that her brother was not able to be evaluated by a physician in jail due to his violence. She said that her brother received an additional felony on 7/22/20 for spitting on a jailer. Ms. Burris stated that Bluebonnet Trails attempted to find a psychiatric facility for him to be sent to but were not able to find one for various reasons. She stated that there seemed to be no way for the family to help her brother. She stated that he now has a court appointed lawyer, but he is having difficulty providing consent to have a lawyer. She stated that they were told that he recently slipped and fell in the shower hitting his head and is now being

treated in a local Round Rock hospital for a subdural hematoma. Ms. Burris stated that she fears her brother is being treated as a criminal, not as a person who is undergoing a severe psychological crisis. She stated that she is here to raise awareness of the great need to have more robust treatment of those with mental health issues.

- **Ms. Frances Musgrove**, representing herself as an advocate for her son, provided public comment. She stated that without a continuum of care our loved ones faces outcomes that include recurrence of symptoms, deterioration and even death. She stated that they are most vulnerable when they are transitioning from a hospital, jail or other facilities. Ms. Musgrove stated individuals who experience a poor transition of care can cause individuals to return to the hospital, deteriorate or harm themselves or others or cause death. She stated that her son has been in and out of hospitals for decades and that he is currently in ASH for his 70th hospitalization. She stated that ASH is preparing to discharge him soon without a continuum of care in place. Ms. Musgrove stated that during his current hospitalization at ASH he has not been able to be treated for his psychosis with medications due to priapism, which is a side effect to anti-psychotic medication. She stated that she is concerned about her son due to his anosognosia, inability to care for himself and the danger that he may present to himself or others. She stated that he absolutely cannot be discharged with a care plan in place. Ms. Musgrove stated that her son has been hospitalized four times this year and that he desperately needs a continuum of care whether it be in Texas or out of state. She stated that due to COVID-19 her son will not be able to receive the services he needs in Austin at Integral Care and that he needs to stay in ASH until he either gets better or services are available to him.
- **Ms. Krish Gundu**, representing the herself as the co-founder and director of the Texas Jail Project which is an advocacy group working to improve conditions in county jails with a focus on vulnerable populations, provided public comment. She stated that every week the Texas Jail Project is contacted by dozens of individuals and family members regarding individuals experiencing neglect and abuse in county jails. She stated that over 80% of all pleas that they receive are related to persons with mental illness or IDD. She stated that one of the common complaints that they hear is that once an individual with mental illness enters the criminal justice system the individual and their entire family are treated as criminals. She stated that family members are cut off from communication thwarting their efforts to share background information about their loved ones. She stated that many jails and LMHA's even refuse to acknowledge medical releases or medical powers of attorney. Ms. Gundu stated that they often hear of experiences that demonstrate a lack of coordinated upstream interventions and fragmented

care. She stated that once in jail individuals face the stigma of mental illness that is increased by being justice involved making it harder for them to access community resources. She stated they often hear of LMHA's treating individuals differently after they are incarcerated compared to the way that they were treated before they were incarcerated. Ms. Gundu stated that they hear of traumatic stories of persons who are found incompetent to stand trial (IST) and forced to wait for months for a forensic bed. She stated that on top of the cost that counties have to bear for long wait times, there is immeasurable long-term trauma being perpetuated by conditions and practices within the jails. She stated that there are several IST cases that have spent more than five months in solitary confinement in inhumane conditions and others who complain of hunger, insufficient supplies, punishment, taunting and irregular administration of medications. Ms. Gundu stated that some individuals have attempted suicide on multiple occasions. She stated that there are some peer specialists who have been shut down and pushed out by jail staff for trying to advocate for individuals in jail. Ms. Gundu urged the committee to work with urgency toward a coordinated, cross-system, statewide effort to strengthen prevention and diversion and establish systems that will improve inter-agency communication and include all stakeholders.

- **Ms. Dalila Reynoso**, representing herself as a community activist from Tyler, Texas, provided public comment. She stated that she is working with the sheriff to address people stuck in her county jail while they wait to be in a psychiatric facility. Ms. Reynoso stated that one her childhood friends has Schizoaffective Disorder and has had 15 encounters with law enforcement over the past 20 years. She stated that her friend is a part of a revolving door. She stated that she needs an appropriate step-down, transitional living option from the psychiatric hospital so that she can have an opportunity to be a person who lives with dignity and purpose. She stated that her friend's father identified some barriers that he encountered with the local LMHA that could have possibly prevented her friend from entering the criminal justice system. She stated that the barriers he identified are language and literacy, lack of knowledge about mental health which perpetuates the stigma attached to it and lack of knowledge about how to access or navigate services for family members. Ms. Reynoso stated that we need mechanisms for transparency and accountability from the LMHA. She stated that we must create tools to foster openness and accountability. She stated that information should be presented plainly in multiple languages and in formats appropriate for multiple stakeholders and community members. She stated that poor governance is one of the key system barriers to the implementation of integrated primary mental health services.

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- **Ms. Anna Harris**, representing herself as the Executive Director of Just Us Participatory Defense, provided public comment. She stated that her organization educates, advocates and supports residents and their loved ones pre-trial, saving tax dollars, increasing public safety and creating healthier Bastrop County families. She stated that the United States has 5% of the world's population but has 95% of the world's justice-involved individuals. She stated that Texas is the third largest state in the United States with the largest percentage of people incarcerated with approximately 155,000 individuals housed in the Texas Department of Criminal Justice (TDCJ). Ms. Harris stated that 97% of individuals with substance abuse issues have underlying and under addressed mental health conditions and are attempting to self-medicate with substances that are more accessible than mental health services. She stated that Texas currently spends \$33,000 per person each year who are incarcerated and not addressing underlying mental health issues. She stated that during the last legislative session, the Chairman of the Texas Legislative Committee, Senator Whitmire questioned the Executive Director of TDCJ, Mr. Brian Collier about the high incarceration and recidivism rate for individuals released from TDCJ and about why 85% of individuals released from TDCJ are released without programming or education considering that 75% of those individuals have an average of a 4th grade level of reading and writing. She stated that Mr. Collier stated TDCJ did not have the funding or staff for these services. She stated that rural counties are especially dependent on TDCJ to rehabilitate their residents since they have no local alternatives to incarceration. Ms. Harris stated that the approximate cost of long-term rehabilitation and mental health services would be \$1,100 annually with a recidivism rate of 1 to 9 after sustainable rehabilitative interventions. She stated that re-investing criminal justice tax payer dollars into upstream pre-trial rehabilitative services would save Texans 30 billion dollars annually in housing alone, increase public safety, and help improve the health of Texas families.
 - **Ms. Diana Zunega**, representing herself as an advocate for Just Us Participatory Defense in Bastrop County, provided public comment. She stated that her husband was recently in custody in Bastrop County Jail with multiple mental health diagnoses and had been self-medicating with illicit drugs. She stated that her husband also had pre-existing medical conditions that required him to be housed in solitary confinement to be able to administer one of his medical treatments that consisted of her husband's lungs having to be flushed with saline solution several times a day. She stated that her husband's mental health condition rapidly deteriorated and became acute due to being isolated in solitary confinement. She stated that her husband requested to receive his medical treatment in general population

to prevent adverse effects and additional charges for his mental health condition. However, she stated the Bastrop County Jail refused to allow her husband to flush his airway with saline solution in general population and he passed away while in custody. Ms. Zunega stated that her husband may still be alive today if the Bastrop County Jail would have allowed him to receive his saline solution in the jail's general population and understood the effects on solitary confinement for individuals with pre-existing mental health issues causing him to choose to accommodate his life or his mind.

- **Ms. Sandra Bush**, representing herself as an advocate for son, provided public comment. She stated that her son was a victim of there not being enough adequate mental health care in Texas. She stated that over the past 3 years he has been in 2 psychiatric hospitals at least 12 times where they have changed his medications. She stated that he is diagnosed with Schizoaffective Disorder with PTSD. Ms. Bush stated that he hospitals have discharged her son without the extended care that he needed while he was still delusional. She said that the police have come to her house several times due to his agitation. Ms. Bush stated that the officers told her that her son needed mental health treatment. She stated that he hospitals need to keep people in the hospital instead of releasing them because that is what is causing the prison population. She stated that the hospitals need to be held accountable.
- **Ms. Sonja Burns**, representing herself as an advocate for her brother, provided public comment. She stated that she her brother has a traumatic brain disorder, Bi-polar Disorder, Asperger's Disorder, PTSD and OCD and has been in ASH for the past 11 years. She stated that he has cycled through the system repeatedly. Ms. Burns stated that she is very excited about the committee's recommendation for an Office of Forensic Services. She stated that she hopes that the committee will review the S.B. 633 report since it is very important to build a continuum of care. She stated that she hopes that the rural communities will get more recognition going into the next legislative session. She stated that mental health systems need to be built in the community. Ms. Burns stated that we have got to have a process to review LMHAs who terminate services for individuals who refuse to engage in services. She stated that we need mechanisms to account for these people. She stated the goal for the state hospital redesign should be for the hospitals to not be forensic hospitals. She said that people should not end up in jail due to their mental illnesses. She said that she recently wrote all 254 county sheriffs to raise awareness about traumatic-brain injuries which often occur for people while they are in jail. Ms. Burns stated that she believes all state hospitals should have step-down facilities possibly using the 13-state supported living center campuses across the state of Texas. She stated that we need to take advantage of the resources that we have and not put the

burden on the criminal justice system. Ms. Burns stated that she is excited about the recommendation for the creation of transition living facilities through the Housing Choice Plan and that she recommends creating rural and urban HCBS pilot programs with the universities.

- **Ms. Cindy Pierce**, representing herself as an advocate for her son, provided public comment. Ms. Pierce stated that she has a son who has had Schizoaffective Disorder for the past 20 years with periods of homelessness and multiple hospitalizations. She stated that because her son has anosognosia, he is not cooperative with treatment and goes through cycle of psychotic behavior, involuntary commitment, hospitalization, decompensation and re-hospitalization. However, she stated that in 2016 a wonderful thing happened. She stated that Blue Bonnet Trails in Burnett County chose to seek an outpatient commitment with court ordered medication for her son and he has not had an inpatient hospitalization for the past 4 years. She stated that they owe many thanks to Blue Bonnet Trails, the DA's office and Judge Bayless for being insightful, proactive and protective of her son. She stated that she is an advocate of outpatient court ordered treatment but realizes that this is not necessary for all individuals that have mental health issues. She stated that the system does not need to only look at what is happening right now but make decisions for the future to stop the cycle of hospitalization. Ms. Pierce that there is a desperate need for small group homes and continuum of care to improve the quality of life for people like her son.
- **Mr. Bill Glenn**, representing himself, provided a written public comment. Mr. Glenn Through the efforts of JCAFS, we need to create a true continuum of care that makes it easier to access clinical care when needed and before the criminal justice system becomes the referral source for this is the most expensive way to refer. You must mandate additional inpatient beds in state hospitals to allow diversion to be effective, yes some must be justice referred, but few. Without a system of step-down/transitional living leading to sustainability you cannot hope to reduce readmission, the second most expensive way to refer to the hospital. You must mandate establishing appropriate placements with appropriate **permanent support** in the community. To accomplish your mission, you need transparency and accountability. If your LMHA has a FACT and/or an ACT team, and they are terminating services for "refusal to engage" though the person clearly is in need of services, they need to document that and still advocate for the person, because this will certainly continue to cycle through our jails, our hospitals, and our streets. To avoid state hospital discharge to inappropriate placements and even homelessness you must establish a true continuum of care with a real range of options. While your plans for Recommendations for the Transformation of Forensic and Diversion Services in Texas appear to

address the need to expand successful programs throughout the state, I hope this extends to rural areas. Be in support of reestablishing a rural clinic and hospital service inclusive of physical and behavioral medicine as is the law of the land in the Affordable Care Act. Be in support of Medicaid Star Plus. These may appear to be outside the scope of your mandate, however, they are critical to your success.

Agenda Item 16: Adjournment

Mr. Stephen Glazier, Chair, adjourned the meeting at 1:09 pm.

Below is the link to the archived video of the July 29, 2020 Joint Committee on Access and Forensic Services AC meeting that can be viewed approx. two years from date of meeting.

(To view and listen to the entirety of the meeting and public comment provided click on the link below)

[Joint Committee on Access and Forensic Services Agenda](#)