

# Waller County Sheriff's Office

## Recommended Police and Jail Practices

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### ABSTRACT

*A committee was formed to observe the inner workings of the Sheriff's Office and report on and recommend practices and policies to benefit the Office and the citizens of Waller County. The committee was driven by Sandra Bland's words: "I am going to Texas to make it better."*

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## Executive Summary

On request of the Waller County Sheriff, this committee gathered to investigate, review, and recommend policing and jail practices within the Waller County Sheriff's Office. The committee members were granted full and unencumbered access to all areas of the Waller County Sheriff's Office. A number of recommendations are made that are believed will improve operations both from public safety and efficiency perspectives. The recommendations are intended to be practical and capable of implementation without extensive expenditures, and in some cases may save taxpayer money.

In making our recommendations, we are hopeful that the Sheriff and his Office will work toward a safer, more efficient, and more professional department that ensures public trust and cooperation. The request for this review is a great step toward improving police and jail functions within the county and serves as an example for all law enforcement agencies.

## Introduction

On July 31, 2015, this Committee formed at the request of Waller County Sheriff R. Glenn Smith for the purpose of investigating, from the perspective of the committee members, the operations of the Waller County Sheriff's Office and where possible to make suggestions for improving practices to better ensure public safety and the protection of the rights and safety of suspects. Local attorney Paul C. Looney, who served as a non-voting *ex-officio* member, formed the committee. The five-person committee is composed of civil rights attorneys Craig Washington and Randall Kallinen, former Texas Court of Criminal Appeals Judge Morris L. Overstreet, criminal defense attorney Juan L. Guerra, and criminal defense attorney and President of the Harris County Criminal Lawyers Association JoAnne Musick.

Committee members were given full, unencumbered access to the operations of the Waller County Sheriff's Office, including administrative, investigative, jailing, and patrol divisions. The overall impression is that some areas within the agency are being run well; however, the committee members believe that some specific improvements could result in improved operations and heightened public support. Most specifically, our recommendations with regard to medical assessments and jail facilities would be the most significant in terms of suicide prevention. And, while the committee studied all areas, we are reminded of Sandra Bland's untimely death as perhaps the impetus for this review.

Suggestions are made with full consideration of the budget realities of a small county. While we have included in footnotes some “perfect world” suggestions, we have endeavored to make suggestions that are workable with moderate to no cost and that we believe can be justified while respecting necessary budgetary constraints.

The Committee Members remain committed to assisting the Waller County Sheriff's Office in the implementation of these suggestions wherever possible, whether meeting periodically or by invitation.

## **Inmate Screening for Mental Health and Medical Problems**

### **Recommendation: Employ EMTs to triage and assess medical and mental health issues while also creating the ability for physician review and videoconferencing.**

Presently, deputies screen arrestees for mental and medical problems, but this is not an accurate or efficient process. Deputies do not possess the training or expertise to evaluate the medical and mental health needs of inmates. More than one-half of the county's arrestees are on some sort of medication, and deputies have reported to committee members that the average age of inmates has risen notably. Along with older inmates, the jail has seen an increase in the percentage of inmates that use one or more regular medications; however, it can take more than a week for the jail to obtain a prescription and the necessary medication. Depending upon the inmate's medical needs and the adverse consequences of failing to take necessary medications, this delay can be grossly detrimental to the well-being of the inmate.

Often, deputies taking mental health history do not know what to do with this information once it is made part of the file. Deputies are unsure which inmates may require hospitalization or emergency treatment and may not transport inmates who should be transported, alternatively, they may unnecessarily transport other inmates. Suicide prevention measures are applied in a less than optimal manner. This is not efficient and does not serve the inmates or the Office well.

It is recommended that emergency medical technicians (EMTs) be utilized to interview inmates concerning medical and mental health issues.<sup>1</sup> EMTs generally have training in not only assessing medical needs but also in assessing mental health and suicide risks. EMTs already come to the jail when necessary to perform blood draws in DWI cases; they are trained in triage and patient evaluation and can quickly determine which inmates will require transport to a hospital for medical or psychiatric intervention. With electronic patient assessment, their

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<sup>1</sup> Ideally, EMT personnel would be fully staffed 24/7 within the jail to address incoming inmates as well as housed inmates; however, understanding budgetary constraints, EMT personnel can be contracted for in periodic short shifts throughout the day or as needed, much like with a blood-draw.

collected data would be immediately available to a contracted physician for review without the added necessity of having a physician present. The EMTs should be given access to inmate electronic medical records for medical care only, without making those records part of any law enforcement file. Additionally, arrestees may be more inclined to be forthcoming with an EMT, rather than a police officer whom they may see as adversarial.

Should the EMT identify an issue that requires medication or treatment of a less than urgent nature, a videoconference (Skype or similar Internet consultation program) with a doctor can be conducted.<sup>2</sup> Through these sorts of virtual health services, prescriptions can be obtained on the day of arrest, inmates requiring suicide prevention can be more readily identified and isolated, and inmates with mental health issues can be appropriately medicated, aiding with jail management. Inmates with medical or mental health conditions requiring hospitalization or emergency treatment can be more readily identified, preventing unnecessary emergency room trips and ensuring that necessary treatments take place.

As an aside, the same video conferencing system can also be used to conduct “live” hearings with magistrates in order to set bonds at the earliest possible time.<sup>3</sup> There are a limited number of magistrates in Waller County, and they are not present at the county jail on a regular basis. Providing a mechanism for magistrates to set bail via videoconferencing would be more convenient for the magistrates and the deputies and would allow bonds to be set earlier in the process, reducing the jail population and the associated expenses of housing pre-trial detainees. Utilizing a video system would meet the necessary requisites of the magistrate being able to speak directly to the inmate and provide statutory warnings as well as determine appropriate and individualized bonds.

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<sup>2</sup> Emergency rooms across the country already utilize video conferences (Skype or other software) to put triage staff in touch with doctors immediately without the necessity of staffing a full-time physician. This model works well in hospitals, clinics, and urgent care centers and can easily be added to the jail process for more efficient and more cost productive medical review and care. Again, without the expense of staffing a full-time physician.

<sup>3</sup> Again, courtrooms around the State are already using video conferencing between inmates and magistrates to expedite this process and decrease the need to physically transport inmates to a magistrate or require a magistrate to travel to the jail.

## Body Cameras

**Recommendation: Develop a written policy for the use of video recordings, and purchase body cameras to document interactions to protect both the officer and the citizen accused.**

The Office has not yet developed a written policy or plan for the use and purchase of body cameras to record law enforcement interactions. This is perhaps the most complex issue faced by the Committee – but fortunately, the Committee has had the guidance of numerous studies from around the country and from a number of perspectives. Body cameras have the potential to resolve substantive complaints and prevent spurious complaints, enhance transparency, increase officer accountability, identify internal departmental problems, and provide evidence for prosecution and internal investigations. Issues to be considered include what discretion officers should have concerning when to record; the storage and retention of body camera files; and the availability of body camera files under Public Information Act requests.

In studies, body cameras have been shown to reduce complaints against police officers dramatically, while also reducing use of force incidents by 50% or more. It is unknown whether these changes are because officers who know they are being recorded behave more responsibly, because citizens that are on camera tend to behave more responsibly, or both. Body cameras not only protect good officers from unfounded complaints but also help to identify and correct problems within policing. The demonstrated advantages of body cameras for both deputies and citizens are substantial.

Deputies, ideally, should be given little discretion as to when to record. It is not unknown that a routine traffic stop may result in an arrest, an escape, and/or a violent situation; a discretionary decision that a routine traffic stop should not be recorded could result in the loss of valuable evidence. Consistent and routine recording of all police interactions can protect good officers against false accusations, protect citizens against potential bad officers or false accusations, ensure that guilty people are convicted, and resolve training or disciplinary issues.<sup>4</sup> It is recommended that as a basic policy all deputy interactions should be recorded. Interaction would include from the moment the deputy exits his patrol vehicle until the end of the encounter or arrest. Creating a policy with definitive start and stop intervals eliminates the deputy's discretion and the possibility of failing to record a particular encounter.

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<sup>4</sup> In October, 1976, Dallas Police Department Officer Robert Wood was shot and killed by David Ray Harris during a traffic stop. Randall Dale Adams, a hitch-hiker picked up by Harris, was also in the vehicle stopped. Harris blamed Adams for the shooting, and Adams was charged with Capital Murder and sentenced to death. Harris went on to murder Mark Mays in Beaumont, Texas in 1985. In 1989, the Texas Court of Criminal Appeals overturned Adams' conviction. Harris was executed for the Mays killing in 2004. While the details of those cases are beyond the scope of these recommendations, it should be noted that if body cameras had been available to Officer Wood in 1976, the recordings could have prevented the wrong person being charged with his death, and prevented Harris from killing again.

In addition, taking the decision of when to record out of the hands of deputies as a matter of policy gives deputies confidence that they are making the correct decision. Deputies have enough on their minds without having to weigh the pros and cons of each recording. Having these decisions made as a matter of policy provides confidence in the process and ensures that deputies who follow policy cannot be questioned, in court or by their superiors, for their decisions.

Having every response to a call for service, use of force, arrest, search, interrogation, pursuit, or witness interview recorded and available would, however, be cost-effective and appropriate, except where a witness specifically declines to be recorded. As a general rule, when in doubt, deputies should record. When deputies choose not to record because doing so would be unsafe, deputies should be required to state either in writing or on camera their reasons for turning the camera off. Additionally, any problems with the recording equipment should be promptly noted and investigated for repairs.

The costs and technical challenges of storing, retaining, cataloguing and disclosing the unedited recordings body cameras generate presents a major challenge. The cost of storing all recordings indefinitely is prohibitive. All unedited files must not only be downloaded onto a computer system but catalogued in such a manner that every recording can be located and retrieved. Video files consume large amounts of computer storage space, and the time and expense of storing and cataloguing these files (while decreasing) is not inconsequential.

Video files encompass two broad categories: non-evidentiary and evidentiary. Non-evidentiary video files include citizen interactions involving requests for directions, assisting a motorist, social greetings, and other innocuous police interactions. Non-evidentiary recordings may be deleted after a limited amount of time.<sup>5</sup> Other recordings will be evidentiary and should be copied for provision to prosecutors and defense attorneys, and retained for a defined period of time that would exceed the conclusion of any legal matter arising from the circumstances of the recording. Obviously, evidentiary video files include traffic stops resulting in an arrest or citation, interactions related to calls for service where charges are filed or anticipated to be filed, interactions involving the use of force, and investigative actions by officers.

The system must be audited to prevent erasures, tampering and alterations. An audit trail should be established to determine who accesses the files, when, and for what purpose. If not cost prohibitive, a dual-key system should be established for any deletions. A dual-key system would require two separate and distinct individuals to concur in the deletion before any deletion could occur.

Because of the complexity in creating, monitoring, and auditing a video system, larger departments often require dedicated staff simply to maintain their body camera file archives.

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<sup>5</sup> Committee members differed as to how long non-evidentiary recordings should be kept, but reached a consensus that a minimum of thirty days was appropriate while a period of sixty to ninety days would be optimal.

Given the nature of Waller County's budgetary constraints as well as smaller police force, it would not be realistic or necessary to have staff dedicated to running a video archive system. Existing staff could be trained to upload and tag video into a centralized location. For example, the officer assigned a body camera could be responsible for uploading all video at the conclusion of his incident or shift. Administrative staff could then be responsible for any subsequent retrieval of that video. It is noted that some recordings will be sensitive and should not be released to the public, such as interviews with rape victims or interviews with confidential informants; and existing Open Records exemptions for criminal investigations will protect the release of these video files. While existing Open Records exemptions will prevent sensitive disclosures, the Sheriff should note that public trust is increased with transparency; therefore, whenever possible and within the scope of Open Records, video should be released. In general, any case-related files should only be accessible on a need-to-know basis while the investigation or subsequent court case is pending.

A study of the issues and experiences of police departments in the deployment of body cameras was done in 2012 by the Community Oriented Policing Services office within the Department of Justice, in cooperation with the Police Executive Research Forum. The recommendations stemming from that study are reported in "Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned."<sup>6</sup> While this report is comprehensive and of assistance to the issues, it should, be noted that costs for both cameras and storage have decreased over the past four years.

## Language and Demeanor

### **Recommendation: Create a zero tolerance policy against the use of demeaning or derogatory language.**

While the Committee was pleased with the attitudes most Waller County deputies displayed towards suspects and arrestees, some members of the department persisted in name-calling and dehumanization towards some suspects. Epithets such as "turd," "thug," "gangbanger," and "piece of shit" were sometimes used to describe suspects. Such 'us v. them' language is not only dehumanizing in itself, but tends to become a cultural value passed down to other, more junior deputies and engenders an atmosphere that denigrates the rights of suspects and invites misconduct. The risk is that dehumanizing language will be translated into inhumane actions. It is unprofessional and, especially when used by senior employees, encourages an unprofessional attitude in more junior officers.

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<sup>6</sup> <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>



To maintain the principle that all individuals will be treated with respect, whatever crime they have been accused of or have committed, there should be zero tolerance, as a matter of policy, towards such language being used to describe members of the public. This costs nothing, improves the appearance and professionalism of the Office, encourages public trust, and makes it easier for members of the public (especially minority members) to feel confident speaking to officers. Nothing of any potential value is lost by banning such attitudes and terminology; and the members of the committee believe that this policy change can and should be adopted immediately. Further, this recommendation would require no cost to the Office or county.

## Counseling and Fitness to Serve

**Recommendation: Anger management courses and psychological evaluations should be implemented as a matter of routine to maintain acute mental fitness within the Office.**

Going hand-in-hand with language, demeanor, and attitude, one's mental fitness to serve is of vital importance to maintaining the highest police integrity. Mental fitness should be viewed as an asset to deputies.

It is well known that policing can be extremely stressful, even for deputies who do not encounter violent situations. Deputies deal with the public every day, and their encounters are not always amicable. Quite often, deputies encounter hostile citizens in their worst possible moments as either victims or accused. Many officers "bottle up" this stress, and when coupled with personal stressors this presents the risk that the stress will explode to the surface at the worst possible times and in the worst possible ways.

Many departments utilize psychological services on an as-needed basis for routine matters, and on a mandatory basis after a shooting incident. It is recommended that Waller County implement a policy requiring all deputies to undergo anger management sessions every eighteen months. This minimal step of anger management sessions will help deputies manage their emotions, learn how to release the everyday stressors of the job in appropriate manners, and with some regularity remind deputies to implore those skills while dealing with citizens in their worst situations. Again, as a minimal step, this saves the expense of continuous psychological overview.

Additionally, it is recommended that deputies be re-evaluated for duty with a complete psychological evaluation every three years. The shooting proficiency of deputies is tested every year. Yet, beyond their initial assessment at hiring, deputies are not tested psychologically unless they seek it. The psychological fitness to serve of deputies is no more static than their shooting proficiency, and deputies cannot be expected to recognize and respond to warning signs within

themselves or their brethren. Ensuring that all deputies serving the Office are in peak psychological condition helps ensure the efficiency, reputation, and safety of the Office. It will also contribute to an overall well being in the individual deputies, which will translate to better relations with the community.

## New Jail

**Recommendation: New jail facilities are necessary, as the current facility does not address the safety and security required.**

The present jail is obsolete and was not built in anticipation of the present quantity of inmates. There are no adequate suicide-prevention cells or other special needs housing available. Video and audio monitoring systems have been added in an ad-hoc manner. Many of the walls are rusting and damp. Sanitary conditions are difficult, if not impossible, to maintain. It is inefficient, outdated, and neither safe nor healthy for guards, staff, and inmates.

A new jail is presently planned for several years out, and that schedule should be accelerated to the extent possible. While building a new jail presents a major investment, it is an investment that is better made sooner rather than later. The costs of building a new facility are not going to decrease. Financing costs are only going to increase in the coming years.

The members of the Committee are willing to review plans for any proposed jail facilities and provide input for consideration before plans are finalized. The Committee believes that good design from the start can prevent problems from developing once the facility is on-line. Ensuring a safe, healthy, efficient, low-maintenance, technologically advanced facility is created is in the interests of the County, the Sheriff's Office, pre-trial detainees, convicted citizens, and the public.

## Booking Process

**Recommendation: Invest in technology for an electronic booking process to facilitate access to information on inmates.**

The Office very much needs a digital booking process. The current process is difficult to access, inconsistent, and inefficient. The current process is essentially a manual process with no checks and balances.

An electronic process can allow officers to document initial booking information (name, date of birth, social security number, place of residence, next of kin, employer information, etc.), attach a “mug shot” via a computer camera, print identification and cell tags, catalogue property for safekeeping, record fingerprints, record health screening information, and record information obtained or developed during the inmate’s stay. Information as to what other inmates a defendant should not be in contact with can be made part of the system. Presently, this information exists in a number of different places, and they are not electronically “linked” together. The lack of electronic information creates manual deficiencies and allows for greater mistakes.

In short, the jail runs on information. When information is not available to those who need it, they cannot be expected to make the right decisions or take the right actions. Having all the necessary information on any inmate available at the touch of a button will ensure that jailers have clear information, reducing mistakes, stress, and wasted effort.

The committee has learned that the District Attorney’s Office is utilizing an electronic document management system, Document Logistix. It appears that the jail may be able to utilize this same software which would then more easily integrate with the District Attorney’s Office during the charge process. Additionally, it may ease the sharing of information between the two office’s. This avenue should be explored as it would solve the problems associated with a manual booking process, and it may provide cost savings over purchasing or developing a stand-alone system.

Though we encourage the consideration of integration with the District Attorney’s Office, caution should be taken to ensure information is secure and not all accessible across departments. For example, some medical information on inmates may be sensitive, protected, or otherwise not available except upon specific request. Additionally, if medical information is known to be instantly accessible by prosecutors, inmates may be reluctant to be candid in their disclosures.

## **Digital Reporting from the Field**

**Recommendation: Invest in technology to allow deputies to access records electronically and enter offense reports without the necessity of returning to the Office.**

With the technological advances available to law enforcement, deputies can be made significantly more efficient. Currently, deputies are required to return to the station to enter offense reports. With drive time to and from the station, this takes the deputy out of service for other calls for an extended period of time. Waller County vehicles should be equipped with laptops and appropriate wireless or cellular technology to allow officers to file reports digitally

from the field. This technology is relatively inexpensive and is being widely used nationwide by large and small departments alike.

The flow of information works both ways. Having computers in their cars also allow deputies to see search and arrest warrants, photos of suspects, their vehicles, their homes, etc., and allows them to consult with other officers and supervisors more readily.

## **Public Information Officer**

**Recommendation: A single point of contact for public information allows the Office to present information more clearly and accurately.**

The Office should speak to the public and the media through a Public Information Officer, to ensure that all communications are carefully crafted and presented. The job of Sheriff does not require or imply the skills necessary to carefully communicate to the media. A professional spokesperson should be tasked with providing information to the media and public, handling Open Records requests, and improving communications between the public and the Sheriff's Office. While this need not be a full-time position, an individual with a background in journalism, marketing or communications should be appropriate. A public information officer should be tasked with maintaining the public's confidence by serving the public interest and putting the public trust before all else while adhering to the highest standards of honesty and accountability and striving to present information in a clear, concise and credible manner.

## **Separate Jail Administration and Policing Duties**

**Recommendation: To the extent possible, jail administration and policing should be separated.**

Policing, and Jail Administration, are distinct functions with very little skill set carryover. There should be a designated deputy in charge of all jail operations, and that individual should receive extensive training in jail operations. Jailers (who need not be deputies) should be focused on providing a clean, safe, humane and secure facility. Deputies should focus their efforts on law enforcement. These functions are not so intertwined as to be performed by the same staff.

Presently, many deputies serve in both positions, alternately. It is the sense of the committee that most deputies became law enforcement officers to serve in the policing function, not the jailing function. As the County (and accordingly, the jail) continue to grow, a greater division of labor

would appear both more efficient, and more effective, and increase the quality of work of both jailers and law enforcement personnel.

Inmates should have an Ombudsmen to turn to when problems arise. At present, there is no one source inmates can go to when they believe they have been treated in a manner other than that prescribed by policy and the rules.

The committee recognizes, however, that separation of jail and policing may be logistically and financially impossible in many counties, especially smaller counties. To that extent, the Office should consider whether to separate staff rather than having deputies serve both areas. In the event that deputies must continue to serve both jail administration and policing, the Office should ensure that all deputies are adequately trained in both areas.