MAYOR SYLVESTER TURNER
TRANSITION COMMITTEE ON CRIMINAL JUSTICE

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March 1, 2016

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## Committee Membership

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<tr>
<th>Participating Committee Member</th>
<th>Occupation, Affiliation</th>
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### Committee Resources

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II. Executive Summary

Latoshia Suzette Clark was born in Lake Charles, Louisiana. She moved to Houston with her parents and her sister when she was two years old. She attended Houston schools and grew up to become a licensed nursing assistant. Unfortunately, like so many, Latoshia became addicted to drugs. After several prior arrests, in September of 2011, Houston police again arrested her for drug possession and took her to the Harris County Jail. A magistrate set a money bond she could not afford to pay, so she languished in a violent, overcrowded jail, where -- suffering from AIDS -- she eventually died an excruciating death six weeks later. She was 36 years old.

This report is inspired by the thousands of Latoshia Clarks whose lives might have been different had the City of Houston used incarceration as a last resort and instead employed more reasonable, effective and humane alternatives.

The ugly and inescapable truth is that people of color, the mentally ill, and substance addicts in Houston are criminalized and stigmatized, producing a criminal justice system that is unequal, unfair, and undermines public safety. The tensions between communities and police across the nation; the staggering number of minorities in jails; and the exorbitant charges leveled against people with substance abuse problems speak to a criminal justice system that requires fundamental change.

The devastating impact of certain criminal justice policies in Houston—at every stage of the process, from initial police encounter to re-entry upon release—have left communities of color and poor communities so distrusting of the criminal justice system that many hesitate to call for help when help is seriously needed. While officials think in terms of costs and revenue, communities suffer the human costs. The realities of incarcerated family members, lost potential income, and the erosion of personal and communal dignity create a world where people struggle against the criminal justice system rather than trusting it to carry out the work of justice in a safe, equal, and effective manner.

The Criminal Justice Committee submits the following recommendations:

- **Hire a police chief who will adopt HPD’s Draft Policy for BWC with modifications, set forth in Appendix A, that eliminate loopholes, minimize officer control over body camera operation, ensure proper uploading with a clear chain of custody, and maximize public access to footage in a prompt manner.**

- **Hire a police chief who supports and will implement the concept of community policing, drawing input from neighborhood groups and from studies on effective implementation of community policing.**

- **Hire a police chief who will adopt fair and trust-building policies concerning the interaction between local law enforcement and ICE and providing a clear**
written policy that HPD will not inquire into the immigration status of anyone they encounter, in part through specific measures set forth on p. 8, infra.

- Hire a police chief who will adopt the policy of cite and release for low-level offenses (all Class C misdemeanor citations, and the Class A and Class B misdemeanors set out in articles 14.06(c) and (d) of the Texas Code of Criminal Procedure), without regard to the offender’s immigration status.

- Hire a police chief who will adopt a policy that instead of arresting and incarcerating low-level drug offenders, HPD should generally divert them to the Houston Sobriety Center for evaluation and referral to rehabilitation programs (for additional specific measures, see p. 9, infra)

- Ensure that the municipal court fine collection practices do not prey on indigent citizens, by expanding the use of community service, prohibiting the use of jail as a means to collect fines from the poor, and insulating the municipal courts from pressures to collect fines, in part through specific measures set forth on p. 12, infra.

- Establish an effective strategy to reintegrate ex-offenders into society by facilitating their reentry into the workforce, through use of the five-phase plan described more fully on p. 13, infra.

- Ensure that representatives of the communities affected by the foregoing recommendations are fully included in the process for selecting a new police chief, through service on the selection committee and in any other appropriate ways.

We also recommend the following areas for further study, which the Committee is happy to undertake, and which would potentially result in additional recommendations:

- Privacy concerns related to HPD’s use of StingRay technology
- The need to develop of a centralized crime database that will increase efficiency and transparency.
- Concerns that Harris County’s dysfunctional pretrial process adversely affects Houstonians.
- A recommendation to support the Houston Forensic Science Center and oppose its merger with any other local laboratory.
- Concerns about the school-to-prison pipeline caused by excessive and discriminatory disciplinary measures.

Our recommendations seek to establish a criminal justice system in Houston that can be described as:

1. Preventative and rehabilitative.
2. Advancing public safety.
4. Minimizing the possibility for discrimination.
III.  Issue Analysis

Problem: HPD’s Body Camera Policy Lacks Important Safeguards

Police shootings of civilians have become a flashpoint in community-police relations nationwide and in Houston. Frequently, these incidents result in conflicting accounts.\(^1\) To protect police officers and the public alike, HPD has wisely made the decision to implement body worn cameras (BWC), which will provide more definitive evidence in all types of encounters with the public. HPD’s action represents a first step towards transparency and accountability. However, for BWCs to properly protect both the police officers involved and the public, HPD’s Draft Policy for BWC\(^2\) must be modified to eliminate loopholes, minimize officer discretion over BWC operation, and maximize public access to footage in a prompt manner.

HPD’s Draft Policy commendably incorporates many elements of the United States Department of Justice (DOJ) recommendations for such a policy. However, the Draft Policy omits certain critical safeguards found in the DOJ-recommended policy. Unlike the DOJ policy, the HPD Draft Policy includes vague guidelines for when cameras can be turned off, contains minimal punishment for failing to activate body cameras, and excludes defense attorneys and the public from accessing BWC footage.\(^3\) Failure to provide these basic safeguards defeats the underlying purpose of equipping officers with BWCs. As written, the Draft Policy makes it difficult or impossible, in many cases, for citizens to access to video footage and presents a risk of editing.

Video footage helps HPD and the public know what actually happens in a police-citizen encounter. Nearly one in seven HPD shootings involved an unarmed suspect who the shooting officer described as “postured in a threatening manner.”\(^4\) Without safeguards, the video footage from BWCs could possibly serve to obscure incidents instead of disclosing the objective truth about what happened.\(^5\) If HPD wants to reassure Houstonians that a shooting is justified, it must adopt an open and transparent policy that ensures BWC footage can eliminate any doubt.

Recommendation:

Our committee has provided a line-by-line analysis (see Appendix A) of the HPD Draft Policy with recommendations for improvements that will make it consistent with DOJ policy guidelines. These suggestions encourage transparency and accountability within and outside of HPD.

In sum, we recommend the following:

- The Mayor should hire a new police chief who will adopt a BWC policy that includes and implements our suggestions in Appendix A, which are summarized in the following bullet points.
- “Private spaces” should be defined as “restrooms, dressing rooms, and locker rooms,” where persons have an expectation of privacy.
• Until all HPD officers are issued BWCs, the existing BWCs should only be used by officers who are on the job and not on their approved extra jobs.
• A master list of each officer assigned to a BWC and the serial number of his or her BWC should be maintained and made available for use in court by prosecutors and defense attorneys.
• The chain-of-custody documentation of BWC video footage must be maintained and available for use in court by prosecutors and defense attorneys.
• All BWC videos should be uploaded by the end of the shift without exception to prevent damage, alteration, and chain of custody irregularities. The Draft Policy’s 72-hour grace period should be eliminated.
• Violations of BWC policy should subject officers to disciplinary action that is included in their personnel file.
• BWC video from use of force incidents should be given to the Independent Police Oversight Board (IPOB) and DOJ for investigation.
• Defense attorneys should be included in all procedures that allow for the request of BWC video footage.
• All requests for BWC video should be in writing, and records of BWC videos should be maintained for review and retrieval via subpoena.

Problem: Need for Effective Citywide Community Policing

The Houston Police Department’s (HPD) community policing approach has strayed from the design successfully implemented in the 1980s, and now falls short of responding to the public’s needs.

History within HPD:

Community policing is an operating philosophy in which local law enforcement agencies interact proactively with the community, including by “walking the beat,” and therefore develop relationships of cooperation and trust. Officers are assigned to community storefronts from which they reach out and get to know citizens of the community, and provide accessible support and services as well as law enforcement. Former HPD Chief Lee P. Brown introduced and implemented community policing in Houston from 1982-1990. In his words: “[The officers] knew everyone in their community and everyone knew them.”

Community policing not only pays day-to-day dividends of trust and cooperation between the police and the community, but is invaluable during times of heightened tensions, helping to prevent intense frustrations from escalating into violence. Chief Brown recently suggested that community policing “would have prevented the events that occurred in Ferguson following Michael Brown’s death.” Moreover, an important goal of community policing would be to prevent avoidable and/or unjustified police shootings from happening in the first place.

HPD first operationalized community policing by adopting a two-pronged approach: (1) requiring officers to walk the beat within a neighborhood, and (2) sponsoring programs
to bring the community to the substation to work in conjunction with the police. HPD started a program known as Directed Area Responsibility Team (DART), which was introduced in a high-crime minority area within the Central Patrol Division. DART officers were assigned to a beat and were expected to stay within that area, gather information on the types of organizations, businesses, and institutions in that beat, and become familiar with all aspects of the beat. They were expected to interact with members of the community and ride alone so as to be more approachable to the citizens.

Community policing also involved other programs designed to encourage the community to visit the substations and to work jointly with the police. One such program was the Positive Interaction Program (PIP), organized at each substation. Citizens were invited to meet with police managers once a month; the goal was to mobilize citizens in the crime prevention effort and thus reduce the number of street officers needed.8

Over time, the implementation of community policing changed to involve mostly community outreach events. The number of storefronts – initially 17 -- was reduced; today, fewer than twelve remain, and most are not equipped to meet the daily needs of the community. The Long Point storefront remains as a unique model of a storefront in the traditional design of community policing.

Research Findings:

An academic study of Houston’s original community policing effort showed that officers working in areas where community policing had been implemented received significantly fewer complaints than officers working in other areas.9

The study suggests that community policing that effectively builds community partnerships has the potential to reduce tension between the police and the public. It promotes a culture in which officers and supervisors strive to become a part of, and not apart from, the community. Citizens respect the police when they know them and can trust them.

The formation of such partnerships enables the police to use available resources more effectively. By enlisting the support of the community in keeping an area safe, community policing reduces the number of officers needed to work within a particular area.

The benefits of community policing include, in part:

- Awareness by the police that solving broader community problems is an important component of effective crime reduction.
- A sense of shared responsibility and partnership between citizens and the police, with citizens recognizing their own important role in the crime-fighting effort and police appreciating and facilitating that cooperation.
- Greater citizen satisfaction with and appreciation of the police, and greater job satisfaction on the part of police, who are better able to resolve issues and problems within a reasonable amount of time.
• Better internal police relations, resulting from communication and cooperation among segments of the department that are mutually responsible for addressing neighborhood problems.
• Support for organizational change that enhances citizen safety and police effectiveness.

Recommendations:

The Mayor should:
• seek a new police chief who supports the concept of community policing as an operating philosophy and communicates a clear understanding to officers and the community alike;
• facilitate the formation of an authentic partnership between HPD and grass roots community organizations and members of the community to develop a collaborative policing plan, drawing in part upon the Long Point storefront model for its effectiveness in reducing the fear of crime and the relationship between the citizens and police.

Problem: HPD’s Support of ICE Diminishes Public Safety

Despite having no obligation to provide assistance to Immigration and Customs Enforcement (ICE), HPD’s policy of cooperation with and access by ICE destabilizes local communities, diminishes Houstonians’ faith in law enforcement, and ultimately harms public safety.

Background:

HPD’s continued cooperation with ICE makes Houston’s police enforcers of federal immigration law. HPD effectuates federal law despite the department’s official acknowledgment that it lacks the authority to enforce immigration law or to arrest anyone based on civil immigration status.10 The detrimental impact of this cooperation on Houston communities cannot be overstated. HPD’s partnership with ICE has drastically reduced trust in law enforcement amongst the Hispanic and immigrant communities of Houston. This lack of trust diminishes public safety by making it less likely that members of these communities will report crimes or act as witnesses.

HPD also gives ICE unfettered access to its jail facilities. As such, Hispanic and immigrant citizens view these facilities as a danger to their families and neighbors. In times of domestic crisis, Hispanics and immigrants will not call the police for help for fear that their family member or neighbor will end up deported. HPD’s excellent programs for crisis intervention will be of no use to Hispanics or immigrants, further increasing the public safety risks for the community.

In a time of scarce police enforcement resources, Houston cannot afford to additionally assume the federal government’s role of enforcing federal immigration laws. Using HPD to
enforce federal immigration law wastes local police resources that are better spent investigating serious violent and property crimes that are of true concern to the community.

**Recommendations:**

Mayor Turner should require the next police chief to take the following actions:

- forbid HPD from making arrests on the basis of immigration warrants, detainers, or any other civil immigration document or removal order;
- prohibit HPD from holding people on ICE detainers at HPD facilities;
- prevent ICE agents from questioning, apprehending, or holding individuals within HPD facilities without a valid criminal warrant; and
- provide a clear written policy that HPD will not inquire into the immigration status of anyone that they encounter.

**Problem: Inadequate Use of Cite-And-Release**

HPD takes people accused of low-level, non-violent misdemeanors to jail rather than citing and releasing them, as allowed by Texas law.

**Background:**

Unnecessary arrests and pretrial detention of non-violent individuals misuse scarce criminal justice resources, contribute to jail overcrowding, cause job loss for the accused, and can coerce innocent people into pleading guilty to crimes they did not commit. Harris County is notorious for needlessly jailing Houstonians pretrial. A recent study found that 81 percent of disposed misdemeanor cases in Harris County involved defendants who had been detained pretrial. Further, the study found that 25 percent of those detained could not afford bail of $500 or less. As a result of these practices, the Harris County Jail is woefully overcrowded. The destabilizing effects of pretrial jailing also increase the likelihood of recidivism, which multiplies the costs to communities and taxpayers.

Texas law gives police officers the authority to cite-and-release anyone charged with a C misdemeanor, as well as certain Class A and B misdemeanors. The eligible Class A and B misdemeanors include: (1) Class A and B misdemeanor possession of up to 4 ounces of marijuana; (2) Class B criminal mischief, with damage up to $750; (3) Class B graffiti, with damage up to $750; (4) Class B theft of up to $750 in property; (5) Class B theft of up to $750 in services; (5) Class B providing contraband to a person in a correctional facility; or (6) Class B driving with an invalid license.

Cite-and-release saves money and keeps peoples’ lives stabilized. The process allows HPD to issue tickets to those charged with the specified crimes, thus conserving the police resources otherwise required to process custodial arrests. An officer simply gives the person a citation, notifies the person where and when he or she is to appear for magistration, and releases the person. The Texas Legislature created cite-and-release for certain A and B misdemeanors to assist jurisdictions in saving money by reducing local jail
populations. This process also mitigates the human cost of lost work wages and missed time with families.

*HPD does not utilize cite-and-release as intended by the Texas Legislature.* Cite-and-release is available to those who are residents of the county where they are arrested, are not charged with other crimes not subject to cite-and-release, and are not facing arrest warrants for other crimes. There are no other prerequisites for use of this mechanism.

*Harris County’s “diversion program” is not “cite-and-release.”* On January 1, 2016, the Harris County District Attorney’s Office implemented a diversion program that authorizes all law enforcement in the county to offer diversion to anyone who: (1) is found with two ounces of marijuana or less (a Class B misdemeanor); and (2) agrees to participate in a diversion program that will require the individual to stop using marijuana, attend classes for up to 90 days or engage in community service. Completion of the diversion program means that a conviction will not be entered in that particular case. While laudable, the DA’s program applies only to those who decide, at the moment of arrest and without benefit of counsel, to enter a diversion program. It is not cite-and-release as contemplated under articles 14.06(c) and (d) of the Texas Code of Criminal Procedure.

**Recommendations:**

The Mayor should hire a police chief willing to:

- Issue a standing order requiring cite-and-release: (1) for all Class C misdemeanor citations, and (2) for those Class A and B misdemeanors set out in articles 14.06(c) and (d) of the Texas Code of Criminal Procedure; and

- Include in that standing order the guideline that the immigration status of an accused should not be a barrier to eligibility for cite-and-release.

**Problem: Inadequate Use of Drug Diversion Programs**

Incarcerating the thousands of Houstonians arrested each year for low-level drug possession with little meaningful access to substance abuse counseling and treatment perpetuates a costly, ineffective system and sticks taxpayers with the bill. The City of Houston presently operates the Houston Recovery Center (HRC), which, despite having the capacity to provide substance abuse counseling and treatment beyond what the criminal justice system can offer, cannot accept individuals arrested for low-level drug possession.

**Background:**

*Drug Laws are Disproportionately Enforced.* Despite consistent drug usage rates across racial, ethnic, and socioeconomic boundaries, the punishment for drug possession has fallen disproportionately on black and brown communities. Harris County figures show HPD arrests make up 57% of all jail bookings for possession of less than one gram of a controlled substance. Despite being less than 18% of the overall population, African-
Americans made up 62% of HPD’s arrests for possession of less than one gram of a controlled substance.\textsuperscript{23} This imbalance affects HPD’s credibility in communities of color.

\textit{The City of Houston has the means to stop jailing low-level drug offenders and provide access to substance abuse counseling and treatment}. The Houston Recovery Center (HRC) was approved by the Houston City Council May 16, 2012 and opened its doors for clients’ city-wide May 15, 2013.\textsuperscript{24} Presently, the HRC receives referrals for clients through HPD Standing Order 500-11, which allows HPD to bring publicly intoxicated individuals to HRC rather than booking them into county jail.\textsuperscript{25} HRC has been remarkably successful at this, and has the means to treat those suffering from drug addiction as well – including those not intoxicated by but presently in possession of a small amount of a controlled substance.\textsuperscript{26} Expanding Order 500-11 to allow HPD to refer these individuals to HRC would facilitate counseling and treatment in a way the criminal justice system does not.

\textit{Drug diversion saves lives, whereas criminal prosecution destabilizes lives}. Similar programs have proven more effective than criminal prosecution at providing access to and facilitating the completion of substance abuse treatment.\textsuperscript{27} Access to diversion programs facilitates treatment while diminishing the destabilization that comes with incarceration and conviction of a drug offense, which limits an individual’s ability to access housing, employment, and other resources that reduce the likelihood of recidivism.

\textit{Drug diversion saves money and more effectively allocates scarce police resources}. Studies of similar diversion programs have shown they reduce system costs by up to $8,000 per defendant, per year\textsuperscript{28} – meaning that drug diversion for even a fraction of the eligible arrestees would save taxpayers millions of dollars. In addition, the resources spent processing, prosecuting, and monitoring these individuals could be reallocated to improving HPD’s low clearance rates for violent and serious property crimes.\textsuperscript{29} Diverting low-level drug arrests will allow HPD to assure crime victims and citizens alike of their commitment to public safety.

\textbf{Recommendations:}

The Mayor should hire a new Police Chief who will:

- Modify Standing Order 500-11 to allow HPD officers to present individuals in possession of less than one gram of a controlled substance to HRC for risk assessment and treatment options without further prosecution.
- Modify Standing Order 500-11 to remove immigration status from consideration of individual eligibility for referral to HRC.
- Establish procedure for HPD referral to HRC for possession of less than one gram of a controlled substance, including incentivizing officer referrals to HRC and establishing evidentiary protocols for proper disposal of any drugs found.
- Identify geographical areas where highest frequency of arrests for possession of less than one gram of a controlled substance occur and require officers patrolling said geographical areas to refer a percentage of individuals arrested for possession of less than one gram of a controlled substance in said areas to HRC.
- Establish a committee including community members, HPD, and treatment providers to identify other substance abuse and mental health treatment facilities
within city limits with capacity and willingness to accept similar referrals from HPD in order to help ensure geographic location is not an impediment for referral to the program.

**Problem: The City Uses Its Municipal Courts as a Profit Center**

The City of Houston should not rely on the Municipal Courts as a profit center and should give them the budgetary independence from fine collection they need to serve as agents of justice. Attempting to finance the city budget on the backs of the poor criminalizes poverty and destabilizes lives, ultimately doing more harm than good.

**Background:**

When people receive traffic citations or fine-only misdemeanor citations, the economically well off can easily just pay the fine and be done with the process. From going to various pay centers around the city, or using a 24-7 payment machine in the court building, or paying online, or at the courthouse, or by mail, resolving one's debt to the court is a trivial annoyance for the well off—an annoyance that still stands as an insufficient deterrent to dangerous driving.

The poor, however, face great hardships when citations result in fines. State law requires judges to account for indigence in setting punishment; judges can waive the fine and court fee and offer alternatives like community service, reduction of fines, and fine waivers for poor defendants. However, data suggests these alternatives are infrequently offered.

In 2014, the Municipal Courts produced 168,943 convictions. Community service was ordered in lieu of fines in only 2,759 cases, and fines were waived on account of indigency in only 6 cases.³⁰ (Additional cases are dismissed by prosecutors in the interest of justice on account of indigency, but records are not kept of how many such cases are dismissed.) Given that almost one-quarter of Houston residents live below the federal poverty line, our conservative estimate suggests that at least 30,000 people should have been eligible for community service—many more than the 2,759 who were given that option. Instead of community service, fines are levied against the poor.

Expecting Houston’s poor to pay fines they cannot afford has terrible consequences for the defendants, their families, and Houston taxpayers. By state law, a 30% “collection fee” is added to any delinquent fines, and the Municipal Courts have contracted with a private collection agency to convince people to pay. The courts allow deferred payments (which are only really needed by the poor), but again state law adds a fee, this one $25 per case. The burden of fine payment can destabilize a person's family life, making that person choose between basic necessities and meeting his or her legal obligations.

Too often, people who do not have the money to pay their fines end up in jail. The Municipal Courts allow people to “pay” their fines through “jail credit.” Data from the Texas Office of Court Administration shows that fines in more than 64,000 cases in the Houston municipal court were paid through jail credit in 2014.³¹ Many of these people end up in jail.
because the courts have issued warrants for their arrest for non-payment of fines (capias pro fine warrants). For example, the Municipal Courts issued 34,313 "capias pro fine warrants" in 2014. Some of these warrants are issued for people with the means to pay who simply refuse to comply. Our concern is that far more of those arrested may be poor people who should have never incurred fines in the first place.

In the past few years, the Municipal Courts administration has made commendable progress in establishing a Homeless Court program with three monthly dockets. Despite this recent progress, the Municipal Courts may still disproportionately punish the poor, due to intense pressure from the City of Houston to collect as much revenue as possible. Even more worrisome would be any attempt to reduce the budget of the Municipal Courts on account of a drop in fine collections. The amount of fines collected depends on many factors that are often beyond the control of the Municipal Court administration, so the courts might not be able to raise an expected amount of revenue, even if they tried. Committee members who were provided a tour of the Municipal Courts were struck by the large number of signs posted at the courthouse offering to provide marriage services for $100. The judges have begun to perform marriages as a way to raise revenue, which they often do on their own time and for no compensation. This fact shows the extent to which these conscientious judges make every effort to raise revenue.

The City of Houston should not rely on fines to support its budget, at least not to any great extent. Municipal Court judges should be encouraged to use alternative punishments for the poor and not feel pressure to collect fines. The Municipal Court budget should not be tied in any way to the amount of fines collected, as that would be—and from the data, has been—a powerfully coercive means of pressuring the judges to impose fines.

Our committee is unable to ascertain how regularly indigence determinations are made, but we believe new processes are needed to ensure that those determinations are made for every indigent defendant. Convenient community service options should be offered to the indigent without the need to come to court, just as convenient payment options are available for the well off.

**Recommendations:**

Understanding that this is a complex issue that may require additional study, the Committee recommends the following:

- The City of Houston should ensure that the Municipal Courts receive proper funding that is determined independently of the amount of revenue collected in fines.
- The City’s budget should include only an extremely conservative estimate of revenue collected by the Municipal Courts and should not exert any pressure on court administrators to raise more revenue.
- The Mayor should consult with the Municipal Court administration to show his support for a regularized, simplified process for determining indigence at the beginning of each case (rather than after a capias warrant has been executed), for
providing better information to defendants about their options, and for giving them greater access to community service as an alternative to fines.

- The use of a collection agency should be reviewed carefully, as these firms can be predatory. A private agency should be used to notify defendants of their outstanding debts, the process for payment, deferred payment plans, and community service options, and should not charge individuals exorbitant processing fees.
- The Mayor should support the issuance of fewer capias pro fine warrants and, alternatively, should support the reliance on summons. A warrant should only be issued after a finding that a defendant has repeatedly failed to appear or comply.
- HPD's participation in the “Great Texas Warrant Roundup” should be reconsidered. This “Roundup” reinforces community sentiment that the police are out to round up (and jail) the poor for nonpayment of fines.
- Discontinue commitment orders by a municipal court judge ordering a defendant to serve time in jail, except in cases of direct contempt of court. Discontinuation of commitment orders would still allow municipal court judges to issue warrants for failure to appear and capias warrants, and defendants could still be arrested on warrants. But after being arrested and speaking with a judge, they would not be ordered to serve any further jail time.

**Problem: Lacking Comprehensive Re-entry Program**

Harris County is the "top feeder" of Texas prison inmates. Houston’s inmates return to Houston, where there are not enough training opportunities, support groups, or job opportunities for ex-offenders, thus increasing the possibility of recidivism. Ex-offenders lack basic resources such as professional attire, transportation, access to computers, housing, etc. Possibly suffering from mental and emotional problems, fear factors upon re-entering society, and a lack of familiarity with modern technology, ex-offenders may lack the social skills and interpersonal competencies necessary to present themselves properly as serious candidates for gainful employment. Ex-offenders also continue to have ties to the criminal justice system, navigating life outside prison while still being accountable to the Probation or Parole system. For these reasons, ex-offenders face a lack of job opportunities, as few employers believe that ex-offenders are a wise choice for open job positions.

**Recommendations:**

The City of Houston can become a leader in helping ex-offenders lead productive lives, by preparing them to take full advantage of opportunities. We propose a five-phase plan, with the expectation that all five phases can be accomplished within a 90-day period. The committee also recommends the establishment of a reentry task force for long-term research, as well as program assessment and maintenance.

- **Phase I : A Re-Entry Think Tank**-- We propose the creation of a Re-entry Think Tank that focuses on the "real time" barriers to re-entry. This think tank should consist of 12 carefully selected men and women who have been released from prison no longer than three years ago. This meeting should be closed to the public in order to
create a comfortable discussion space for those who can share their personal experiences so as to provide ideas for solutions.

- **Phase II—Citywide Citizen Re-Entry Public Town Hall**—At a Citywide public town hall, ex-offenders can present the issues discussed in the think tank to the general public. Potential employers would also attend. The objective is to give ex-offenders a voice and break down the stereotypes, so as to rally the City to assist ex-offenders.

- **Phase III—Training and Mentorship**—The City should sponsor a series of "re-entry training" workshops that deal with how to get and keep employment in Houston. Starting with a pilot program for a smaller number of people (about 150-300), the curriculum could include motivational workshops; communication skills; personal appearance and presentation; personal finance, and other skills such as the use of technology. Training sessions can be videotaped for posting on social media to make the training available to the general public for future use.

- **Phase IV—Recruiting Employers**—We recommend that Mayor Turner's administration place "positive peer pressure" on Houston employers to hire ex-offenders. The “town halls” in Phase II are designed as part of this recruitment process. (The City should also evaluate its stance on "Ban the Box," the movement to prohibit employers from asking about felony convictions on job applications.)

- **Phase V—Jobs Forum**—The City and its partners can host a job fair to introduce trained and mentally prepared men and women to potential employers.

Mayor Turner should also establish a task force comprised of both criminal justice experts and ex-offenders who have succeeded outside prison. The task force would track new problems, determine "best practices," and assess the results of the five-phase plan.
IV. Issues Recommended for Further Study

Cell-Site Simulators, a/k/a IMSI Technology or “StingRay”

Cell site simulators, also known as “IMSI catchers” and by the brand name of StingRay, are invasive cell phone surveillance devices that mimic cell phone towers and cause cell phones in a given area to transmit their locations and identifying information. When used to track a specific cell phone, the simulators also gather information about the phones of countless bystanders who happen to be nearby. Since 2007, HPD has spent (with City Council approval) more than $770,000 to purchase cell-site simulators, the associated software, and training in their use.33 No law in Texas yet requires a warrant for invasive metadata searches.34 Because the police use of cell-site simulators carries important privacy implications for law-abiding residents of Houston, greater study of HPD’s use of these devices is recommended.

Data Collection for Efficiency and Transparency

Aggregate arrest data can inform the public on law enforcement strategies and help citizens meaningfully and substantively reflect on HPD’s allocation of resources. Establishing an online data hub that posts the date, time, location, arresting officer, and charge of every arrest, along with the age and race of each arrestee, would prove HPD’s good faith in its relation with the community. (Identifying information should be limited so as to protect arrestees.) In addition, the database should track use of force complaints for individual officers. By implementing such a data hub, HPD would be among the most progressive police forces in the country -- producing a more informed citizenry while also demonstrating HPD’s commitment to transparency and accountability in law enforcement.

Supporting the Houston Forensic Science Center's Independence

The Houston Forensic Science Center is quickly moving to self-sustainability. Thus, there is no cost-saving reason for a merger. The HFSC has contracts with other law enforcement agencies to provide forensic services on a fee-for-service basis. The lab saved $1.6 million last year by building its own latent print work and not contracting it out. The lab also receives substantial revenue from grants and training that it provides to other law enforcement agencies and attorneys.

Merger of the HFSC with other labs would create significant problems and costs. While independent of law enforcement, the County lab is not as politically insulated as the HFSC, which answers to a community Board of Directors and not to a government body. The DPS lab is not independent of law enforcement. These three labs do not share the same corporate values, and any merger would not only wipe away the cultural gains made in the HFSC but would also likely create a major battle for leadership, huge merger expenses, disruption of work, and lower employee morale.
The HFSC is a national model in forensic science. Spearheaded by visionary leaders Dr. Daniel Garner and Dr. Peter Stout, the HFSC has eliminated backlogs in sexual assault kits and all other disciplines. The lab employs 7 scientists with PhDs and 40 Masters Degrees. HSFC analysts are presenting their cutting-edge research at national conferences. In January 2016, the lab rocked the forensic science world when it did what no other lab in the country had done: implement blind verifications in toxicology, latent prints, and firearms. No other forensic lab in the country has ever done blind verifications in any discipline, much less in three. At the last board meeting, Dr. Stout announced plans to expand blind verifications into other areas as well. The lab has received international accreditation status in almost every section and will shortly gain similar accreditation for the remaining sections.

Merging the HFSC with the County and/or DPS labs would represent a setback for forensic science nationwide. It would become national news that would send a mistaken message that lab independence had failed. Police officials from other cities and states around the country have come to Houston to learn about lab independence. The lab’s Director has given talks on the subject to groups like the International Association of Chiefs of Police.

Harris County’s Pretrial Process Adversely Affects the City of Houston

Although Harris County retains primary control over the mechanisms of the criminal justice system, including the Harris County Jail, significant dysfunction at the county level has a pronounced impact on HPD’s ability to effectively police the communities of Houston. The county’s adherence to a bail schedule and failure to provide attorneys for defendants at bail hearings translates into a jail population 78% of whom have not been convicted of any crime.35 For citizens lacking the financial resources to make bail, being arrested, even for a low level crime, can mean up to 72 hours in jail without access to an attorney. The ineffective and discriminatory pretrial process can result in lack of access to housing, employment, and childcare for residents, while also dramatically increasing the likelihood of recidivism.36 HPD’s credibility with the communities and citizens they are charged with policing relies on arrestees being afforded due process and granted access to justice.

School Discipline and Policing

Former Chief Justice of the Texas Supreme Court Wallace B. Jefferson recently stated: “Criminalizing kids for minor misbehavior in our schools unnecessarily exposes them to our justice system and increases the likelihood they will drop out of school and face later incarceration.”37 Students of color are more likely to bear the brunt of school disciplinary procedures,38 which perpetuates the school-to-prison pipeline. We recommend that Mayor Turner and his Director of Education, Juliet Stipeche, actively engage local teachers, students, and administrators alike in an effort to reduce the prevalence of criminal justice solutions to problems of school discipline. Taxpayers should be assured that their tax dollars are being spent educating, rather than incarcerating, Houston’s youth.
V. Bibliography

On Body Worn Camera Policies

- HPD General Order Draft dated 12/31/15
- HPD's 2014-2015 one-page Body Worn Cameras policy
- HPD's 12/31/15 17-page Body Worn Cameras policy
- 21st Century Policing—Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned by Police Executive Research

On community policing:

- Perspectives on Policing, A Practical Guide for Police Officials, U.S. Department of Justice

On Cite-and-Release


On Drug Diversion:

- 2011 National Survey on Drug Use and Health: Summary of National Findings, Abuse and Mental Health Services Administration on, NSDUH Series H-44, HHS Publication on No. (SMA) 12-4713. Rockville, MD: Substance Abuse and Mental Health Services Administration on, 2012, Figure 2.11: Past Month Illicit Drug Use among Persons Aged 12 or Older, by Race/Ethnicity, 2002–2011 and Section 7: Substance Dependence, Abuse, and Treatment by Race/Ethnicity.
- Harris County Office of Court Administration 45 Day Jail Booking Analysis, July-August 2015.

On Municipal Court Fines

- Interoffice Memorandum from Barbara E. Hartle, Presiding Judge, Houston Municipal Courts, Feb. 23, 2016 (on file with committee chair)
- City of Houston, Municipal Court, Fines and Fees Information at http://www.houstontx.gov/courts/fine_and_fees.html

On Reentry

• www.aclu.org

On The Use of Stingray Technology


On the Houston Forensic Science Center

• Houston Forensic Science Center 2015 Annual Review
• Memo: “HFSC Accomplishments” (on file with committee chair)

On Pretrial Justice

• Harris County Criminal Justice Coordinating Council January 2016 Jail Population Report.

On School Discipline

VI. Interviews

On Body Worn Camera Policy

- C.O. Bradford, former HPD Police Chief

On community policing

- Patricia Harrington, Director of the City of Houston Mayor’s Anti-Gang Office
- Don McKinney, HPD Assistant Chief of Police, Criminal Investigations Command
- Hank Hernandez, HPD Sergeant, Northwest Patrol Division
- Arnie Anderson, Captain, Northwest Patrol Division

On Cooperation with ICE

- Angie Junck, Supervising Attorney, Immigrant Legal Resource Center
- Lena Graber, Special Projects Attorney, Immigrant Legal Resource Center

On drug diversion

- Leonard Kincaid, Executive Director, Houston Recovery Center

On municipal court fines

- Hon. Barbara E. Hartle, Director and Presiding Judge, Houston Municipal Courts
- Hon. J. Elaine Marshall, Associate Presiding Judge, Houston Municipal Courts
- Gregory Prier, Deputy Director/Clerk of the Court, Houston Municipal Courts
- Nelly Trevino Santos, Deputy Director/Chief Financial Officer, Houston Municipal Courts
- Charlotte Lang Booker, Deputy Director/Chief Operating Officer, Houston Municipal Courts

On reentry programs

- Ellis Hubbard, employment specialist at Houston Works
- Reginald Gordon of Operation Outreach "OG1"; a former convict and reentry specialist

On the Houston Forensic Science Center

- Dr. Daniel Garner, Executive Director and CEO, Houston Forensic Science Center (on the operation of the HFSC)
- Nicole Casarez, Chairwoman of the Board of the Directors, Houston Forensic Science Center (on the operation of the HFSC)
ENDNOTES

1 Since 2005, HPD officers have shot 2,688 people, 111 of them fatally. This number exceeds the shootings in New York and Los Angeles, departments that have far more police officers. Williams, Timothy. “Lack of Videos Hampers Inquiries Into Houston Police Shootings.” The New York Times. 24 Feb. 2016: A1. Print. Online at http://nyti.ms/1Qg6ITq. These cases are either justified shootings or not. Without video evidence from body worn cameras, it is particularly difficult to identify the wrongful shootings. Not surprisingly, we have rarely seen disciplinary actions in cases of police shootings, and no criminal charges have been filed against HPD officers since 2004. Id., see also Pinkerton, James. “Unarmed & dangerous.” Houston Chronicle 25 Nov. 2013, at http://www.houstonchronicle.com/local/investigations/item/Bulletproof-Part-1-Unarmed-and-Dangerous-24419.php.

2 HPD Draft General Order No. 400-28, issued 12/31/2015.

3 Id. & see Appendix A for all recommended changes.

4 This justification that the citizen took a threatening posture was given by a Houston police officer in the 2014 shooting death of Jordan Baker, as it was by the Chicago officer who killed Laquan McDonald and the Charleston Police officer charged with murder in the shooting of Walter Scott.

5 See Williams, supra note 1.


7 Id.

8 Other programs such as BOND (Blocks Organizing Neighborhood Defense) program and a War on Drugs program were also implemented in neighborhoods covered by substations.


12 Id. According to Harris County’s misdemeanor bail schedule, only Class B misdemeanors qualify for $500 bonds. Therefore, any bond of less than $500 likely concerns a Class C misdemeanor. See Misdemeanor Bail Schedule for Harris County Criminal Courts at Law, available at http://www.cci.htx.net/criminal/Misdemeanor%20Bail%20Schedule.pdf (last visited Feb. 15, 2016).


15 Tex. Code Crim. P. arts. 14.06(c) & (d).


Results from the 2011 National Survey on Drug Use and Health: Summary of National Findings, Abuse and Mental Health Services Administration on, NSDUH Series H-44, HHS Publication On No. (SMA) 12-4713. Rockville, MD: Substance Abuse and Mental Health Services Administration on, 2012, Figure 2.11: Past Month Illicit Drug Use among Persons Aged 12 or Older, by Race/Ethnicity, 2002–2011 and Section 7: Substance Dependence, Abuse, and Treatment by Race/Ethnicity.


Per Harris County Office of Court Administration 45 Day Jail Booking Analysis, July-August 2015.

Id., of the African-American individuals arrested by HPD, nearly 70% were mentally ill, homeless, or both.


Interviews with Leonard Kincaid, Executive Director, Houston Recovery Center, February 2016.


HPD’s combined clearance rate for murder, rape, robbery, and aggravated assault was 37.3%, and the combined clearance rate for burglary, theft, and auto theft was 11.1%. Per Houston Police Department Chief of Police Charles A. McClelland, Jr., “Proposed Operational Staffing Enhancements for the Houston Police Department,” October 2014.


Id.

Id.


Per Harris County Criminal Justice Coordinating Council January 2016 Jail Population Report. The statewide average of pretrial detention in county jails is 60%.


Id.
Appendix A
Body Worn Camera Policy Recommendations

**Recommendations:** The Criminal Justice Transition Committee recommendation the following modifications to HPD Draft General Order No. 400-28, Subject: Body Worn Cameras: (available online at http://www.houstontx.gov/police/pdfs/DRAFT-General-Order-400-28-Body-Worn-Cameras-dated-123115.pdf). These modifications would bring HPD’s Draft Policy in line with the DOJ Policy and that proposed by the President’s 21st Century Task Force on Policing.

**Page: #2. DEFINITIONS (cont’d from p. #1).** Delete defined term “Private Space.” (Reason for deletion: the definition unreasonably broadens the situations in which BWCs are not turned on. A more precise definition – restrooms, locker rooms, and dressing rooms -- is proposed for inclusion on p. 16, in no. 27, as set forth below.)

**Page: #2. INTEGRITY OF VIDEO RECORDINGS.** This section should include the procedures for maintaining the chain of custody of BWC video recordings.

**Page #6, at 8(l) OFFICER RESPONSIBILITIES (cont’d from p. #5).** Delete the second sentence establishing a 72-hour period. (BWC videos should be uploaded by the end of the shift without exception to prevent damage, alteration, and chain of custody irregularities.)

**Page #6, at 8(m) OFFICER RESPONSIBILITIES (cont’d from p. #5).** This subsection should be modified to prohibit BWCs from being used at external jobs until all patrol officers are assigned BWCs. Officers should not use HPD BWCs while working external jobs while patrol officers on-duty do not have BWCs. However, if an officer wears a BWC at an extra job, the second sentence that allows uploading the next day or within 72 hours should be deleted in favor of a provision requiring that they be uploaded at the end of the shift without exception to prevent damage, alteration, and chain of custody irregularities.

**Page #8, at 10 FAILURE TO ACTIVATE BWC (cont’d from p. #7).** At end of no. 10, delete period after “disciplinary action” and add “and sanctions, which shall both be reflected in the officer’s personnel file.”

**Page #8, at 11, SPECIAL CIRCUMSTANCES, “Use of Force Incidents”.** Delete the final sentence under “Use of Force Incidents” concerning classification as confidential, and substitute: “The video shall be given to the IPOB and DOJ for investigation.”

**Page #12, at 17 (c) DOCUMENTATION WITHIN INCIDENT REPORTS.** Delete last sentence beginning with “All other BWC recordings…”

**Page #12, at 18 UPLOAD PROCEDURES** Delete the second sentence of the first paragraph.
Page #13, at 20 AUDITS OF BWC RECORDINGS. Add the following language as the first paragraph in no. 20, Audits of BWC Recordings: “The Auditing Department should maintain a list of all BWC equipment by Serial Number with the name of the officer assigned to that particular BWC. These records must be provided in response to court subpoena and other public inquiries.”

Page #15, at 23(d), BWC VIDEO RECORDS UNIT (VRU). Add “defense attorneys,” after “the District Attorney’s Offices”.

Page #16, at 24 REPAIR AND MAINTENANCE (cont’d from p. #15). Add additional paragraph: “Technology Services personnel must document the dates, times and particulars of all equipment malfunctions, faults, damages, and repairs, and the reasons for each such incident, and be able to provide this documentation in response to subpoenas.”

Page #16, at 27 REQUESTS FOR RECORDINGS. In fourth paragraph, add “defense attorneys,” after “City Legal,”

Page #16, at 27 REQUESTS FOR RECORDINGS. In last paragraph, delete the phrase “private space” and substitute the following language: “restrooms, locker rooms, and dressing rooms”

Page #17, at 27 REQUESTS FOR RECORDINGS, “Requests from Other Law Enforcement Agencies” Delete the second paragraph under “Requests from Other Law Enforcement Agencies” and substitute: “All requests shall be in writing and the records maintained for review and retrieval via subpoena.”

Page #17, at 27 REQUESTS FOR RECORDINGS, “Requests from Other Law Enforcement Agencies”. Add at end of paragraph beginning “Any BWC recording”: “Recordings related to a pending criminal case shall not be deleted.”
Appendix B

The New York Times

U.S.

Lack of Videos Hampers Inquiries Into Houston Police Shootings

By TIMOTHY WILLIAMS FEB. 23, 2016

Photo
HOUSTON — If the police shooting of Omar Ventura on a February night five years ago had been captured on video, it would have been chilling to watch.

An off-duty Houston police officer would have been seen coming out of a bar at closing time after a night of heavy drinking. The video would have shown the officer, Jose Coronado Jr., firing his gun while trying to break up a brawl. Mr. Ventura, who was unarmed, would have been seen falling to the ground dead and his brother, also unarmed, writhing in pain from a bullet wound.

But there was no video of that shooting or of most of the dozens of other questionable shootings of unarmed people by Houston police officers during the past decade. None of them led to the criminal prosecution of an officer or significant discipline by the department.

The police in Houston, the nation’s fourth-largest city, found themselves on the defensive after a series of articles by The Houston Chronicle two years ago detailed a pattern of questionable shootings. The numbers have remained grim, according to police and court records obtained through an open records law request and documents recently made available as part of lawsuits filed against the Police Department.

Since 2005, the police have shot 268 people, 111 of them fatally, records show. The rate of shootings by police officers was higher in Houston from 2010 to 2014 than in New York or Los Angeles, and the Houston police killed more people than the Los Angeles police despite having
half as many officers, according to police data. (Officers in Chicago, the nation’s third-largest city, killed civilians at a higher rate than the Houston police did over that period, records show.)

Despite the troubling statistics, the Houston police have largely avoided the intensive public scrutiny directed in recent months at other large departments, including those in Chicago, Baltimore and Philadelphia. The reason, critics say, has been the lack of videotapes capturing the most questionable shootings of unarmed civilians.

Without videotaped evidence to contradict police accounts, shootings are far less likely to galvanize the public and to result in disciplinary action against the officers involved, criminologists say.

The victims of police shootings in Houston include Brian Claunch, a double amputee in a wheelchair who was holding only a pen when an officer shot him in 2012, and Jordan Baker, an unarmed man fatally shot after the police stopped him while he was bicycling in 2014, records show.

In the case of Mr. Baker, who was 26, a surveillance camera video captured his initial interaction with a police officer but not the shooting, which the police said took place after Mr. Baker reached for his waistband. Janet Baker, Mr. Baker’s mother, said she believed that the police had begun to follow her son because he was an African-American man wearing a hooded sweatshirt.

“He was guilty of the wrong garment choice,” she said. “The police were always looking for a way to exonerate the officer, and our family was left to pick up the pieces.”

Since 2005, the Houston police have shot at more than 460 people, and nearly one in five were unarmed, according to department records.

“Even when there is data on the number of police shootings, it’s not nearly as compelling as watching something happen on video,” said Seth W. Stoughton, a law professor at the University of South Carolina and a former police officer. “From John Crawford to Tamir Rice to Eric Garner, it is the video that has kept public attention on policing.”

Charles A. McClelland Jr., who is retiring as Houston’s police chief this week, said the lack of video evidence had not influenced his decisions in clearing hundreds of officers in department shooting investigations.
Charles A. McClelland Jr., who is retiring as Houston’s police chief this week, said the lack of video evidence had not influenced his decisions. Credit Pat Sullivan/Associated Press

“The law gives wide discretion to a law enforcement officer to use deadly force,” he said, adding that the F.B.I. had also investigated some of the shootings. “The person does not have to be armed, and that’s a difficult concept for the public to understand.”

Chief McClelland, who has spent six years as chief and 39 years with the department, said most officers would have body cameras within 18 months. Currently, about 100 of the department’s 5,200 officers have cameras, and about 200 cars have dashboard cameras.

To reduce officer-involved shootings, Chief McClelland said, the department is contemplating ways to reorganize training to emphasize de-escalation, tactical retreating, and cover and concealment. “Many times we know an incident might be lawful and justified, but we don’t want it to happen again,” he said.

On Thursday, Martha Montalvo, an executive assistant chief, was appointed interim chief while the department conducted a national search for a permanent replacement.

After about one in seven police shootings since 2005, Houston officers told supervisors that they had fired at someone who was unarmed because the person had “postured in a threatening manner,” according to police records. That explanation, according to the records, has become
increasingly common in recent years — and without video evidence is nearly impossible to refute. The vast majority of unarmed shooting victims have been African-American or Latino.

Lawyers for the families of those killed by the police say it is so routine for Houston officers to go unpunished after shooting unarmed individuals that some officers no longer take such shootings seriously.

The department denied that claim. But in one case, moments after a fatal police shooting in 2012, officers engaged in a conversation over the department’s text messaging system that suggested that some officers do take shootings lightly.

“Hey, bro, can you guys go at least two weeks without a shooting?” one officer asked a colleague, according to a transcript of the messages.

The response — referring to the southern area of the city where the shooting occurred — was: “That’s how we roll at South Central, bro. We too hard!”

The first officer replied: “Ha, ha, ha. Right. Is he D.O.A.?”

Upon hearing that the victim had not yet died, the first officer playfully warned his colleague about the frequency of officer shootings. “Man, bro, you better be careful — the list is shortening of officers who haven’t gotten into a shooting yet.”

Officer Coronado was a five-year veteran of the department at the time he was drinking at Sherlock’s Baker Street Pub on Feb. 19, 2011.

After being asked at the bar’s 2 a.m. closing time to leave, Officer Coronado, who had consumed several drinks, tried to take his beer with him, according to court records. After the bouncer turned him away, the officer downed nearly a triple shot of Jameson Irish Whiskey and a beer.

The bouncer and the bartender told investigators that Officer Coronado had been clearly intoxicated, with slurred speech and glassy eyes, according to police and court documents.

The bartender said that when she offered Officer Coronado a glass of water, he “growled” at her that he did not want it, according to bar employees.

A fight was taking place in the parking lot when Officer Coronado left the bar, and he became involved in it. After he fatally shot Mr. Ventura, Officer Coronado said he had opened fire because Mr. Ventura had reached for his waistband as if he had a gun. But witnesses said that Mr. Ventura’s hands had been extended in a nonthreatening manner and that Officer Coronado had not identified himself before shooting, according to department records.

After Officer Coronado killed Mr. Ventura and shot his brother, Rolando Ventura, in his left arm, the officer “was stumbling” as he walked away, Rolando Ventura said in a recent interview.
Officer Coronado was not disciplined for the shooting, but was suspended for 30 days for acting in an official capacity while drinking, and for using an unauthorized firearm. The Ventura family has sued the department.

Rolando Ventura, 32, who has a scar that runs along his forearm from the shooting, said neither he nor his brother had posed a threat to Officer Coronado.

“I know there’s good officers, but you just never know if there’s going to be a good police officer or not when you see one,” he said.

Officer Coronado wrote in a brief email just before the fifth anniversary of the shooting, “I am still haunted by it.”