

July 30, 2010

Senator Rodney Ellis
P.O Box 12068
Rooms 3E.6
Austin , Texas 78711

Dear Senator Ellis,

Your July 26 letter to Adan Munoz, Executive Director of the Texas Commission on Jail Standards, lists several concerns and questions about the Harris County Jail. As the administrator of the jail, I share your concerns.

In this letter I will provide answers to the issues raised, and I am hopeful that you will consider them to be "good news" and as evidence that much has been done and continues to be done to address these matters. Also, I want to invite you to contact me directly with any questions or concerns you have about the jail and my related policies. I will respond quickly and thoroughly. You can also contact my Director of Public Affairs, Alan Bernstein, and I am willing to assemble my staff to answer your questions when I am not immediately available.

The first sentence of your letter refers to overcrowded conditions at the jail. However, the average jail population has dropped by about 10% compared to last year, and through other policy and practice changes we are working to keep our facility from exceeding its design capacity. I have attached an analysis completed in the past few days by the Harris County Criminal Justice Coordinating Council.

In 2009, the Harris County Jail was over design capacity by 17%. As of this date, the inmate count is over design capacity by 6%, with another 800 or so that are in a constant state of either being processed into or out of our facility. Our bed capacity, not counting any population "variances" granted by the state commission, is 9,434.

The daily average of inmates in jails elsewhere in Texas or in Louisiana is 1,548. My goal is to eliminate those arrangements and house all inmates in Harris County. We are implementing and seeking policy changes in the criminal justice system that will result in fewer inmates having to be held before trial as well as having a better system that will reduce the number or chronic offenders who come through our system and consume critical space and costly resources. In the meantime, housing inmates in outlying jails is a temporary option rather than a permanent plan.

Maintaining constitutional jail conditions has my attention and will continue to be a priority. There are a number of projects that are underway that speak to this and these projects will also help us get to the ultimate goal of only having those in our custody who are the greatest risk to the communities you and I represent. Some of those projects require the ability to move part of our population out of areas undergoing upgrades so that civilian technicians can do their work safely. This requires the use of "variances". At present, the project is about 15 % complete and is on track to be completed on schedule.

Your letter also refers to Department of Justice findings and the possibility that overcrowding could lead to an inmate death. The DOJ report did not cite crowding among the two factors (medical care and use of force) it considered to be unconstitutional conditions, although no one argues that crowding can be a factor. Regardless, many things have changed since then in addition to the significant population reduction. In assuming the responsibility of the jail I have worked tirelessly to reduce the number of in-custody deaths and inmates who are suffering serious illnesses are handled responsibly. In 2009, my first year on the job, all deaths took place in hospitals rather than in the jail. Seven months into this year, 3 inmates have died while in custody, apparently due to illnesses that preceded their incarceration, and we are on pace for the lowest number of such deaths in a decade. I have also worked to assemble a Civilian Review Committee to help me learn from those deaths in hopes of not having any deaths in our jail.

As for your questions to Mr. Munoz about granting the use of temporary beds, compliance with jail commission standards is a requirement for continued use of temporary beds. The Harris County Jail is in compliance as determined by unscheduled inspections by commission staff. In our last inspection, the commission staff gave high and public praise for what they saw and indicated that they saw a dramatic difference from their previous experiences in their many years of inspecting the Harris County Jail.

Your inquiry to Mr. Munoz also refers to the use of Louisiana jails and all Texas inmates placed there. In our program, it is our understanding that the jails are not governed by Texas jail standards. But we do our own inspections of those facilities to make sure they are proper for housing Harris County inmates. As for liability for inmate deaths there, our contracts for the jail space is with the elected officials of the counties/parishes. But the inmates remain in the official custody of Harris County. Once again, I want these contracts to be a temporary option.

You also asked Mr. Munoz about other counties' use of 3-for-1 credit. I have also sought their counsel and they indicated that the commission does not govern this area. However, I can tell you that with the assistance of the County Attorney's Office we have moved from 15 years of the previous administration only doing 2-for-1 credit to a pilot-program stage in April of this year, and this is now a permanent program. As of July 19th, there are now 957 inmates eligible to receive this credit and 180 have already been released as a result of their successful participation in this program. These numbers will grow everyday because we screen for eligibility every new inmate that comes into our system. We have constructed a program by which inmates can earn a third day of credit by getting in-house education, vocational certification or comparable on-site training that will make them more able to support themselves after their release and therefore less likely to re-offend. I believe this a responsible approach.

Although my staff has been instructed to look for all eligible inmates for this program, more than half (approximately 60%) of the Harris County's inmates are in my custody awaiting trial or a different disposition of their case because many can not make the bonds that are being set, and less than 20% of all inmates are serving county jail sentences. Inmates who are serving county jail sentences are those whose time I can calculate through this program and not those who will ultimately be sentenced to serve their sentence in TDCJ.

As you indicate in the letter, policy changes across the breadth of the county criminal justice system, as recommended by the Justice Management Institute, cannot be enacted by the Sheriff alone; bail schedules, bond-setting policies and pre-trial diversion fall under the authority of the judiciary and are affected by the District Attorney's policies as well. The District Attorney and I have already taken ownership over some of the recommendations in the JMI report.

Cite-and-release is an option I continue to consider. However, for such a policy to significantly lower jail population, it would also have to be adopted by the Houston Police Department (which provides 60% of our jail bookings) and the many other agencies that bring inmates to the jail. If officers on patrol had the authority to collect DNA and/or fingerprints at the scene of such a case before issuing a citation, this would go a long way toward raising the public's comfort level with cite-and-release.

Other prescriptive suggestions made by the JMI are in development by the Harris County Criminal Justice Coordinating Council, of which I am a member and which was formed a year ago at the JMI's urging. The council is chaired by Commissioner El Franco Lee and its staff director is former felony court judge Caprice Cosper. They can provide you with more information.

Lastly, I continue to look beyond the limits of the JMI report to explore other initiatives that would help our overall goal, you might recall when I advocated the use of the old county jail building to implement a pilot jail diversion/re-entry initiative for those chronic offenders who are mostly homeless, drug addicts, alcoholics or mentally ill. Further, I am working to implement the use of Electronic Ankle Monitoring Bracelets. You may have seen a recent Houston Chronicle story that detailed our efforts to use modern technology to help us manage our population. The story also laid out some the hesitation about this type of program among other members of the criminal justice system, but we continue to explore this and we will be testing the technology soon in hopes that this would help gain the confidence of the judiciary.

I would also like to ask you to continue to support the Blue Warrant bill that has been vetoed by Governor Perry, which would allow "technical violators" in my custody to make bond. These are persons who committed a "technical violation" (not a new crime) of their condition of probation or parole. There are approximately 400 inmates that fit this description in the county jail.

I greatly appreciate your attention to these crucial matters that make us partners in passionate pursuit of the same goals.

Sincerely,

Adrian Garcia
Sheriff