

# The Creation, Implementation, and Impact of an IDD Docket

The Honorable Mark Kent Ellis

Assistant District Attorney Erica Robinson-Winsor

Defense Attorney Staci Biggar

Continuity of Services Coordinator, HHSC Nicole Hawk, LMSW, CTCM

# Texas Code of Criminal Procedure 46B.103

- (b) Proceedings for commitment of the defendant to a residential care facility are governed by Subtitle D, Title 7, Health and Safety Code, Chapter 593
  - Must be a person with an intellectual disability who
  - represents a substantial risk of physical impairment or injury to the proposed resident or others; or
  - is unable to provide for and is not providing for the proposed resident's most basic personal physical needs;
  - the proposed resident cannot be adequately and appropriately habilitated in an available, less restrictive setting; and
  - the residential care facility provides habilitative services, care, training, and treatment appropriate to the proposed resident's needs.



CASE No. CASE\_NUMBER

STATE OF TEXAS

IN THE COURT\_ID DISTRICT COURT

v.

DEFENDANT\_NAME

COUNTY, TEXAS

STATE ID No.: TXSTATE\_ID\_NUM

**ORDER OF CIVIL COMMITMENT: CHARGES PENDING  
(INTELLECTUAL DISABILITY) UNDER ARTICLE 46B.103**

Judge Presiding:	JUDGE_NAME	Date Order Entered:	
Attorney for State:		Attorney for Defendant:	TRIAL_ATTY_NAME
<u>Offense for which Defendant Charged:</u>			
OFFENSE_TYPE			
<u>Charging Instrument:</u>		<u>Statute for Offense:</u>	
INSTRUMENT_TYPE		N/A	
<u>Date of Offense:</u>			
1/1/3000			
<u>Degree of Offense:</u>		<u>Defendant's Date of Birth:</u>	
OFFENSE_DEGREE		DEFENDANT_DOB	

On (date of initial commitment order), the Court found the defendant was incompetent to stand trial and ordered the defendant to competency restoration. The Court FINDS the defendant has received court-ordered mental health services under Chapter 46B of the Code of Criminal Procedure; the Court FINDS the defendant remains incompetent to stand trial; and all charges pending against the defendant are NOT dismissed.

The Court further FINDS, from clear and convincing evidence, that the defendant is a person with intellectual disability.

The Court further FINDS, beyond a reasonable doubt that as a result of the Intellectual Disability, the defendant (select one or both):

- represents a substantial risk of physical impairment or injury to himself or others; or
- is unable to provide for and is not providing for the defendant's most basic personal physical needs;

The Court further FINDS the defendant cannot be adequately and appropriately habilitated in an available, less restrictive setting; the residential care facility provides habilitative services, care, training, and treatment appropriate to the proposed resident's needs; and that long-term placement in a residential care facility is appropriate. (select either FINDING OF VIOLENCE or NO FINDING OF VIOLENCE):

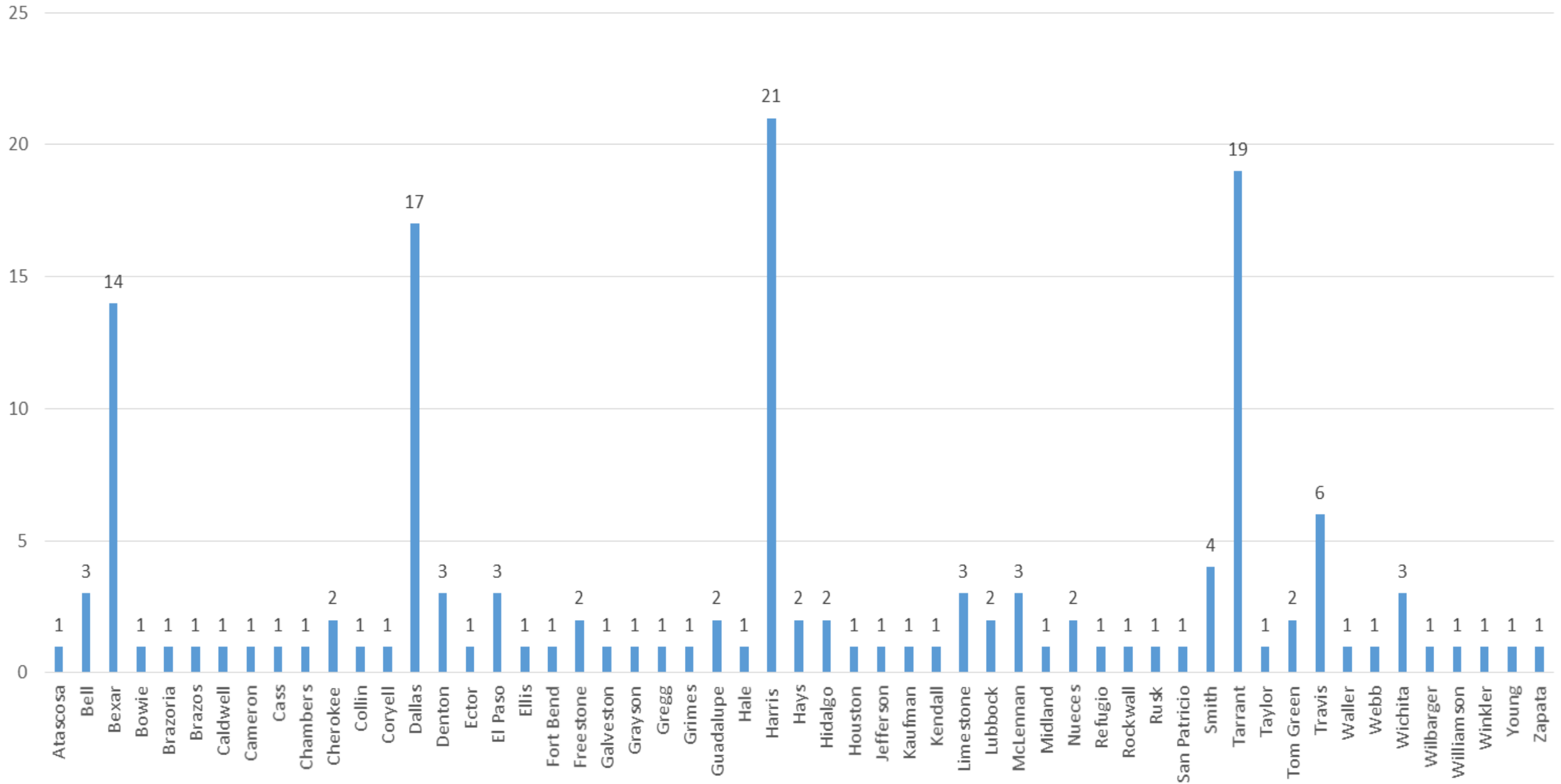
- FINDING OF VIOLENCE:** The Court further FINDS (select one):
  - the defendant is charged with an offense listed in Texas Code of Criminal Procedure art. 17.032(a);
  - OR**
  - the indictment charging the offense alleges an affirmative finding (of a deadly weapon) under Texas Code of Criminal Procedure art. 42A.

Therefore, the Court ORDERS the defendant committed to a residential care facility as designated by the Texas Health and Human Services Commission.

- NO FINDING OF VIOLENCE:** The Court further FINDS that the defendant is not charged with an offense listed in Texas Code of Criminal Procedure art. 17.032(a) and the indictment does not allege an affirmative finding (of a deadly weapon) under Texas Code of Criminal Procedure art. 42A.

Therefore, the Court ORDERS the defendant committed to a residential care facility as designated by the Texas Health and Human Services Commission.

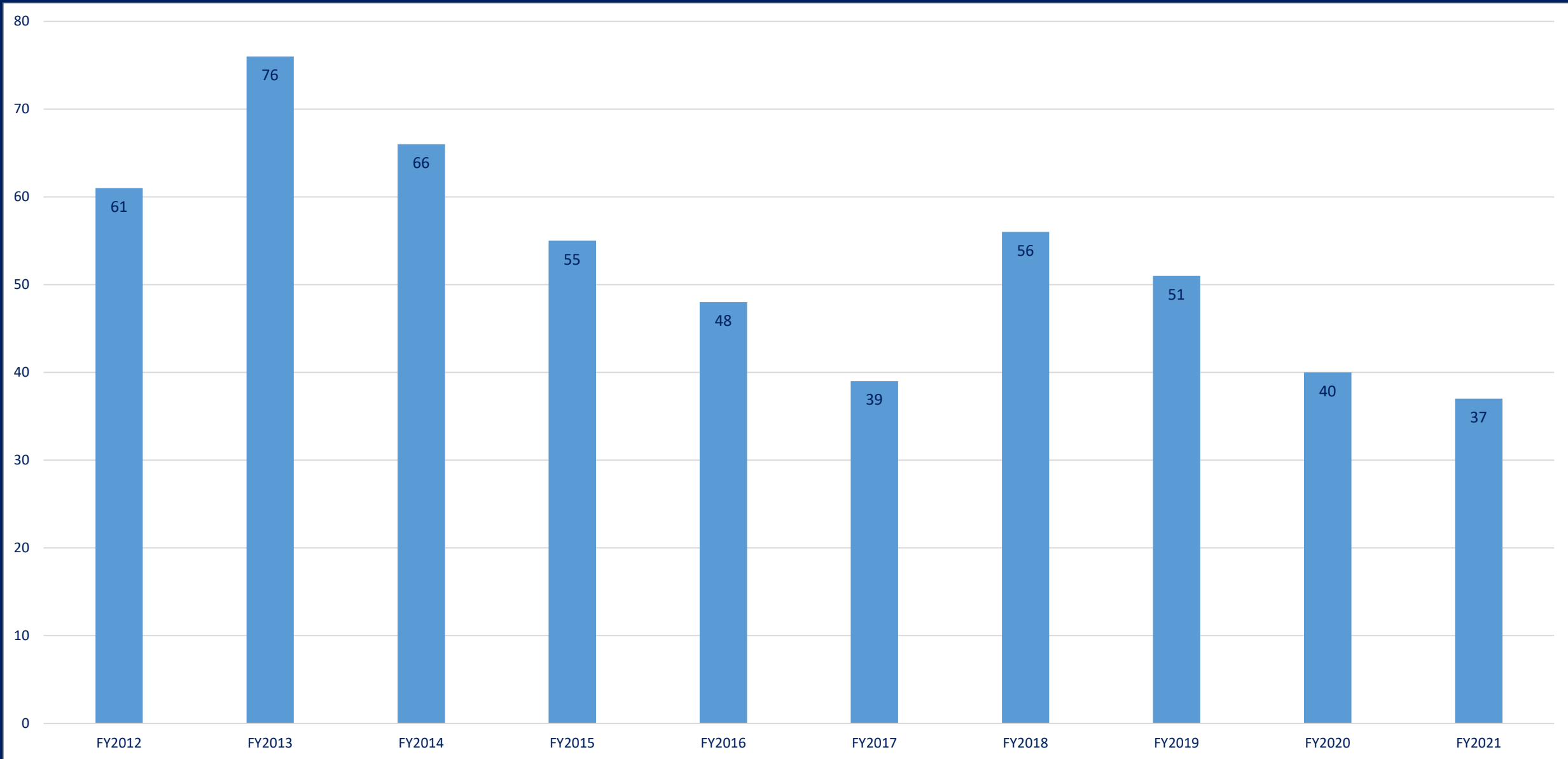
## 46B.103 Commitments by County



# What makes these commitments different?

- The Burden: Health and Safety Code Chapter 593.050
  - (e) The party who filed the application has the burden to prove **beyond a reasonable doubt** that long-term placement of the proposed resident in a residential care facility is appropriate.
  - Why is the burden so high?
    - There is no specified length of time for these commitments. The original commitment is **indefinite**.
- There is no recommitment process
  - Because the commitment is indefinite, you will not receive a “recommitment packet,” Certificates of Medical Examination, or an annual status update during the commitment period.

# Alleged Offender Admissions Historically



# Demographic Information

County	# of Orders
Tarrant	4
Dallas	4
Harris	4
Travis	3
Hidalgo	2
Ector	2

Alleged Offenses	#	%
Assault/Injury	18	48.6%
Sexual Offenses	10	27.0%
Burglary/Theft/Robbery	3	8.1%
Murder	2	5.4%
Threats/Harassment	1	2.7%
Terrorists Threat	1	2.7%
Evading Arrest	1	2.7%
Arson	1	2.7%
Total Admissions	37	

\*Fiscal year 2020

# What is an IDD Docket

- Zoom (or other video conferencing platform) meeting at appropriate intervals
- All parties present:
  - The Court
  - State
  - Defense
  - HHSC and their legal counsel
  - The Defendant/patient
  - The Local Mental Health Authority
  - Any guardians or other interested parties
- Purpose:
  - Information can be freely shared amongst the interested parties, participants can be encouraged or admonished as needed, the parties can problem solve together.



# An order is needed for the SSLC to participate

CAUSE NO. \_\_\_\_\_

THE STATE OF TEXAS                    §           IN THE \_\_\_\_ DISTRICT COURT  
V.   §  
\_\_\_\_\_   §           \_\_\_\_\_ COUNTY, TEXAS

## Application to Disclose Confidential Information

Pursuant to The Texas Health and Safety Code Title 7, Subtitle D, Chapter 595 Sec. 595.001, records of the identity, diagnosis, evaluation, or treatment of a person that are maintained in connection with the performance of a program or activity relating to an intellectual disability are confidential and may be disclosed only for the purposes and under the circumstances authorized by this chapter, subject to applicable federal and other state law. This information may be disclosed if the subject of the information provides consent, or if an exception as defined by the statute is met.

The content of a confidential record may be disclosed without the consent required under Section 595.003 if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause. In determining whether there is good cause, a court shall weigh the public interest and need for disclosure against the injury to the person receiving services. On granting the order, the court, in determining the extent to which any disclosure of all or any part of a record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

Harris County has committed the above styled individuals for Civil Commitment with Charges Pending under CCP 46B.103. The Criminal District Court maintains jurisdiction over these pending criminal cases and over the commitments of these individuals. In order to inform the decisions of the court with regard to changes in the level care the individual is receiving, the ability to receive furloughs and other leaves from the facility or programming, and in order to allow the individual under commitment to participate in ongoing court proceedings, disclosure relating to the individual's course of treatment and progress is necessary.

Respectfully Submitted,

\_\_\_\_\_  
Assistant District Attorney  
\_\_\_\_\_ County, Texas

# The Order

CAUSE NO. \_\_\_\_\_

THE STATE OF TEXAS

§

IN THE \_\_\_\_ DISTRICT COURT

V.

§

\_\_\_\_\_

§

\_\_\_\_\_ COUNTY, TEXAS

## Order on the Application to Disclose Confidential Information

FINDING: Having weighed the public interest and need for disclosure against the injury to the person receiving services, The Court finds that there is good cause for confidential information to be disclosed pursuant to The Health and Safety Code sec 595.005. On granting the order, the court shall impose appropriate safeguards against unauthorized disclosure of this information.

\_\_\_\_\_  
Presiding Judge

# Once Admitted to an SSLC

- Residential
- Treatment
- Programming
- IDT Meetings
- Intrasystem Step Downs
- Required Communication with The Courts

# What is the End Goal?

<b>Fiscal Year</b>	<b>Community Transitions</b>	<b>Competent/ Fit to Proceed</b>	<b>Total Separations</b>
<b>2012</b>	24	27	51
<b>2013</b>	37	36	73
<b>2014</b>	68	28	96
<b>2015</b>	51	26	77
<b>2016</b>	20	24	44
<b>2017</b>	27	23	50
<b>2018</b>	29	28	57
<b>2019</b>	15	18	33
<b>2020</b>	18	15	33
<b>2021</b>	32	14	46

# Contact Information

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