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**SMALL CRIMES AND CLASS C MISDEMEANORS
RELATED TO INDIVIDUALS WITH MENTAL HEALTH
AND/OR CAPACITY ISSUES**

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SMALL CRIMES AND CLASS C MISDEMEANORS RELATED TO INDIVIDUALS WITH MENTAL HEALTH AND/OR CAPACITY ISSUES

I. INTRODUCTION

Prosecutors, police officers, and sheriff's deputies across Texas have long been concerned with issues related to individuals charged with Class C Misdemeanors who were also suffering from mental health and/or diminished capacity issues.

Class C Misdemeanors are the least severe category of misdemeanors. Generally, they include Traffic Violations; Possession of Drug Paraphernalia, Disorderly Conduct, Theft of Property worth less than \$50, animal hoarding or abuse, and Public Intoxication. They are often ticket-able offenses that can only be punished by a maximum \$500 fine. Jail time is generally not a penalty for these kinds of offenses; however, when it does happen the consequences can be severe.

The \$500 fine will still appear on background checks. Since Class C Misdemeanors can be seen by prospective employers when applying for work, it could erode trust in the applicant's work before they even start. Not every Class C Misdemeanor in Texas as a first offense would ruin a person's life at face value, but prior convictions could mean consequences even for small charges.

In 2015, Sandra Bland, a 28-year-old woman from Illinois, was found dead in the Waller County Jail three days after she was arrested during a routine traffic stop following a lengthy argument between Bland and a Department of Public Safety trooper. The officer's dashboard camera footage disproved his stated reason for arresting her for "assault on a public servant" – and showed him threatening to drag her out of her car and use a Taser on her after she refused to put out a cigarette. According to an article in The Texas Tribune, the trooper was later fired and indicted for perjury; however, that charge was later dropped after he agreed to give up his license and never work as an officer again.

Considering just the number of Class C misdemeanors adjudicated in municipal courts, Class C Misdemeanors have in the past consumed a large amount of a Court's time. According to data derived from the Office of Court Administration in 2015, there were a total of 17,587.118 felony and misdemeanor criminal cases filed in Texas. Eighty percent of those cases (14,150,555 cases) were class C misdemeanor cases docketed in municipal courts. There were 180,780 trials for Class C misdemeanor cases in municipal courts in 2015. To put this in perspective, during the same period, there were a combined total of 47,306 trials in all other Texas trial courts with criminal jurisdiction. Throughout the years prior to 2015 there probably had been no record made of persons with mental illness and/or diminished capacity who were serving jail time for Class C Misdemeanors.

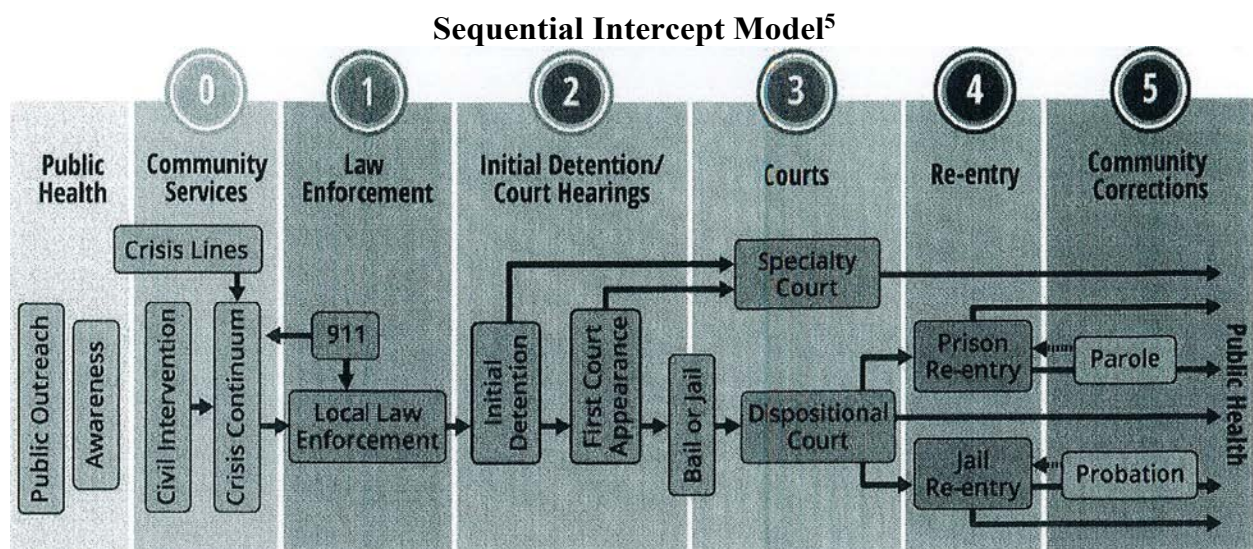
II. CLASS C MISDEMEANORS, COMPETENCY, AND CONTINUITY OF CARE

In 2020 the Texas Municipal Courts Education Center, in their Journal of Texas Municipal Courts published an article shining a light on the issue of justice, mental health, and public health systems

and the need for collaboration. As they state, the 2020 edition of *Trends in State Courts*, the National Center for State Courts calls collaboration essential, saying state courts have a responsibility to convene, collaborate, and identify individuals across justice, mental-health, and public- health systems.¹

This was the premise for the creation of the Texas Judicial Commission on Mental Health (JCMH) by the Supreme Court of Texas and the Texas Court of Criminal Appeals in 2018. In their first-ever joint hearing, the Courts found that through collaboration among the judiciary, policymakers, and mental health experts, the JCMH could help the courts better serve Texans with mental health issues.²

This was also the premise for development of the sequential intercept model (SIM) in the early 2000s. Developed over several years in multiple versions, the SIM is an applied strategic planning tool to improve collaboration between the behavioral health and criminal justice systems to reduce involvement in the justice system by people with mental and substance use disorders.³ The federal Substance Abuse and Mental Health Services Administration (SAMHSA) uses this model in workshops as a tool to help communities create local strategic plans based on the gaps; resources, and priorities identified by community stakeholders. At each "intercept" (0-5), SAMHSA has identified key issues and best practices, including early identification and assessment, diversion and access to treatment, and information sharing.⁴



Despite the axiomatic importance of collaboration, when the individual in need of help is charged with a Class C misdemeanor, barriers abound for magistrates, municipal courts, and municipal jails. However, certain best practices related to collaboration could materialize with a few legislative changes.

A. EARLY IDENTIFICATION AND ASSESSMENT

Magistrates need clear authority to get assistance for individuals charged with Class C Misdemeanors. July 13, 2020, was the five-year anniversary of the tragic death of Sandra Bland in Waller County, Texas. Three days before Bland's death, a police officer pulled her

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