# COVID-19 Response Perspectives

Harris County, Texas
21st Judicial District, Oklahoma

---

## Harris County, Texas

In August of 2017, Hurricane Harvey hit Texas and Louisiana creating massive flooding. It was the first year for Harris County Pretrial Services Director Kelvin Banks. We asked him a few questions as to how his experience with Hurricane Harvey shaped the response to COVID-19.

**JMI: Hurricane Harvey had an unprecedented impact on the judicial process in Harris County. What did you learn from that experience?**

**Kelvin Banks (KB):** The 50,000-foot view response is that it was weather related and through collaboration and resiliency we were able to move forward. Unlike Hurricane Harvey, COVID-19 is not regionalized and is a national pandemic. So everywhere we go we can't escape it. It is in our personal lives, on TV and in our workspace. COVID-19 is different in the sense that it is unseen as opposed to looking out the window and seeing something tangible such as flooding where you can directly see the impact. During a crisis, the value of pretrial becomes more evident.

**JMI: Arrests and court cases don't stop happening, do you have a Continuity of Operations Plan (COOP)?**

**KB:** We have had since before Hurricane Harvey that has been updated for the current situation. It was during the development of the COOP that we determined our front-end

pretrial screening process is considered an essential service. The pretrial supervision staff, who may have a more limited role during times of crisis, are able to shift to the front end, if necessary. As the volume dictates, we are able to scale back staffing for the purposes of social distancing.

**JMI: There are two primary divisions of pretrial: risk assessment and supervision. For pretrial risk assessments, how have you modified your process or scaled back staffing?**

**KB:** During Harvey, supervision was closed for 30 days because there was no office space for staff or reporting, but risk assessment, including pretrial investigations, assessments, and recommendations for release, continued. In contrast with Harvey, there is no physical barrier to business operations, but there is social distancing. The front end of the pretrial process, the investigative side, is considered an essential service, and they are up and running 24/7 for probable cause hearings. On the supervision side, we are reducing the physical footprint of in-office reporting. We typically have approximately 300 to 400 people reporting in the office daily. Since reporting is considered a condition of release by the court, we received judicial approval to suspend in-office reporting for misdemeanor defendants, until further notice.

With regard to defendants charged with a felony, the Safety and Justice Challenge technical assistance providers helped the District Courts develop an order to release people charged with a state jail felony, the lowest felony charge class. This District Court order was signed Friday March 20, 2020. This order is similar to the misdemeanor order, Amended Local Rule 9.1, which releases defendants as soon as practically possible after arrest with certain exceptions, including defendants with new charges while on any form of pretrial release, failure to appear, and community supervision. If those exceptions prevent immediate release, the person will have a hearing within 48 hours.

**JMI: What adjustments have been made for people being newly placed on pretrial supervision?**

**KB:** Defendants that are charged with misdemeanors are being advised to contact Pretrial Services via phone or email to complete the intake process. Defendants that are charged with felonies are still reporting in the office. We have reduced the number of defendants that are allowed in our waiting area and spaced the chairs out to comply with social distancing. We have signage posted about COVID-19 and universal precautions.

**JMI: Harris County Pretrial is a large department; do you see this as scalable?**

**KB:** Absolutely. Collaboration for the purpose of public health is critical because if it is not addressed it can become a public safety issue. Our partners in Harris County include the Justice Administration Department, Sheriff's Office, District Attorney's Office, both Courts, the Public Defenders, County Engineer, County Attorneys, and representatives from the Commissioners Court. We meet regularly to discuss and share business processes, needed adjustments, and interdepartmental impacts for continuity of governmental operations.

## 21st Judicial District Court, Oklahoma

With criminal justice systems nationwide having to grapple with limiting person-to-person contact across the system and within justice facilities, we are having to think creatively about how to reduce contact and minimize the spread of COVID-19 while also keeping the justice system operating and not letting caseloads become unwieldly and insurmountable over time. We asked the Honorable Lori Walkley, a District Court Judge in the 21st District of Oklahoma (Oklahoma City), to tell us how they are taking advantage of technology in order to keep cases moving and avoid future backlog and any advice she could share.

**Judge Walkley:** We are able to accomplish many hearing types via video conferencing despite the requirement for an in-person hearing. I would encourage jurisdictions to look to other court rules that allow video conferencing which would supplement the requirement for an in-person hearing.

For example, in Oklahoma, Rule 34 of the District Court Rules, which were promulgated by our Supreme Court, allows for video conferencing in all stages of civil and criminal proceedings. The Rule also provides that court performed via video conferencing is the same as if the proceeding took place in the courtroom. I believe the Rule was originally intended for reasons such as to assist in easing transportation of defendants from off-site jails to court for initial appearances. However, we have utilized the Rule to keep the system moving forward where we can.

In all cases thus far, we have provided the video conferencing method as an option rather than making it mandatory. We make that part of the record as well to show an effective waiver of any issue relating to the use of video conferencing.

> *"I would encourage all jurisdictions to start formulating their backlog reduction plan to handle the cases that have been reset."*
>
> *Hon. Lori Walkley*

In the short time that the emergency order has been in effect, I have accomplished several formal arraignments (including first appearance after a bind-over to District Court), felony pleas, hearings on requests for temporary civil injunctions, and several agreed divorce hearings (Oklahoma statute requires testimony to grant a divorce).

We have also implemented several modified electronic filing and pleading submission formats as we do not have e-filing in Oklahoma. Lastly, I would encourage all jurisdictions to start formulating their backlog reduction plan to handle the cases that have been reset.