FY 2024

RWPC Leadership &

Standing Committee

Members Orientation Guide

APRIL 10, 2024

Have any questions about the RWPC guide?

Feel free to contact the Office of Support

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services Administration

Rockville, MD 20857
HIV/AIDS Bureau

August 29, 2023

Dear Ryan White HIV/AIDS Program Part A Recipients:

This letter provides clarification on the Health Resources and Services Administration, HIV/AIDS Bureau's (HRSA HAB) expectations of a required community input process for Ryan White HIV/AIDS Program (RWHAP) Part A awards. The Chief Elected Official, as the recipient of RWHAP Part A funds, is ultimately responsible for establishing the planning body to spearhead the development of a comprehensive HIV service system for the Eligible Metropolitan Area or Transitional Grant Area (EMA/TGA) through a planning council (PC) or planning body (PB).

Section 2602(b) of Title XXVI of the Public Health Service Act outlines the roles and responsibilities of the PC. Section 2609(d)(1) outlines the requirement for TGAs to have a formal community input process to formulate the overall plan for priority setting and resource allocations in TGAs.

This program letter clarifies HRSA HAB requirements and expectations for the PC/PB. Unless otherwise noted, the requirements and expectations apply to both PCs and PBs.

Roles and Responsibilities-Priority Setting and Resource Allocation

Priority Setting and Resource Allocations (PSRA) is the single most important legislative responsibility of a PC/PB, and greatly influences the system of HIV care in the EMA/TGA. The PSRA process must prioritize all RWHAP HIV core medical and support services annually. [2602(b)(4)(C)] and 2602(d)(1)]

PC Membership

The PC must include a representative from each of the 13 legislatively required membership categories. The PC must also include at least one member to separately represent each of the designated membership categories (unless no entity from that category exists in the EMA/TGA). Separate representation means each PC member can fill only one legislatively required membership category at any given time, even if qualified to fill more than one. There are only three situations that allow one person to represent two membership categories. PC members must reflect the demographics of the population of individuals with HIV in the jurisdiction. Additionally, no less than 33 percent of PC membership must be comprised of unaffiliated clients receiving RWHAP Part A services in the jurisdiction. [2602(b)(2)]

PB Membership	At a minimum, the PB must include representatives of the various stakeholders in the TGA, and must reflect the demographics of the population of individuals with HIV in the jurisdiction. Additionally, no less than 33 percent of PB membership must be comprised of unaffiliated clients receiving RWHAP Part A services in the jurisdiction.
Term Limits	To ensure the PC/PB are reflective of the demographics of the population of individuals with HIV in the jurisdiction, HRSA HAB expects the PC/PB to establish term limits and membership rotations.
Separation of PC/PB and Recipient Roles	A separation of PC/PB and recipient roles is necessary to avoid conflicts of interest. The legislation prohibits PC public deliberations from being "chaired solely by an employee of the grantee." [2602(b)(7)(A)]. A recipient representative, whose position is funded with RWHAP Part A funds, provides in-kind services, or has significant involvement in the RWHAP Part A grant, shall not occupy a voting seat in the PC/PB. A recipient representative may serve as a non-voting co-chair of the PC/PB.

If you have any questions regarding the information outlined in this letter, please consult your project officer.

Sincerely,

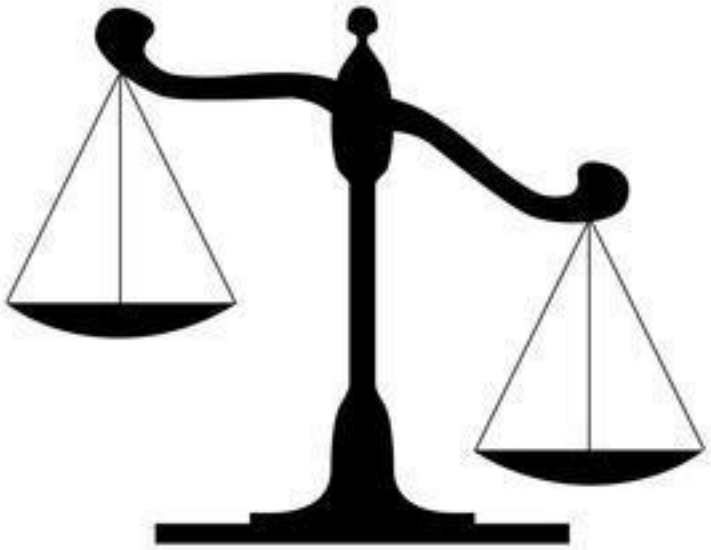
/s/ Chrissy Abrahms Woodland, MBA

Chrissy Abrahms Woodland, MBA
Director
Division of Metropolitan HIV/AIDS Programs

BYLAWS

of the

RYAN WHITE PLANNING COUNCIL OF THE DALLAS AREA
Revised December 2017



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BYLAWS

RYAN WHITE PLANNING COUNCIL OF THE DALLAS AREA

ARTICLE I: NAME

Section 1.1 – General

The name of this HIV Health Services Planning Council (HSPC) organization is The Ryan White Planning Council of the Dallas Area.

ARTICLE II: PURPOSE

Section 2.1 – General

The purpose of the Ryan White Planning Council of the Dallas Area shall be to:

(a) Establish priorities for the allocation of the funds from the Ryan White Treatment Extension Act, and any subsequent amendments for the Dallas Eligible Metropolitan Area (EMA) and determine how best to meet such priorities in allocating funds under grants based on the following factors:

(i) determine the size and demographics of the population of individuals with HIV disease;

(ii) determine the needs of such populations, with particular attention to

a. individuals with HIV disease who know their HIV status and are not receiving HIV-related services; and

b. disparities in access and services among affected subpopulations and historically underserved communities.

(iii) cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);

(iv) priorities of the HIV-infected communities for whom the services are intended;

(v) coordination of the provision of services with HIV prevention programs and substance abuse treatment programs;

(vi) availability of other governmental and non-governmental resources for funding the identified needs; and

(vii) capacity development needs resulting from disparities in the availability of HIV-related services in historically underserved communities.

(b) Develop an integrated HIV prevention and care plan for the organization and provision of HIV health and support services. The plan must:

(i) include a strategy to identify People Living with HIV (PLWH) out of care and to inform and enable them to utilize the services available; eliminate disparities in access and services among selected target populations, affected sub-populations, and historically underserved communities; include discrete goals, such as increased retention in care and viral suppression to reduce community viral load, a timetable, and an appropriate allocation of funds;

(ii) include a strategy to coordinate the provision of such services with programs for HIV prevention and for substance abuse prevention and treatment; and

(iii) be compatible with any State or local plan for the provision of services to individuals with HIV disease.

(c) Assess the efficiency of the administrative mechanism in allocating funds rapidly to the areas of greatest need within the Dallas EMA and evaluate the effectiveness of services offered in meeting the identified needs.

(d) Participate in the development of the Statewide Coordinated Statement of Need (SCSN) initiated by the Texas Department of State Health Services (DSHS).

(e) Establish methods and procedures for obtaining input on community needs and priorities which may include holding public meetings, conducting focus groups or community surveys, convening ad hoc panels, and other means as deemed appropriate.

(f) Coordinate with Federal grantees that provide HIV-related services within the eligible area.

All business conducted by the Ryan White Planning Council of the Dallas Area will adhere to all Dallas County and Grantor policy and procedure requirements.

Section 2.2 – Prohibition of Profit to Members

None of the income or net earnings of the Ryan White Planning Council of the Dallas Area shall inure to the profit of, or be distributed to, any director, trustee, officer, or any other private person, except that the Ryan White Planning Council of the Dallas Area shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its stated purpose. The Ryan White Planning Council of the Dallas Area may not contract for compensated service with a Council member, the spouse of a member nor a relative of a member or a spouse to the second degree of consanguinity.

Section 2.3 – Regarding Propaganda and Influencing Legislation

No part of the activities of the Ryan White Planning Council of the Dallas Area shall involve propaganda or other attempts to influence legislation at any level of government. The Ryan White Planning Council of the Dallas Area shall not participate in or intervene in any political campaign on behalf of a candidate for public office, including the publishing or distribution of statements on behalf of a candidate or political party.

ARTICLE III: MEMBERSHIP

Section 3.1 – Composition

The Ryan White Planning Council of the Dallas Area members shall be nominated by the Executive Committee of the Ryan White Planning Council of the Dallas Area, utilizing an open process described in Addendum A. Final appointments will be made by the Part A Grantee who is the Dallas County Judge, herein after known as the Chief Elected Official (CEO). Planning Council members are to reflect the demographics of the local epidemic with particular consideration given to consumers of Ryan White services and to disproportionately affected and historically underserved groups and sub-populations. Consumer representation must comply with federal requirements. The Ryan White Planning

Council of the Dallas Area shall include, as a minimum, all federally mandated categories and reflectiveness requirements for membership.

Section 3.2 – Nominations Process for Ryan White Planning Council of the Dallas Area Membership

The Executive Committee shall be chaired by the Ryan White Planning Council of the Dallas Area Chairperson. The Committee will consist of no more than fifteen members. Pursuant to the Ryan White Treatment Extension Act, nominations to the Ryan White Planning Council of the Dallas Area, as set out in Addendum A, shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria, including a conflict of interest standard for each nominee. Addendum A is attached hereto and fully incorporated by reference.

Section 3.3 – Qualifications of New Membership

New members must meet selected qualifications for being selected to the Ryan White Planning Council or specific standing committees as determined by the Executive Committee.

Section 3.4 – Terms of Members

Terms of membership on the Planning Council shall be limited to two (2) consecutive, three-(3-) year terms. After serving two consecutive 3-year terms, individuals must wait twelve (12) months before reapplying for membership on the Planning Council. Former members are always encouraged to participate in Planning Council meeting discussions and activities from the audience. If there is no qualified new applicant for a HRSA mandated category seat or officer position, an exception can be made and a member can serve an additional year in an emeritus position or until the position can be filled.

An individual's term begins the first day of appointment, even when filling a vacancy of an unexpired term.

Section 3.5 – Number of Members

The maximum number of Council members shall be thirty-three (33), including the Chairperson. The Ryan White Planning Council of the Dallas Area shall reflect demographic breakdown of HIV/AIDS in the Dallas EMA. In respect for each individual's right to privacy and confidentiality, it is understood that when qualifications for membership on the Ryan White Planning Council of the Dallas Area, its standing committees, sub-committees, ad hoc committees, or task forces of these groups refer to "self-identified HIV-positive" persons, such persons may limit disclosure of status to the CEO, and Ryan White Planning Council of the Dallas Area Chairperson and staff, who will be bound by confidentiality but who must attest that stipulated percentages of membership are met.

Section 3.6 – Residency of Members

The 33 members of the Ryan White Planning Council of the Dallas Area shall be residents of the Dallas Eligible Metropolitan Area, with the exception of the legislatively mandated membership categories.

Section 3.7 – Vacancies

Any vacancy occurring in federally mandated seats on the Ryan White Planning Council of the Dallas Area shall be filled by appointment of the CEO within thirty (30) days of written notice provided by the Council Chairperson. The Executive Committee will employ targeted recruitment strategies to fill vacancies and will meet with potential new planning council members quarterly to appoint vacant positions. The nomination process as described in Addendum A shall be utilized in filling vacancies on the Ryan White Planning Council of the Dallas Area.

Section 3.8 – Attendance & Forfeiture

If any member of the Planning Council/standing committee fails to attend either (i) three (3) consecutive regularly scheduled meetings during the calendar year or (ii) seventy-five (75%) percent of the meetings in any twelve- (12-) month period, (excluding excused absences), the member will forfeit their seat. A warning letter will be sent to those members that have 2 unexcused absences, notifying them of their potential forfeiture of seat. To ensure substantive involvement of the affected community, if the member of the Ryan White Planning Council of the Dallas Area or its committees has missed three (3) consecutive regularly scheduled meetings due to illness or if the member indicates an inability to attend regularly scheduled meetings, upon the member's request the CEO may appoint an alternate member to the Council to serve in place of the member. The RWPC Chair also may appoint an alternate member to the Consumer Council Committee to serve in place of the member if they are a member in good standing with the Consumer Council Committee when a member of that committee is unable to serve due to illness or disability, upon request of the committee member. Every attempt shall be made to appoint an alternate who is demographically reflective of the member. If the regular member is unable to return after three (3) additional consecutive regularly scheduled meetings, the member forfeits membership and the alternate member may be considered for regular membership with an effective RWPC appointment date beginning the day alternate status was acquired, tolled[1] for periods of inactive alternate status.

Section 3.9 – Resignation

Members that no longer desire or are unable to fulfil the requirements to sit on the Planning Council or its standing committees must give the chair of the council/committee and/or the office of support a written resignation.

Section 3.10 – Leave of Absence/ Medical Leave

Any member may request a three (3) month Medical Leave, by notifying Ryan White Planning Council staff. The Ryan White Planning Council staff will present the request to the Executive Committee for approval. At the end of the granted Medical Leave, the Ryan White Planning Council staff shall update the Executive Committee on the medical status of the committee member. It shall be understood that granting medical leave status permits excused absence at the member's monthly meetings and shall not pause the member's term of service.

ARTICLE IV: COMMITTEES

Section 4.1– General

The standing committees of the Ryan White Planning Council of the Dallas Area shall include:

(a) Planning and Priorities Committee
(b) Allocations Committee
(c) Evaluation Committee
(d) Consumer Council Committee
(e) Needs Assessment Committee
(f) Executive Committee

[1] Total time served equals an aggregate of days served.

Section 4.2 – Special Committees

Such special committees as may be appropriate may be created by action of the Chairperson of the Ryan White Planning Council of the Dallas Area or by the CEO. Any such committee shall have such powers and duties, and its membership shall be constituted, as the Chairperson of the Ryan White Planning Council of the Dallas Area or the CEO may determine.

Section 4.3– Meetings; Quorums for Committees

Each committee shall meet at such time as it may determine and may act by a majority of those present at any meeting at which a quorum is present. A quorum is a simple majority (51 percent) of the voting members. The Chair or Vice Chair of the Ryan White Planning Council are considered to be ex-officio members of all other standing committees' and therefore may step in and chair a standing committee for the purposes of establishing quorum, but their ability to vote must be consistent with the bylaws.

Section 4.4 – Committee Membership

4.4.1 Each standing or special committee shall have a Chairperson and Vice-Chairperson recommended by the Executive Committee of the Ryan White Planning Council of the Dallas Area through an open nominations process and appointed by the CEO. All Chairs and Vice-Chairs shall be appointed for a one (1) year term. At the end of such time, Chairs and Vice-Chairs will be reviewed by the Executive Committee for reappointment. The Chairperson AND Vice Chairperson of each standing committee shall be a duly appointed member of the Council.

4.4.2 The Executive committee shall make appointments to each standing committee of the Council. This will include a review of the application and an interview if the interviewee is not currently sitting on a Ryan White Planning Council standing committee. The appointments shall be made from the membership of the Council, and other interested citizens who have expressed an interest in serving on the committees of the Council. The standing committees shall consist of no more than fifteen (15) members, except for the Consumer Council Committee, which shall consist of no more than twenty (20) members. There are no non-voting member positions. Committee membership shall reflect in its composition the demographics of the epidemic of the Dallas EMA, in accordance with Section 3.1. All committee members shall be appointed for a one (1) year term. At the end of such time, membership will be reviewed by the Executive Committee for reappointment.

4.4.3 The Ryan White Planning Council of the Dallas Area staff shall ensure that accurate records are kept of the work of the committees.

4.4.4 All committee members shall comply with the conflict of interest standards set out in Section VII below, including the completion of a disclosure statement listing any and all affiliations with agencies which may receive or pursue funding. The Allocations Committee and the Planning and Priorities Committee may not include representation from any service provider currently receiving funds from grants involved in the community planning efforts of the Ryan White Planning Council of the Dallas Area. No member shall dually serve on the Allocations Committee and the Planning & Priorities Committee.

4.4.5 One liaison position from the Consumer Council Committee will be assigned to the Allocations, Evaluation, Planning and Priorities, Needs Assessment, and Executive Committees and any special committees. The Consumer Council Committee will nominate an eligible Consumer Council Committee member to serve as a liaison and be granted voting privileges on assigned standing committee. The Chair/Vice Chair of the Consumer Council Committee will present the liaison recommendation to the Executive Committee for approval. The sole purpose of the liaison is to establish a formal link between the two stakeholder groups and the Ryan White Planning Council of the Dallas Area committee structure. The Service Providers Council position is optional and advisory only, and not subject to voting rights.

4.4.6 No member shall serve on more than two (2) standing committees, unless you are a non-aligned consumer serving on the Consumer Council Committee or a standing committee chair sitting on the Executive Committee, in which case they would be allowed to sit on up to three (3) standing committees.

Section 4.5 – Charges to Committees

4.5.1 The charge of the Planning and Priorities Committee is to oversee development and implementation of a process to identify needs and barriers, develop strategies to meet needs and overcome barriers, prioritize the need for core medical and support services in the Ryan White community, identify priority populations, and implement a comprehensive plan that integrates prevention and care strategies. The Planning and Priorities Committee will:

- Oversee development and implementation of a process to identify needs and barriers to care and work closely with the current Needs Assessment Committee. The process must be objective; ethnically, culturally, and linguistically sensitive; and yield statistically valid results. A current integrated comprehensive plan to implement the priority goals approved by the Ryan White Planning Council of the Dallas Area will be initiated and approved for recommendation by the Planning and Priorities Committee, with support provided by the Planning Council Staff. Review, amendment, and adoption of the final document and its implementation are charged to the Ryan White Planning Council of the Dallas Area; and
- Provide recommendations for services to be purchased and prioritized based on required grantor processes, and to include recommendations on how best to meet each established priority.

4.5.2 The charge of the Allocations Committee is to develop recommendations for distribution of funds among priority goals using all available information regarding community and agency needs, current funding for HIV services, and trend data; develop recommendations for service category allocations. Recommendations for service category allocations will include how best to meet each established priority. The Allocations Committee will:

- Develop recommendations for distribution of funds among priority goals using all available information regarding community, consumer, agency needs, current funding for HIV services from all identifiable sources, priority rankings, and trend data in making recommendations; and

- Develop recommendations for service category prioritization approved by the Ryan White Planning Council of the Dallas Area. Consideration of the available community resources as well as their coordinating capacities will also be given.

4.5.3 The charge of the Evaluation Committee is to evaluate whether provider services coincide with set service priorities, and evaluate the efficacy of the Administrative Mechanism and the performance of the Planning Council according to its goals. The Evaluation Committee will:

- Ensure that the service categories set out are being met;
- Conduct an annual evaluation of the efficacy of the Administrative Mechanism and provide that evaluation to the CEO and Dallas County Commissioners Court;
- Evaluate the effectiveness of services, categorically and system-wide.

4.5.4 The charge of the Consumer Council Committee is to empower consumers through education by providing the tools and knowledge to interact with those individuals and committees that affect categorical service delivery. The Consumer Council Committee will:

- Provide the tools and knowledge to interact with those individuals and committees that affect categorical service delivery of the Ryan White Treatment Modernization Act, Texas Department of State Health Services (DSHS), and Housing Opportunities for Persons with AIDS (HOPWA) funded services;
- Conduct ongoing educational conferences and outreach for Eligible Metropolitan Area (EMA), the Eligible Metropolitan Statistical Area (EMSA), and the Health Services Delivery Area (HSDA) consumers on the Ryan White Treatment Modernization Act, Roberts Rules of Order, HOPWA policies, DSHS regulations, and other public policy that affects the Ryan White Planning Council of the Dallas Area decision-making;
- Provide HIV consumer input to the development of EMA, EMSA, and HSDA related policies and programs. This includes consumer input into the development of the Statewide Coordinated Statement of Need and the annual priority ranking process done by the Planning & Priorities Committee;
- Work with the Chair of the Ryan White Planning Council of the Dallas Area and the Executive Committee, recruit consumers for standing committees and the Ryan White Planning Council of the Dallas Area;
- Obtain feedback from consumers on issues that are authorized by the Executive Committee; and Represent all consumers including but not limited to: disproportionately affected and historically underserved groups and sub-populations and PLWH out-of care.

4.5.5 The charge of the Needs Assessment Committee is to oversee the development and implementation of the needs assessment process to identify the needs, barriers to care, and gaps in services for PLWH, and to ensure that Planning Council activities are working towards meeting the needs, overcoming the barriers and closing the gaps. The Needs Assessment Committee will:

- Design consumer surveys that will comprehensively gather demographic, epidemiologic, behavioral, and service-related data.
- Develop strategies to target special populations and organize focus groups to determine what information to gather and how to collect it. .
- Determine the best means by which to conduct the comprehensive needs assessment that meets the frequency needs of the Health Resources and Services Administration.
- Identify needs trends as identified by consumers from previous assessment cycles.
- Provide recommendations related to consumer needs to the other Ryan White Planning Council standing committees.

4.5.6 The charge of the Executive Committee, in collaboration with the CEO, will oversee an open nomination process (as described in Addendum A) for Ryan White Planning Council of the Dallas Area membership. They will also oversee how well the Ryan White Planning Council is functioning overall. They will routinely review how we operate and why we operate that way. The Executive Committee will:

- Review the annual Ryan White Planning Council budget with the office of support in order to negotiate with the Administrative Agency.
- Review the Ryan White Planning Council bylaws annually to ensure that the structure and purpose of the Planning Council and the mechanisms that make it function are still not prohibitive towards getting PLWH services they need to improve their quality of life and increase their viral suppression.
- Partner with the Administrative Agency to regularly review and agree on a Memorandum of Understanding that illustrates a beneficial, synergistic partnership.
- Make qualified appointments to each standing committee of the Council. This will include a review of the application, but will not require an interview.
- Make qualified recommendations to the CEO for members' appointment to the Ryan White Planning Council through an open nominations process.
- To review the Planning Council and standing committee membership and to develop recruitment strategies

In addition to the standing committees, there will also be an Executive Committee full of Planning Council and standing committee leadership. The charge of the Executive Committee is to ensure the orderly and integrated progression of work of the committees of the Ryan White Planning Council and plan future activities. The Executive Committee will:

- Consist of the Chairperson and Vice Chairperson(s), of the Ryan White Planning Council of the Dallas Area, the Chairpersons or Vice-Chairperson(s) of each standing committee, and at a minimum, a representative of the County Judge's office, and a representative of the Administrative Agency;

- Meet periodically to ensure the orderly and integrated progression of work of the committees of the Council, and to plan future activities. Unless expressly authorized by the full membership of the Ryan White Planning Council of the Dallas Area, the Executive Committee is not authorized to act on behalf of the Council on any matters that it is charged with executing; and
- Review the Ryan White Planning Council and all standing committees' attendance to make sure members are complying with Section 3.8.
- Serve as the governance committee to periodically review changes in the governing documents of the Ryan White Planning Council.

ARTICLE V: OFFICERS

Section 5.1 – List of Officers

The officers of the Ryan White Planning Council of the Dallas Area shall be the Chairperson and Vice Chairperson(s).

Section 5.2 – Appointment

The officers of the Ryan White Planning Council of the Dallas Area & standing committees shall be appointed from the membership of the Council. The Chairperson and Vice Chairperson(s) shall be appointed by the CEO.

Section 5.3 – Limitations of Terms

No person shall hold the same office for more than three (3) consecutive years. The officers shall be appointed or reappointed each year by the CEO, and an open application process will take place each year.

Section 5.4 – Duties

The duties and powers of the officers shall be those usually pertaining to their respective offices.

Planning Council Chair: The Chair of the Planning Council shall preside at their respective meetings. The Chair is the only official spokesperson for the Council and will be responsible for interfacing with the public and with the media. They will be responsible for correspondence to members regarding attendance and participation issues. The Chair of the Council is an ex-officio member of all committees (standing, subcommittee and work groups), and therefore may step in and chair a standing committee for the purposes of establishing quorum, but their ability to vote must be consistent with the bylaws.

Planning Council Vice Chair: The Vice Chair of the Planning Council shall preside at meetings of the Council in the absence of the Chair. The Vice Chair shall perform such other duties as the Chair may designate.

Standing Committee Chair/Vice Chair: The standing committee Chairs shall preside at all meetings of their respective committees. They may be responsible for correspondence to members regarding attendance and participation issues. The Committee Vice Chair shall preside at all committee meetings in the absence of the Chair. The Committee Chairs are responsible for the execution of the duties prescribed herein for the Committees and for such other duties as may be prescribed by the Chair of the Council.

Section 5.5 – Parliamentarian

The Executive Committee may reference a current member of the Planning Council as a parliamentarian if there is a qualified and willing member to serve in such a position.

Section 5.6 – Vacancies

Vacancies occurring in an officer's position shall be filled by appointment by the CEO as specified in Section 5.2.

ARTICLE VI: MEETINGS

Section 6.1 – Frequency of Meetings

The Ryan White Planning Council of the Dallas Area shall meet not less than quarterly each year at such times and places as it may determine, or as may be specified in the notice of the meeting. Additional or emergency meetings of the Ryan White Planning Council of the Dallas Area may be called by the CEO, the Chairperson, or by at least eight (8) members of the Ryan White Planning Council of the Dallas Area.

Section 6.2 – Notice of Meetings

Notice of each meeting of the Ryan White Planning Council of the Dallas Area shall be mailed or emailed to each Council member, at their last known address as carried on the records of the organization, not less than three (3) days prior to the date of the meeting. Should an emergency meeting be called, all Council members shall be notified by telephone, and public notice of the meeting time and place shall be posted in accordance with Federal, State, and local laws.

Section 6.3 – Quorum

A quorum of the planning council/standing committee must be present at any regular or specially scheduled meeting in order for the council to engage in the meeting. A quorum of the council is defined as a simple majority (51 percent) of the planning council/standing committee membership. In computing a quorum, a vacant seat on the council shall not be considered. At all meetings of the Ryan White Planning Council of the Dallas Area, a majority of duly appointed Council members shall constitute a quorum.

Section 6.4 – Open Meetings

All meetings of the Ryan White Planning Council of the Dallas Area and committees of the Council are deemed to be covered by provisions of all applicable Federal, State, and local laws. To ensure compliance with federal, State, and local requirements, all scheduled meetings of the Council or committees must be cleared with the Ryan White Planning Council of the Dallas Area staff to ensure availability of meeting space, staff resources, and proper public posting of meetings as specified in the Texas Open Meetings Act.

Section 6.5 – Conduct of Meetings

The most up to date Robert's Rules of Order shall generally govern the conduct of meetings of the Ryan White Planning Council of the Dallas Area for Planning Council/standing committee members, the office of support, and to the public attending the meeting.

Section 6.6 – Structure of Meetings

The person chairing the committee has the authority to start the meeting on time, regardless of quorum being established, with the understanding that voting items may not be voted on until quorum has been met. Meetings will have scheduled start and finish times and also have public comment periods at the discretion of the committee chair. The person

facilitating the meeting will conduct the meeting following Robert's Rules of Order. Agenda items for regularly scheduled meetings should include discussion items, action items, and reports if pertinent. Discussion items are items typically accompanied with materials for members to review to have thorough and thoughtful discussion of consequence, action items are items that will be voted on and have an impact on the local Ryan White system, and reports are opportunities for people of other committees or bodies to summarize ongoing efforts.

Section 6.7 – Voting

Each member of the planning council/standing committee shall be entitled to one vote on any business matter coming before the council/committee. Only members of the council or standing committee are entitled to vote on matters coming before council/committee. A cast vote is defined as a positive ("aye) vote or a negative ("nay") vote. Abstentions are not considered to be cast votes. A simple majority of the members present and voting is required to pass any matter coming before the Council/Committee. The Chair of the Council or Standing Committee shall not vote at their respective meetings, except in the event of a tie.

Section 6.8 – Minutes

Minutes must be taken of each council and committee meetings. These minutes must state the names of all in attendance and the names of members absent. Minutes must state all motions, recommendations, requests or action items fully. Minutes must also indicate any votes taken with abstentions indicated. The planning council & committee minutes must be signed by the leadership to certify that the above stated conditions are met. Any council or committee member wishing to propose corrections to the minutes shall propose corrections at the meeting at which the minutes are subject to approval.

Section 6.9 - Training

Newly appointed members are required to complete New Member Orientation within 90 days of appointment and submit their certificate of completion to the RWPC Office of Support to be included in their member file. Members are also required to sign a confidentiality statement to be kept on file yearly. Members should also participate in regular trainings given by the office of support throughout the grant year via various training materials.

ARTICLE VII: CONFLICTS OF INTEREST

Section 7.1 - General

It is the policy of the Ryan White Planning Council of the Dallas Area that any member of the Ryan White Planning Council of the Dallas Area or member of a Council standing or special committee who also serves as director, trustee, salaried employee, Board Member, or one who has a financial interest in any Agency receiving funds from grants involved in the community planning efforts of the Ryan White Planning Council or otherwise materially benefits from association with any agency that may seek funds from the Grantee is deemed to have an "interest" in said agency or agencies. The term "materially benefit" is not meant to include services received by an individual as a client that are within the normal realm of services provided by the provider agency. These members may not vote or otherwise participate in deliberations, except in response to direct questions, that come before the Ryan White Planning Council of

the Dallas Area or committees of the Ryan White Planning Council of the Dallas Area regarding awarding of funds directly to the agency/ies, or definition for the purchase of said service**,** in which they have an interest

This policy shall not be construed as preventing any member of the Ryan White Planning Council of the Dallas Area from full participation in discussion and debate about community needs, service priorities, allocation of funds to broad service categories, and the processes for, and results of, evaluation of service effectiveness. Rather, individual members are expected to draw upon their lay and professional experiences and knowledge of the HIV service delivery system in the Dallas area when such matters are under deliberation. In order to safeguard the Ryan White Planning Council of the Dallas Area's recommendations from potential conflict of interest, each member shall disclose any and all professional affiliations and/or service as director, advisor, or other volunteer capacity that exist currently with agencies which may receive or pursue funding. A Conflict of Interest statement form will be completed by each Council and committee member and kept on file. The Ryan White Planning Council of the Dallas Area Staff shall maintain these records and have forms updated not less than every 12 months.

All members of the Ryan White Planning Council of the Dallas Area are expected to assist in keeping the Council focused to meet the needs of individuals affected by the HIV epidemic in the most expeditious manner possible without undue regard to the benefit to specific agencies or programs. Grantor Conflict of Interest Policies must be followed.

ARTICLE VIII: NON-DISCRIMINATION

Section 8.1 - General

The officers, directors, employees, and committee members of the Ryan White Planning Council of the Dallas Area shall be selected entirely on a non-discriminatory basis with respect to age, sex, gender identity or expression, race, religious or spiritual beliefs, disability (except as a result of HIV infection), sexual orientation, or national origin.

ARTICLE IX: CODE OF CONDUCT

Section 9.1 – Purpose

This Code of Conduct has been created by the Ryan White Planning Council of the Dallas Planning Area in order to guide Planning Council and standing committee members, individually and collectively, adhere to the highest possible ethical standards.

Section 9.2 – Code of Conduct

9.2.1 Every Planning Council/standing committee member will treat every other member, support staff, Administrative Agency staff, and members of the public with courtesy and professionalism. Each Planning Council/standing committee member is reminded to respect and recognize the legitimate right of all other members to be a part of any discussions and decision-making processes.

9.2.2 Every member will conduct business related to the Planning Council/standing committees in ways that are honest, respectful of diversity, compassionate and nonjudgmental.

9.2.3 Every member will honor their time and meeting attendance commitments and be prepared to contribute to the best of their ability for all Council/committee work.

9.2.4 While recognizing the individual's right to dissent, once decisions are made, every member will recognize the final decision, regardless of their personal position.

9.2.5 Planning Council/standing committee members will exercise discretion when discussing confidential or sensitive information, most notably an individual's HIV or health status.

9.2.6 Every member will refrain from spreading misinformation related to the Ryan White Planning Council. The Planning Council/standing committee members will strive to address problems internally.

9.2.7 Every member should strive to support the mission, goals, strategies, programs, and/or leadership of the planning body as agreed upon by the members.

9.2.8 No member shall be under the influence of alcohol or illegal drugs at any Planning Council/standing committee meeting.

9.2.9 All items listed above are applicable to audience members as well as council/committee members.

ARTICLE X: OFFICIAL COMMUNICATIONS AND REPRESENTATION

Section 10.1 - Media Contact and Public Information

The Planning Council and standing committees shall maintain positive media relations and accurate public information messages through designated spokesperson(s), professional media contacts, coordinated and reviewed information, and consistent marketing strategies.

Planning Council/standing committee members shall refer any need for media contact or public information to the Planning Council Chair. The Chair shall select the appropriate spokesperson(s).

ARTICLE XI: REMOVAL PROCEDURES

Section 11.1 – Professionalism

The goal of disciplinary action is to ensure inappropriate and unacceptable behavior does not occur and/or repeat and that all members and participants, and the business of the Planning Council/standing committees, is protected from inappropriate/unacceptable behavior in the course of doing the Planning Council/standing committees' work.

Section 11.2 – Removal from a Meeting

If a person willfully disrupts a meeting to the extent that its orderly conduct is made impractical, the person may be removed from the meeting. The chair of the public body may, without vote of the body, declare a recess to remove a person who is disrupting the meeting. If said person refuses to leave the meeting, the office of support will request help from building security.

Section 11.3 – Removal from the Planning Council

Planning Council members may be removed only by the Chief Elected Official (CEO). The Ryan White Planning Council may recommend to the CEO that a member be removed for any of the following reasons:

- Habitual behavior which inhibits the Planning Council's ability to conduct business in a timely and efficient manner;

- Conduct that negatively impacts confidence in the Planning Council, including, but not limited to a violation of Conflict of Interest rules and/or Code of Conduct;
- Behavior that could prevent others (Planning Council/standing committee members, Office of Support staff, Administrative Agency staff, or members of the public) from attending or participating in meetings.

The CEO shall have the power to remove Planning Council members without the approval of the Planning Council.

Section 11.4 – Process for Recommending Removal from the Planning Council

Recommendation for removal for any above reasons shall be reviewed by the Ryan White Planning Council and put to a vote. Notice of, and the reasons for the Planning Council's proposed removal will be sent to the member and the CEO. If the Planning Council votes to recommend removal of the member, the recommendation shall be forwarded to the CEO. No member should be removed by less than a two-thirds vote, a quorum voting. The Executive Committee may make a recommendation for removal of a member for any of the above stated reasons.

Section 11.5 – Removal from a Standing Committee

Standing committee members may be removed by a majority vote from the Executive Committee. Any standing committee may recommend to the Executive Committee that a member be removed for any of the following reasons:

- Habitual behavior which inhibits the standing committee's ability to conduct business in a timely and efficient manner;
- Conduct that negatively impacts confidence in the standing committee, including, but not limited to a violation of Conflict of Interest rules and/or Code of Conduct.
- Behavior that could prevent others (Planning Council/standing committee members, Office of Support staff, Administrative Agency staff, or members of the public) from attending or participating in meetings.

Section 11.6 – Process for Recommending Removal from a Standing Committee

Recommendation for removal for any above reason shall be reviewed by the Executive Committee and if the Executive finds merit, it shall proceed with the removal of a standing committee member. No member should be removed by less than a two-thirds vote, a quorum voting. Notice of, and the reasons for the Executive Committee's proposed removal will be sent to the member and the CEO. If the Executive Committee votes to recommend removal of the member, the recommendation shall be forwarded to the CEO.

ARTICLE XII: GRIEVANCE PROCEDURES

Section 12.1 - General

The Ryan White Planning Council of the Dallas Area shall follow procedures for addressing grievances with respect to funding, including procedures for submitting grievances that cannot be resolved to binding arbitration as described in Addendum B, the Dallas EMA Ryan White Planning Council of the Dallas Area Grievance Procedure. Addendum B is attached hereto and fully incorporated by reference.

ARTICLE XIII: AMENDMENTS

Section 13.1 - General

The Ryan White Planning Council of the Dallas Area shall have the power to alter, amend, or repeal these Bylaws at any meeting at which a quorum is present, provided that written notice of the proposed change is given at least five (5) days

prior to such meeting. Such amendments must be reviewed and approved by the Commissioners Court prior to their taking effect.

ARTICLE XIV: DISSOLUTION

Section 14.1 - General

Upon dissolution of the organization of the Ryan White Planning Council of the Dallas Area, the CEO shall, after paying or making provision for payments of all known liabilities of the Ryan White Planning Council of the Dallas Area, dispose of all of the assets of the Ryan White Planning Council of the Dallas Area in such a manner, or to such an organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at that time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States Revenue Law, as the Ryan White Planning Council of the Dallas Area shall determine.

APPROVED BY THE MEMBERSHIP OF THE RYAN WHITE PLANNING COUNCIL OF THE DALLAS AREA ON

DATE:

_____

BY: _____

CHAIRPERSON

APPROVED BY THE DALLAS COUNTY COMMISSIONERS COURT ON _____

BY: _____

CHIEF ELECTED OFFICIAL

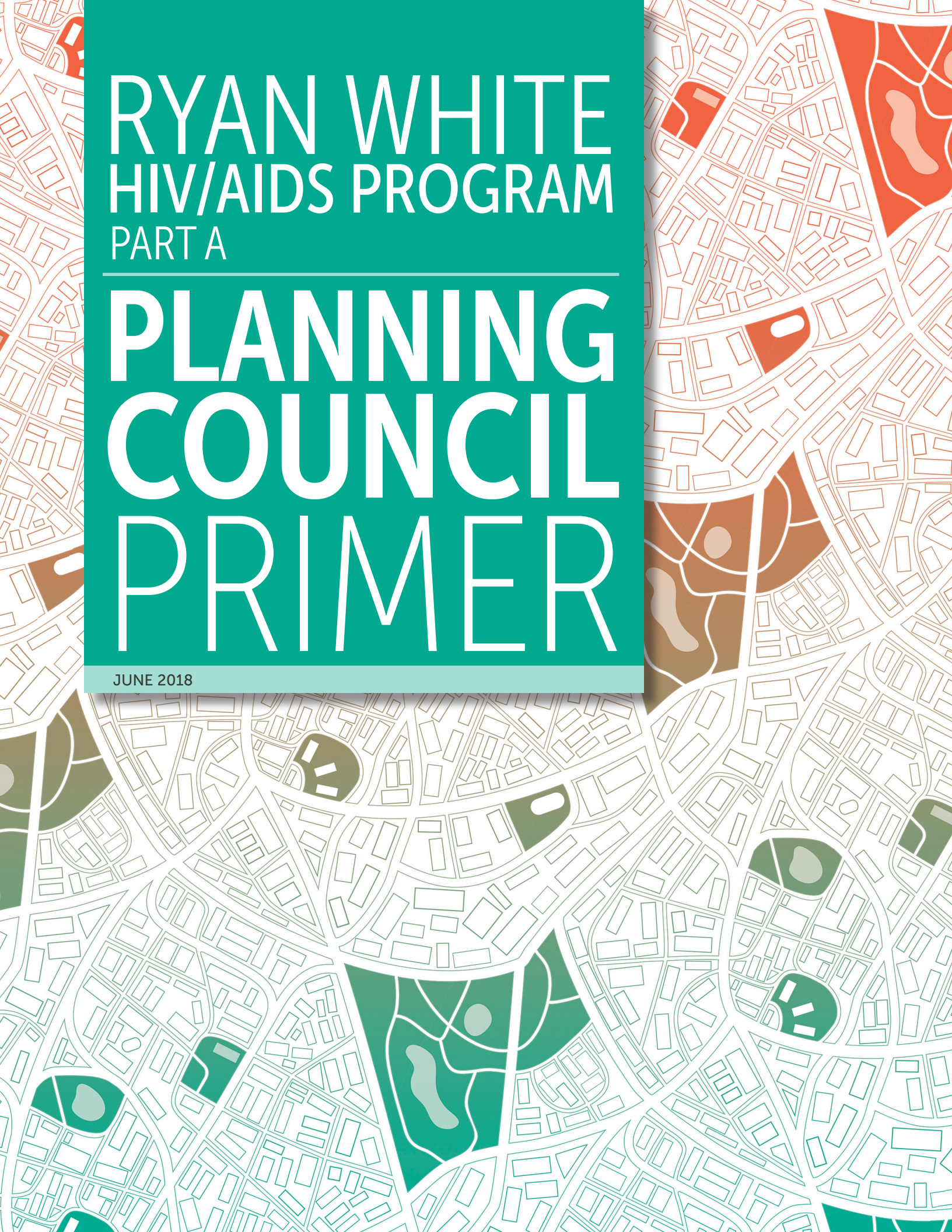
Adopted: 1-1991

Amended: (10-19-1991), (07-21-1992), (04-06-1993), (06-09-1993), (01-25-1994), (10-05-1994), (06-11-1997), (12-10-1997), (12-08-1999), (01-12-2000), (02-15-2005), (04-11-2007), (11-20-2012), (12-10-2014), (12-12-2017),

RYAN WHITE HIV/AIDS PROGRAM PART A

PLANNING COUNCIL PRIMER

JUNE 2018



PLANNING
CHATT
Community HIV/AIDS
Technical Assistance & Training

This resource was prepared by JSI Research & Training Institute, Inc. in collaboration with EGM Consulting, LLC, and supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) under grant number U69HA30795: Ryan White HIV/AIDS Program Planning Council and Transitional Grant Area Planning Body Technical Assistance Cooperative Agreement. This information or content and conclusions are those of the authors and should not be construed as the official position or policy of, nor should any endorsements be inferred by HRSA, HHS or the U.S. Government.

JSI

EGM Consulting, LLC

Contents

Introduction

Uniqueness and Value of Planning Councils

One of the important aspects of the Ryan White HIV/AIDS Program (RWHAP) is its focus on community health planning for HIV care and treatment. Community health planning is a deliberate effort to involve diverse community members in "an open public process designed to improve the availability, accessibility, and quality of healthcare services in their community."[1] The process involves "identifying community needs, assessing capacity to meet those needs, allocating resources, and resolving conflicts." For RWHAP Part A, planning councils/planning bodies play that role.

RWHAP planning councils are unique. No other federal health or human services program has a legislatively required planning body that is the decision maker about how funds will be used, has such defined membership composition, and requires such a high level of consumer participation (at least 33 percent). When more than 100 recipients, planning council leaders, and planning council support staff were asked in a recent national assessment[2] about the greatest value of planning councils, they most often identified the following benefits:

- Community involvement in decision making about HIV services
- A consumer voice in decisions about services
- Collaboration among diverse stakeholders, including consumers and other people living with HIV, providers, the local health department, researchers, and other community members, with everyone sitting at the same table and working together to make the best decisions for the community
- Positive impact on the service system, including improvements in access to and quality of care, and contributions to positive client outcomes including viral suppression.

Individuals who serve as RWHAP planning council members make a vital contribution to their communities by helping to strengthen and improve the service system for people living with HIV.

1 Stern J. Community Planning, American Health Planning Association, 2008. available at http://www.ahpanet.org/files/community_health_planning_09.pdf

2 McKay E., et al. Engaging RWHAP Consumers in Planning and Needs Assessment, 2016 National Ryan White Conference on HIV Care & Treatment. available at https://careacttarget.org/sites/default/files/supporting-files/6746McKay.pdf

Purpose of the Primer

This Primer is designed to help Ryan White HIV/AIDS Program (RWHAP) Part A planning council members better understand the roles and functioning of planning councils.

The Primer explains what RWHAP does, and describes what planning councils do in helping make decisions about what RWHAP services to fund and deliver in their geographic areas. The Primer is intended to be a basic reference to help prepare planning council members to actively engage in planning council activities, and effectively carry out their legislatively defined community health planning duties.

While most RWHAP Part A jurisdictions have planning councils, a few smaller areas have planning bodies, which serve the same purpose but are not subject to the same legislative requirements as planning councils. This Primer describes the expectations for planning councils; there are no specific requirements for other types of planning bodies. However, Health Resources and Services Administration (HRSA) encourages such planning bodies to be as similar as possible to planning councils in their membership, and to carry out the same activities as planning councils[3], as outlined in the legislation. Therefore this Primer should be useful to planning bodies as well as planning councils.

3 HRSA/HAB Letter to RWHAP Part A Grantees, 2013. Available at https://hab.hrsa.gov/sites/default/files/hab/Global/transitionalgrantareasplanningcouncilsmoving-forward.pdf

The Ryan White HIV/AIDS Program

The Ryan White HIV/AIDS Program (RWHAP) provides a comprehensive system of care that includes primary medical care and essential support services for people living with HIV who are uninsured or underinsured. The Program works with cities, states, and local community-based organizations to provide HIV care and treatment services to more than half a million people each year. The Program reaches over half of all people diagnosed with HIV in the United States.

The majority of Ryan White HIV/AIDS Program funds support primary medical care and essential support services. A smaller but equally critical portion is used to fund technical assistance, clinical training and the development of innovative models of care. The Program serves as an important source of ongoing access to HIV medications that can enable people living with HIV to live close to normal lifespans.

The RWHAP legislation is known as the Ryan White HIV/AIDS Treatment Extension Act of 2009, and is also Title XXVI of the Public Health Service Act. The legislation was first passed in 1990 as the Ryan White CARE (Comprehensive AIDS Resources Emergency) Act. The 2009 law is the fourth reauthorization of RWHAP by Congress. The program helps people living with HIV get into care early, stay in care, and remain healthy.

Most RWHAP funds are used for grants to local and state areas to address the needs of people living with HIV. Many decisions about how to use the money are made by local planning councils/planning bodies and state planning groups, which work as partners with their governments.

RWHAP is administered by the HIV/AIDS Bureau (HAB) of the Health Resources and Services Administration (HRSA). The Health Resources and Services Administration, an agency of the U.S. Department of Health and Human Services, is the primary federal agency for improving access to health care by strengthening the healthcare workforce, building healthy communities and achieving health equity.

The RWHAP legislation supports grants under the five sections of the Act: Parts A, B, C, D, and F. Below is a short description of each. The majority of the funding that goes to RWHAP Part A and Part B is awarded under a formula based on the number of living HIV and AIDS cases in these areas.

RYAN WHITE HIV/AIDS PROGRAM FUNDING

- **RWHAP Part A:** Grants to metropolitan areas hardest hit by the epidemic for HIV medical care and support services
- **RWHAP Part B:** Grants to states and territories for HIV medical care and support services, including HIV-related medications through the AIDS Drug Assistance Program (ADAP)
- **RWHAP Part C:** Community-based early intervention services grants for HIV medical care and support services
- **RWHAP Part D:** Community-based grants for family-centered primary and specialty medical care and support services for infants, children, youth, and women living with HIV
- **RWHAP Part F:** Support for five programs—Special Projects of National Significance (SPNS), AIDS Education and Training Centers (AETCs), HIV Dental Programs, and the Minority AIDS Initiative (MAI)

RWHAP Part A: Grants to Eligible Metropolitan and Transitional Areas

RWHAP Part A funds go to local areas that have been hit hardest by the HIV epidemic. The goal of RWHAP Part A is to provide optimal HIV care and treatment for low-income and uninsured people living with HIV to improve their health outcomes.

Almost three quarters of people living with HIV in the U.S. live in RWHAP Part A-funded areas. These areas are called eligible metropolitan areas (EMAs) or transitional grant areas (TGAs):

- EMAs are metropolitan areas with at least 2,000 new cases of AIDS reported in the past five years and at least 3,000 cumulative living cases of AIDS as reported by the Centers for Disease Control and Prevention (CDC) in the most recent calendar year for which data are available. As of early 2018, there were 24 EMAs.
- TGAs are metropolitan areas with between 1,000 and 1,999 new cases of AIDS reported in the past five years and at least 1,500 cumulative living cases of AIDS as reported by the CDC in the most recent calendar year for which data are available. As of early 2018, there were 28 TGAs.

RWHAP Part A funds go to the ***chief elected official (CEO)*** of the major city or county government in the EMA or TGA. The CEO is usually the mayor; however sometimes the CEO is the county executive, chair of the board of supervisors, or county judge. The CEO is legally the recipient of the grant, but usually chooses a lead agency such as a department of health or other entity to manage the grant. That entity is also called the ***recipient***. The recipient manages the grant by making sure RWHAP funds are used according to the RWHAP legislation, program policy guidance, and grants policy. The recipient works with the ***RWHAP Part A planning council/planning body***, which is responsible for making decisions about service priorities and resource allocation of RWHAP Part A funds.

RWHAP Part A funds are used to develop or enhance access to a comprehensive system of high quality, community-based care for low-income people living with HIV. RWHAP Part A recipients must provide comprehensive primary health care and support services throughout the entire geographic service area. RWHAP Part A funds may be used for HIV primary medical care and other medical-related services and for support services (like medical transportation) that are needed by people living with HIV in order to stay in care, and linked to positive medical outcomes.

At least 75 percent of service funds must be used for core medical-related services, and up to 25 percent may be used for approved support services, unless the EMA or TGA successfully

applies for a waiver. A limited amount of the money (up to 10 percent of the total grant) can be used for administrative costs, which include planning, managing, monitoring, and evaluating programs. Administrative funds are also used to support a comprehensive community planning process, through the work of a planning council or other planning body. In addition, some funds (up to 5 percent of the total grant or $3 million, whichever is less) are set aside for clinical quality management, to ensure service quality.

RWHAP Part B: Grants to States and Territories

RWHAP Part B provides funds to improve the quality, availability, and organization of HIV health care and support services in states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the U.S. Pacific Territories and Associated Jurisdictions.

Like RWHAP Part A funds, RWHAP Part B funds are used for medical and support services. A major priority of RWHAP Part B is providing medications for people living with HIV. The RWHAP legislation gives states flexibility to deliver these services under several programs:

- Grants for medical and support services for people living with HIV
- The AIDS Drug Assistance Program (ADAP), which provides access to HIV-related medications through the purchase of medications and the purchase of health insurance
- Grants to states with emerging communities that have a growing rate of HIV/AIDS.

States can receive ADAP funds through three types of grants:

- Formula funding that goes to every state and territory based on the number of living HIV/AIDS cases reported by the CDC in the most recent calendar year
- Competitive ADAP supplemental funding, supported through a five percent set aside of the ADAP base award and provided to states and territories that meet RWHAP legislative eligibility criteria and apply for additional funds to address a severe need for medications
- Competitive ADAP Emergency Relief Funding (ERF), available to states and territories that can demonstrate the need for additional resources to prevent, reduce, or eliminate waiting lists, including through cost-containment measures.

ADAP funds are used to provide HIV antiretroviral medications to low-income people living with HIV. Funds may also be used to pay for health coverage, copays, and deductibles* for eligible clients and for services that enhance access and adherence to drug treatments, or monitor drug treatments.

ADAP FORMULARY REQUIREMENTS

Each ADAP must cover at least one drug from each class of HIV antiretroviral medications on its ADAP formulary. RWHAP funds may only be used to purchase FDA-approved medications. Within these requirements, each ADAP decides which medications to include on its formulary and how those medications will be distributed. ADAP eligibility criteria must be consistently applied across the state or territory, and all formulary medications and ADAP-funded services must be equally and consistently available to all eligible enrolled people throughout the state or territory.

As with RWHAP Part A, 75 percent of RWHAP Part B service dollars must be used for core medical-related services unless the state obtains a waiver. RWHAP Part B recipients can use no more than 10 percent of their grants for administration, including indirect costs. They can also use up to 10 percent for planning and evaluation, but the total for both types of activities must be no more than 15 percent of the RWHAP Part B grant. As with RWHAP Part A, recipients may also spend up to 5 percent of their grant or up to $3 million, whichever is less, for the establishment and implementation of a clinical quality management program.

States are required to conduct a needs assessment to determine service needs of people living with HIV. Based upon needs assessment results, states must set priorities and allocate resources to meet these needs. States must also prepare an integrated HIV prevention and care plan, including a ***Statewide Coordinated Statement of Need (SCSN)***, which is a guide on how to meet these needs.

Planning is an essential part of determining how to use limited RWHAP Part B funds in providing a system of HIV/AIDS care. States are required to obtain community input as a component of planning for the use of RWHAP Part B resources, and many states do this through RWHAP Part B advisory groups. A state can choose to oversee planning itself through statewide or regional planning groups, or can assign the responsibility to consortia. Consortia are associations of public and nonprofit healthcare and support service providers and community-based organizations that the state contracts with to provide planning, resource allocation and contracting, program and fiscal monitoring, and required reporting. Some are statewide groups, while others cover specific local areas or regions. Some regional consortia also directly deliver medical and support services.

Some states also receive ***Emerging Communities*** grants to establish and support systems of care in metropolitan areas that are not eligible for RWHAP Part A funding but have a growing rate of HIV. To be eligible for these funds, a metropolitan area must have between 500 and 999 AIDS cases reported in the past five years. To stay eligible, it must have at least 750 cumulative living AIDS cases as of the most recent calendar year. Some Emerging Communities eventually become eligible for RWHAP Part A funding.

RWHAP Part C: Community-Based Early Intervention Services

RWHAP Part C funds local, community-based organizations to provide comprehensive primary health care and support services in an outpatient setting for people living with HIV.

RWHAP Part C funding is through ***Early Intervention Services (EIS)*** program grants. RWHAP Part C funds also help organizations more effectively deliver HIV care and services. Unlike RWHAP Part A and Part B, these funds are awarded competitively and go directly to community agencies like community health centers, rural health clinics, health departments, and hospitals. While RWHAP Part C funds many locations around the nation, a funding priority under the legislation is support for HIV-related primary care services in rural areas or for populations facing high barriers to access.

RWHAP Part C recipients must use at least 50 percent of the grant for EIS. They may use no more than 10 percent of their grants for administration, including indirect costs. In addition, RWHAP Part C recipients must use at least 75 percent of their grant funds for core medical services and up to 25 percent for support services. This is the same requirement that applies to Parts A and B.

RWHAP Part C also provides Capacity Development grants. ***Capacity Development*** grants help public and nonprofit entities strengthen their organizational infrastructure and improve their capacity to provide high-quality HIV primary care services.

RWHAP PART C EARLY INTERVENTION REQUIRED SERVICES

EIS programs must include the following components:

- HIV counseling
- High-risk targeted HIV testing
- Referral and linkage of people living with HIV to comprehensive care, including outpatient/ ambulatory health services, medical case management, substance abuse treatment, and other services
- Other HIV-related clinical and diagnostic services

RWHAP Part D: Services for Women, Infants, Children, and Youth

RWHAP Part D funds are used to provide family-centered primary medical care and support services to women, infants, children, and youth living with HIV. RWHAP Part D funds are competitive grants that go directly to local public or private healthcare organizations including hospitals, and to public agencies.

RWHAP Part D grants are used for medical services, clinical quality management, and support services, including services designed to engage youth living with HIV and retain them in care. Recipients must coordinate with HIV education and prevention programs designed to reduce the risk of HIV infection among youth. RWHAP Part D recipients can use no more than 10 percent of their grants for administration, including indirect costs.

RWHAP Part F: SPNS, AETC, Dental Programs, and MAI

RWHAP Part F provides grant funding that supports several research, technical assistance, and access-to-care programs.

- **Special Projects of National Significance (SPNS):** SPNS funds are awarded competitively to organizations that are developing new and better ways of serving people living with HIV and addressing emerging client needs. Projects include a strong evaluation component.
- **AIDS Education and Training Centers (AETCs):** AETC regional and national centers train health care providers treating people living with HIV. AETCs train clinicians and multidisciplinary HIV care team members. They help to increase the number of health care providers prepared and motivated to counsel, diagnose, treat, and medically manage people living with HIV.
- **HIV/AIDS Dental Reimbursement Program:** These funds go to dental schools and other dental programs to help pay for dental care for people living with HIV.
- **Community Based Dental Partnership Program:** These funds are used to deliver community-based dental care services for people living with HIV while providing education and clinical training for dental care providers, especially in community-based settings.
- **Minority AIDS Initiative (MAI):** MAI funds are used to improve access to health care and medical outcomes for racial and ethnic minorities— communities that are disproportionately affected by HIV. RWHAP Part A programs apply for MAI funds as part of their annual applications, and receive funds on a formula basis. They are expected to administer MAI activities as an integral part of their larger programs.

How RWHAP Part A Works

The goal of RWHAP Part A is to provide optimal HIV care and treatment for low-income and uninsured people living with HIV residing in the EMA/TGA, in order to improve their health outcomes. This section of the Primer describes the people and entities that participate in RWHAP Part A and what they do.

Participants

Participants in the RWHAP Part A grant for the EMA or TGA include the following:

- The chief elected official (CEO), who receives the funds on behalf of the EMA or TGA
- The recipient, the entity chosen by the CEO to manage the grant and make sure funds are used appropriately
- The planning council (or planning body), which conducts planning, decides how to allocate resources, and works to ensure a system of care that provides equitable access to care and needed services to all eligible people living with HIV in the EMA or TGA
- The HRSA HIV/AIDS Bureau's Division of Metropolitan HIV/AIDS Programs (HAB/DMHAP), the federal government entity within HRSA that makes sure the RWHAP Part A program is implemented appropriately.

The Chief Elected Official (CEO)

The CEO is the person who officially receives the RWHAP Part A funds from HRSA. The CEO is the chief elected official of the major city or urban county in the EMA or TGA that provides HIV care to the largest number of people living with HIV. The CEO may be a mayor, chair of the county board of supervisors, county executive, or county judge. The CEO is responsible for making sure that all the rules and standards for using RWHAP Part A funds are followed. The CEO usually designates an agency to manage the RWHAP Part A grant—generally the county or city health department. The CEO establishes the planning council/planning body and appoints its members.

The Recipient

As the person who receives RWHAP Part A funds, the CEO is the recipient. However, in most EMAs and TGAs, the CEO delegates responsibility for administering the grant to a local government agency (such as a health department) that reports to the CEO. This agency is called the recipient. The word "recipient" means the person or organization that actually carries out RWHAP Part A tasks, whether that is the CEO, the public health department, or another agency that reports to the CEO.

THE RWHAP PART A AWARDS PROCESS

Each year Congress appropriates funds for the Ryan White HIV/AIDS Program, including RWHAP Part A. The money for RWHAP Part A is divided into formula and supplemental funds and Minority AIDS Initiative (MAI) funds.

- **Formula funds** are awarded to EMA or TGAs based on the number of persons living with HIV and AIDS in the EMA or TGA.
- **Supplemental funds** are awarded to the EMA or TGA based on increasing prevalence rates, documented demonstrated need and service gaps, and a demonstrated disproportionate impact on vulnerable populations.
- **RWHAP Part A MAI funds** are allocated based on each EMA's or TGA's percentage of all living HIV disease cases among racial and ethnic minorities.

EMAs or TGAs must submit a grant application to HRSA to receive RWHAP Part A formula, supplemental, and MAI funds.

The recipient should prepare the application with planning council/planning body input. The funding year begins on March 1.

The Planning Council

Before an EMA/TGA can receive RWHAP Part A funds, the CEO must appoint a planning council. The planning council must carry out many complex planning tasks to assess the service needs of people living with HIV living in the area, and specify the kinds and amounts of services required to meet those needs. The planning council is assisted in fulfilling these complex tasks by ***planning council support (PCS) staff*** whose salaries are paid by the grant.

The RWHAP legislation requires planning councils to have members from various types of groups and organizations, including people living with HIV who live in the EMA/TGA. A key function of the planning council is to provide the consumer and community voice in decision-making about medical and support services to be funded with the EMA/TGA's RWHAP Part A dollars.

TGAs do not have to follow the legislative requirements related to planning councils, but must provide a process for obtaining consumer and community input. TGAs that have currently operating planning councils are strongly encouraged by the HIV/AIDS Bureau to maintain that structure.

HRSA/HAB

The HRSA HIV/AIDS Bureau (HAB) is the office in the federal government that is responsible for administering RWHAP Part A throughout the country. The HRSA/HAB office is located in Rockville, Maryland. HRSA develops policies to help implement the legislation, and provides guidance to help recipients understand and implement legislative requirements. These include Policy Clarification Notices (PCNs), related Frequently Asked Questions (FAQs), and Program Letters.

Each EMA or TGA is assigned a ***Project Officer*** who works in HRSA/HAB. Project Officers help the recipient and planning council do their jobs and make sure that they are running the local RWHAP Part A program as the RWHAP legislation, National Monitoring Standards, and other federal regulations say they should. Project Officers make periodic site visits and hold monthly monitoring calls with the recipient. The planning council Chair is sometimes included on a part of these calls.

Planning Council and Recipient: Separate Roles and Mutual Goals

The RWHAP Part A planning council and the recipient have separate roles that are stated in the RWHAP legislation, but they also share some duties.

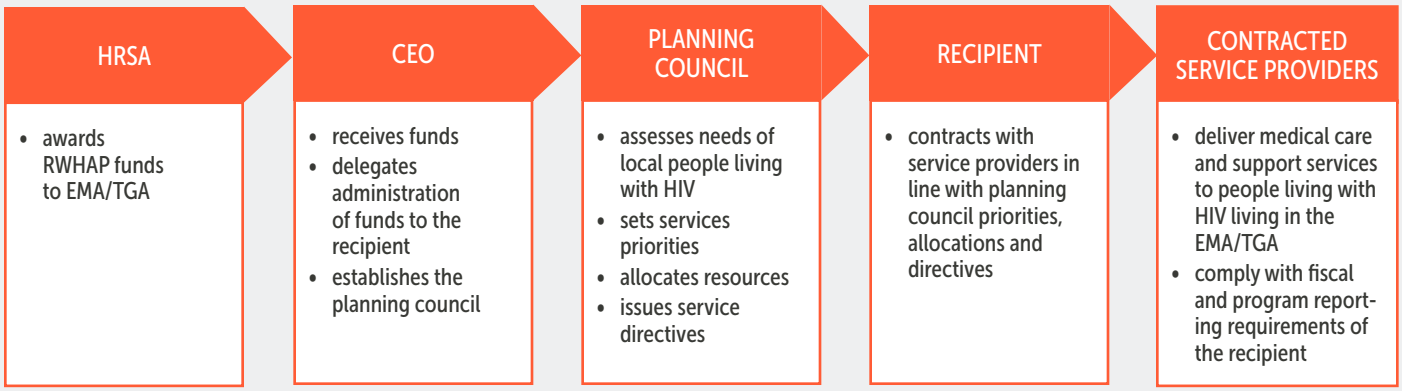
The planning council and the recipient work together on identifying the needs of people living with HIV (by conducting a needs assessment) and preparing a ***CDC and HRSA Integrated HIV Prevention and Care Plan***, formerly known as a comprehensive plan (which is a long-term guide on how to meet those needs).

Both also work together to make sure that other sources of funding work well with RWHAP funds and that RWHAP is the "payor of last resort." This means that other available funding should be used for services before RWHAP dollars are used to pay for them.

The planning council decides what services are priorities for funding and how much funding should be provided for each service category, based upon the needs of people living with HIV in the EMA/TGA. The recipient is accountable for managing RWHAP Part A funds and awarding funds to agencies to provide services that are identified by the planning council as priorities, usually through a competitive "Request for Proposals" (RFP) process.

The planning council cannot do its job without the help of the recipient, and the recipient cannot do its job without the help of the planning council. Some of the responsibilities are identified clearly in the RWHAP legislation. Others must be decided locally. It is important that the planning council and the recipient work together and come to an agreement about their duties. This agreement should be written in planning council bylaws and in a memorandum of understanding (MOU) between the recipient and the planning council.

How RWHAP Part A Improves Access and Services for People Living with HIV



The table below shows which RWHAP Part A participant has responsibility for specific roles and duties. Each of these roles/duties is described in detail in the following sections of the Primer.

Roles/Duties of the CEO, Recipient, and Planning Council

ROLE/DUTY	RESPONSIBILITY		
	CEO	Recipient	Planning Council
Establishment of Planning Council/ Planning Body	✓		
Appointment of Planning Council/ Planning Body Members	✓		
Needs Assessment		✓	✓
Integrated/Comprehensive Planning		✓	✓
Priority Setting			✓
Resource Allocations			✓
Directives			✓
Procurement of Services		✓	
Contract Monitoring		✓	
Coordination of Services		✓	✓
Evaluation of Services: Performance, Outcomes, and Cost-Effectiveness		✓	*Optional*
Development of Service Standards		✓	✓
Clinical Quality Management		✓	*Contributes but not responsible*
Assessment of the Efficiency of the Administrative Mechanism			✓
Planning Council Operations and Support		✓	✓

Planning Council Duties

The planning council (and its staff) must carry out many complex tasks, summarized in the box and described below.

The first step is to set up rules and structures to help the planning council to operate smoothly and fairly (***planning council operations***). This includes bylaws, grievance procedures, conflict of interest policies and procedures, procedures that ensure open meetings, and an open nominations process to identify nominees for the planning council. It also includes a committee structure. Planning councils must be trained in planning, and new members must receive orientation to their roles and responsibilities and those of the recipient.

The planning council must find out about what services are needed and by which populations, as well as the barriers faced by people living with HIV in the EMA or TGA (***needs assessment***). Next—based on needs assessment, utilization, and epidemiologic data—it decides what services are most needed by people living with HIV in the EMA or TGA (***priority setting***) and decides how much RWHAP Part A money should be used for each of these service categories (***resource allocations***).

The planning council may also provide guidance to the recipient on service models, targeting of populations or service areas, and other ways to best meet the identified priorities (***directives***). The planning council works with the recipient to develop a long-term plan on how to provide these services (***integrated/comprehensive planning,*** formerly called comprehensive planning). The planning council reviews service needs and ways that RWHAP Part A services work to fill gaps in care with other RWHAP Parts through the Statewide Coordinated Statement of Need (SCSN) as well as with other programs like Medicaid and Medicare (***coordination***).

The planning council also evaluates how providers are selected and paid, so that funds are made available efficiently where they are most needed (***assessment of the efficiency of the administrative mechanism***). All of these roles are described below.

PLANNING COUNCIL ROLES AND RESPONSIBILITIES

- Planning council operations: structure, policies, and procedures, and membership tasks
- Needs assessment
- Integrated/comprehensive planning
- Priority setting and resource allocations
- Directives: guidance to the recipient on how best to meet priorities
- Coordination with other RWHAP Parts and other HIV-related services
- Assessment of the efficiency of the administrative mechanism
- Development of service standards
- Evaluation of program effectiveness (optional)

Planning Council Operations

Planning councils must have procedures to guide their activities. Planning council operations are usually outlined in their bylaws and described in greater detail in policies and procedures covering the following areas:

MEMBERSHIP

The planning council needs a membership committee and a clear and open nominations process to choose new planning council

members and to replace members when a member's term ends or the person resigns. This includes making sure that the planning council membership overall and the consumer membership meet the requirements of ***reflectiveness***—having characteristics that reflect the local epidemic in such areas as race, ethnicity, gender, and age, and ***representation***—filling the required membership categories as stated in the legislation (See page 17). Particular attention should be paid to including people from disproportionately affected and "historically underserved"[4] groups and subpopulations. At least 33 percent of voting members must be consumers of RWHAP Part A services who are *"unaffiliated"* or *"unaligned."* This means they do not have a conflict of interest, meaning they are not staff, paid consultants, or Board members of RWHAP Part A-funded agencies.

Open nominations require member vacancies and nomination criteria to be widely advertised. The announcement of an opening on the planning council should include the qualifications and other factors that are considered when choosing members. Nomination criteria must include a conflict of interest standard so that planning council members make decisions that are best for people living with HIV in the EMA or TGA, without considering personal or professional benefits for themselves or their families. The planning council reviews nominations against vacancies and recommends members to the CEO for appointment.

LEADERSHIP

Every planning council has a leader, usually called the Chair. This responsibility may be shared by two or more persons, called Co-Chairs, or there may be a Chair and Vice Chair(s). HRSA suggests that the Chair of the planning council be elected by its members. Sometimes a Chair or one Co-Chair is appointed by the recipient from the list of members recommended by the planning council. A person who works for the recipient may not be the only Chair of the council—in this case, there must be Co-Chairs.

COMMITTEES

Planning councils do much of their work in committees. Most planning councils require each member to participate actively on one committee and to attend full planning council meetings. Bylaws usually specify several permanent "standing committees," and may permit special ad hoc temporary or time-limited committees or caucuses as well. Committee structures vary, but most planning councils have an executive or steering committee, a membership committee (sometimes also responsible for operations such as policies and procedures), and a people living with HIV or consumer committee or caucus. In addition, they usually have one or several committees responsible for carrying out major legislative responsibilities related

4 Ryan White HIV/AIDS Treatment Extension Act of 2009 www.hab.hrsa.gov/sites/default/files/hab/About/RyanWhite/legislationtitlexxvi.pdf

Required Planning Council Membership Categories

PEOPLE LIVING WITH HIV & COMMUNITY

- Members of affected communities*
- Non-elected community leaders
- Representatives of recently incarcerated people living with HIV
- Unaffiliated consumers

PUBLIC HEALTH & HEALTH PLANNING

- Public health agencies
- Healthcare planning agencies
- State agencies**

HEALTH & SOCIAL SERVICE PROVIDERS

- Healthcare providers, including FQHCs
- Community-based organizations and AIDS service organizations
- Social service providers
- Mental health and substance abuse treatment providers

FEDERAL HIV PROGRAMS

- RWHAP Part B recipients
- RWHAP Part C recipients
- RWHAP Part D recipients†
- Recipients under other federal HIV programs‡

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* Including people living with HIV, members of a federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C, and "historically underserved[4] groups and subpopulations

** Including state Medicaid agency and agency administering the RWHAP Part B program

† If there is no RWHAP Part D recipient in the EMA or TGA, representatives of organizations with a history of serving children, youth, and families living with HIV

‡ Including HIV prevention services

PLANNING COUNCIL BYLAWS

Each planning council must have written rules, called bylaws, which explain how the planning council operates. Bylaws must be clear and exact. They should include at least the following:

- Mission of the planning council
- Member terms and how members are selected (open nominations process)
- Duties of members
- Officers and their duties
- How meetings are announced and run, including how decisions are made
- What committees the planning council has and how they operate
- Conflict of interest policy
- Grievance procedures
- Code of Conduct for members
- How the bylaws can be amended

to needs assessment, integrated/comprehensive planning, priority setting and resource allocations, and maintaining and improving the system of care. Committees typically discuss issues, develop plans or recommendations, and bring them to the executive/steering committee for review and possible revision. Then the recommendations go to the full planning council for final discussion and action.

TRAINING

Members need to learn how to participate in the many tasks involved in RWHAP planning. Planning councils must provide orientation for new members, covering topics such as the legislation and their roles and responsibilities in planning, as well as those of the recipient. All planning council members should receive periodic training to help them carry out their roles. HRSA requires planning councils to confirm in the annual RWHAP Part A application that training for all members occurred at least once during the year.[5]

GROUP PROCESS

This includes a Code of Conduct, as well as rules for committee and full planning council operations, meeting times, and locations. These decisions are usually summarized in the bylaws and detailed in official policies and procedures.

DECISION MAKING

The planning council needs to agree on how decisions will be made—for example, by voting or consensus—and how grievances related to funding decisions and conflict of interest will be managed (see Planning Council Bylaws). For example, the planning council needs to decide whether its meetings will follow *Robert's Rules of Order.* These rules and procedures are usually included in the bylaws and further described in separate policies and procedures.

CONFLICT OF INTEREST

The planning council must define ***conflict of interest*** and determine how it will be handled as the planning council carries out its duties. The planning council must develop procedures to assure that decisions concerning service priorities and funding allocations are based upon community and client needs and not on the financial interests of individual service providers or the personal or professional interests of individual planning council members. Conflict of interest procedures generally include a disclosure form completed by all members that states in writing any affiliations that could create a conflict of interest.

5 The FY 2018 Notice of Funding Opportunity (NOFO) for RWHAP Part A requires that the letter of assurance from the planning council or the letter of concurrence from the planning body leadership provide evidence that "ongoing, annual membership training occurred, including the date(s)" [p 15].

Usually, conflict of interest policies also apply to specified family members. Thus, planning councils must decide how planning council members may or may not participate in making decisions about specific services if they or close family members are staff, consultants, or Board members of agencies that are receiving RWHAP Part A funds for these specific services, or are competing for such funds. For example, if a planning council member works for a substance abuse treatment provider receiving RWHAP Part A funds, the member may not participate in decision making about priorities, allocations, or directives related to substance abuse treatment. However, members may freely share their insights and expertise at appropriate times in a non-voting context, such as during data presentations or community input sessions, since all members can benefit from hearing a variety of perspectives and expertise.

GRIEVANCE PROCEDURES

The planning council must develop ***grievance procedures*** to handle complaints about how it makes decisions about funding. The grievance procedures must specify who is allowed to file a grievance, types of grievances covered, and how grievances will be handled. The recipient must also have its own grievance procedures, which focus on handling of complaints about the process used for funding of ***subrecipients*** who provide services. The two sets of grievance procedures should be written to be in alignment with each other so that they do not conflict.

PLANNING COUNCIL SUPPORT

Planning councils need personnel to assist them in their work, and money to pay for things like a needs assessment and meeting costs. This is called ***planning council support***. Planning council support should cover reasonable and necessary costs associated with carrying out legislatively mandated functions. The planning council's budget is a part of the recipient's administrative budget, so the planning council and recipient decide together what funds are needed. The planning council then works with its support staff to develop its own budget and monitor expenses, but must meet RWHAP and recipient rules regarding use of funds. In deciding how much planning council support to pay for, planning councils and recipients should balance the need for support in order to meet planning requirements with the need for other administrative activities and for direct services for people living with HIV.

HRSA encourages planning councils to use some planning council support funds to reimburse unaffiliated consumer members for their actual expenses related to participation in the planning council, such as travel or child/dependent care. However, RWHAP funds may not be used to provide stipends to members.

Needs Assessment

The planning council works with the recipient to identify service needs by conducting a needs assessment. This involves first finding out how many persons living with HIV (both HIV/non-AIDS and AIDS) are in the area through an ***epidemiologic profile***. Usually, an epidemiologist from the local or state health department provides this information. Next the council determines the needs of populations living with HIV and the capacity of the service system to meet those needs. This assessment of needs is done through surveys, interviews, key informant sessions, focus groups, or other methods.

The needs assessment seeks to determine:

- Service needs and barriers for people living with HIV who are in care
- The number, characteristics, and service needs and barriers of people living with HIV who know their HIV status and are not in care
- The estimated number, probable characteristics, and barriers to testing for individuals who are HIV-infected but unaware of their status
- The number and location of agencies providing HIV-related services in the EMA or TGA—a resource inventory of the local "system of care"
- Local agencies' capacity and capability to serve people living with HIV, including capacity development needs
- Service gaps for all people living with HIV and how they might be filled, including how RWHAP service providers need to work with other providers, like substance abuse treatment services and HIV prevention agencies.

The needs assessment must include direct input from people living with HIV. Needs assessment is usually a multi-year task, with different components updated each year.

The needs assessment should be a joint effort of the planning council and recipient, with the planning council having lead responsibility. It is sometimes implemented by an outside contractor under the supervision of the planning council. Usually the costs for needs assessment are part of the planning council support budget. Regardless of who does this work, it is important to obtain many perspectives, especially those of diverse groups of people living with HIV, and to consider the needs of people living with HIV in and out of care, including the need to identify those who do not know their status. Results should be carefully analyzed and compared with other data, such as information from the recipient on client characteristics and utilization of funded services. (See Appendix I for a description of the multiple data sources the planning council reviews in making its decisions.)

Priority Setting and Resource Allocations

The planning council uses needs assessment data as well as data from a number of other sources to set priorities and allocate resources. This means the members decide which services are most important to people living with HIV in the EMA or TGA (priority setting) and then agree on which service categories to fund and how much funding to provide (resource allocations). In setting priorities, the planning council should consider what service categories are needed to provide a comprehensive system of care for people living with HIV in the EMA or TGA, without regard to who funds those services.

The planning council must prioritize only service categories that are included in the RWHAP legislation as core medical services or support services. These are the same service categories that can be funded by RWHAP Part B and RWHAP Part C programs. (See page 22 for a list of service categories eligible for RWHAP Part A funding.)

After it sets priorities, the planning council must allocate resources, which means it decides how much RWHAP Part A funding will be used for each of these service priorities. For example, the planning council decides how much funding should go for outpatient/ambulatory health services, mental health services, etc. In allocating resources, planning councils need to focus on the legislative requirement that at least 75 percent of funds must go to cover medical services and not more than 25 percent to support services, unless the EMA or TGA has obtained a waiver of this requirement. Support services must contribute to positive medical outcomes for clients. Typically, the planning council makes resource allocations using three scenarios that assume unchanged, increased, and decreased funding in the coming program year.

The planning council makes decisions about priorities and resource allocations based on many factors, including:

- Needs assessment findings
- Information about the most successful and economical ways of providing services
- Actual service cost and utilization data (provided by the recipient)
- Priorities of people living with HIV who will use services
- Use of RWHAP Part A funds to work well with other services like HIV prevention and substance abuse treatment services, and within the changing healthcare landscape
- The amount of funds provided by other sources like Medicaid, Medicare, state and local government, and private funders—since RWHAP is the "payor of last resort" and should not pay for services that can be provided with other funding.

ELIGIBLE RWHAP PART A & PART B SERVICES

Core medical-related services, including:

1. AIDS Drug Assistance Program (ADAP) Treatments
2. Local AIDS Pharmaceutical Assistance Program (LPAP)
3. Early Intervention Services (EIS)
4. Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals
5. Home and Community-Based Health Services
6. Home Health Care
7. Hospice Services
8. Medical Case Management, including Treatment Adherence Services
9. Medical Nutrition Therapy
10. Mental Health Services
11. Oral Health Care
12. Outpatient/Ambulatory Health Services
13. Substance Abuse Outpatient Care

Support services, including:

1. Child Care Services
2. Emergency Financial Assistance
3. Food Bank/Home Delivered Meals
4. Health Education/Risk Reduction
5. Housing
6. Linguistic Services
7. Medical Transportation
8. Non-Medical Case Management Services
9. Other Professional Services [for example, Legal Services and Permanency Planning]
10. Outreach Services
11. Psychosocial Support Services
12. Referral for Healthcare and Support Services
13. Rehabilitation Services
14. Respite Care
15. Substance Abuse Services (residential)

The planning council also has the right to provide directives to the recipient on how best to meet the service priorities it has identified. It may direct the recipient to fund services in particular parts of the EMA or TGA (such as outlying counties), or to use specific service models. It may tell the recipient to take specific steps to increase access to care (for example, require that Medical Case Management providers have bilingual staff or that primary care facilities be open one evening or weekend a month). It may also require that services be appropriate for particular subpopulations—for example, it may specify funding for medical services that target young gay men of color. However, the planning council cannot pick specific agencies to fund, or make its directives so narrow that only one agency will qualify. The planning council may review sections of the Request for Proposals (RFP) the recipient develops for RWHAP Part A services, to ensure that directives are appropriately reflected, but it cannot be involved in any aspect of contractor selection (***procurement***) or in managing or monitoring RWHAP Part A contracts. These are recipient responsibilities.

The planning council allocates RWHAP Part A service funds only. The planning council's own budget is a part of the recipient's administrative budget (as described in the Planning Council Operations section above). The planning council does not participate in decisions about the use of administrative funds other than planning council support, or in the use of clinical quality management (CQM) funds. These decisions are made by the recipient.

Once the EMA or TGA receives its grant award for the upcoming year, the planning council usually needs to adjust its allocations to fit the exact amount of the grant. During the year, the recipient usually asks the planning council to consider and approve some ***reallocation*** of funds across service categories, to ensure that all RWHAP Part A funds are spent and that priority service needs are met, or establishes a standard mechanism to reallocate up to some agreed-upon percentage.

Integrated/Comprehensive Planning

The planning council works with the recipient in developing a written plan that defines short- and long-term goals and objectives for delivering HIV services and strengthening the system of care in the EMA or TGA. This is called a comprehensive plan in the legislation, but is now called the CDC and HRSA Integrated HIV Prevention and Care Plan, including the Statewide Coordinated Statement of Need (SCSN).

The legislation gives the planning council a lead role in the planning process, which must be carried out in close coordination with the recipient. The EMA or TGA may submit a joint plan with the state RWHAP Part B program. The plan is based, in part, on the results of the needs assessment and other information such as client utilization data. It is used to guide decisions about how to deliver HIV services for people living with HIV. The plan should be consistent with other existing local or state plans and with national goals to end the HIV epidemic.

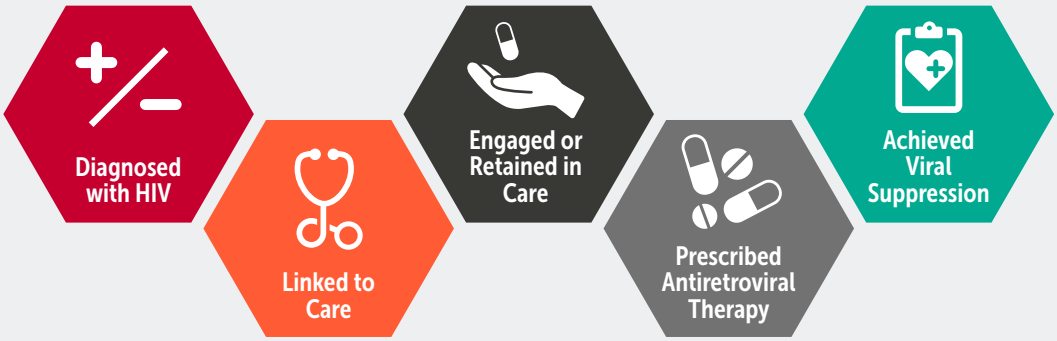
The plan should ensure attention to each stage of the ***HIV care continuum***, which measures the steps or stages of HIV medical care from diagnosis to linkage to care, retention in care and treatment, prescribing of HIV medications, and achieving the goal of viral suppression (a very low level of HIV in the body).

CDC and HRSA/HAB provide joint guidance on what the integrated HIV Prevention and Care Plan should include and when it needs to be completed. The first Integrated Prevention and Care Plan was submitted to CDC and HRSA on September 30, 2016 as a five-year plan covering the years 2017–2021. The plan should be reviewed, and where necessary updated, annually, and should be used as a roadmap for implementation of the jurisdiction's RWHAP Part A programs.

NATIONAL GOALS TO END THE HIV EPIDEMIC

- Reduce new HIV infections
- Increase access to care and improve health outcomes for people living with HIV
- Reduce HIV-related health disparities
- Achieve a more coordinated national response to HIV

HIV Care Continuum



Coordination with Other RWHAP Parts and Other Services

The planning council is responsible for ensuring that RWHAP Part A resource allocation decisions account for and are coordinated with other funds and services. The planning tasks described earlier (needs assessment, priority setting and resource allocation, integrated/comprehensive planning) require getting lots of input, including finding out what other sources of funding exist. This information helps avoid duplication in spending and reduce gaps in care. For example, the needs assessment should find out what HIV prevention and substance abuse treatment services already exist. Integrated/comprehensive planning helps the planning council consider the changing healthcare landscape and the implications for HIV services.

The ***Statewide Coordinated Statement of Need***, called the SCSN, is a way for all RWHAP activities in a state to work together to identify and address significant HIV care issues related to the needs of people living with HIV, and to use that information to maximize coordination, integration, and effective linkages across programs. Representatives of the planning council—and the recipient—must participate with other RWHAP Parts (Parts B, C, D and F) in the state to develop a written SCSN. The SCSN is a part of each state's Integrated HIV Prevention and Care Plan.

Assessment of the Efficiency of the Administrative Mechanism

The planning council is responsible for evaluating how rapidly RWHAP Part A funds are allocated and made available for care. This involves ensuring that funds are being contracted for quickly and through an open process, and that providers are being paid in a timely manner. It also means reviewing whether the funds are used to pay only for services that were identified as priorities by the planning council and whether the amounts contracted for each service category are the same as the planning council's allocations. The results of this ***assessment of the efficiency of the administrative mechanism*** are shared with the recipient, who develops a response including corrective actions if needed. Both the results of the assessment and the recipient response are summarized in the RWHAP Part A funding application for the following year.

Development of Service Standards

Establishing service standards is a shared responsibility of the recipient and the planning council. While it is ultimately the responsibility of the recipient to ensure that service standards are in place, the planning council typically takes the lead in developing service standards for funded service categories.[6] ***Service standards*** guide providers in implementing funded services. They typically address the elements and expectations for service delivery, such as service components, intake and eligibility, personnel qualifications, and client rights and responsibilities. The service standards set the minimum requirements of a service and serve as a base on which the recipient's clinical quality management (CQM) program is built. Developing service standards is usually a joint activity; the planning council works with the recipient, providers, consumers, and experts on particular service categories. These service standards must be consistent with HHS guidelines on HIV care and treatment as well as HRSA/HAB standards and performance measures, including the National Monitoring Standards.

Evaluation of Services

The planning council may choose to evaluate how well services funded by RWHAP Part A are meeting identified community needs, or it can pay someone else to do such an evaluation. The Part A recipient's CQM program can provide information on clinical outcomes that informs the planning council about the impact of services. The recipient may include planning council members on its CQM committee. In addition, most planning councils regularly review EMA/TGA performance along the HIV care continuum. The planning council uses evaluation findings in considering ways to improve the system of care, including changing service priorities and allocations and developing directives.

To carry out the array of planning tasks described above the planning council meets regularly throughout the year, as a whole and in committees. See Appendix II for a sample calendar describing the approximate timing of various planning council activities by months of the year.

6 Service Standards: Guidance for Ryan White HIV/AIDS Program Grantees/ Planning Bodies. 2014. Available at www.targethiv.org/servicestandards

CEO and Recipient Duties

CEO Duties Related to the Planning Council

The CEO has three important duties related to the planning council:

- **Establish the Planning Council:** The CEO must establish and maintain the planning council—or, in the case of a TGA, some other process to obtain community input, particularly from people living with HIV. This includes making sure that the planning council membership meets requirements related to representation, reflectiveness, and participation of unaffiliated consumers. The CEO should ensure that these requirements are specified in planning council bylaws.
- **Choose Planning Council Members:** The CEO establishes the first planning council. After that, the council itself is responsible for identifying and screening candidates and forwarding their names, the membership categories they will fill, and other requested information to the CEO so they can be considered for appointment. The CEO retains sole responsibility for appointment and removal of planning council members. If some nominees submitted by the planning council are not appointed, the CEO informs the planning council, and it provides additional nominees.
- **Review and Approve Bylaws and Other Processes:** The CEO establishes the planning council and thus has the authority to review and approve planning council bylaws and other policies. Often, the planning council is considered an official board or commission of the city or county. Its bylaws and procedures must fit the policies established for these bodies as well as meeting RWHAP legislative requirements.

Recipient Duties

The recipient has several planning duties that are shared with the planning council. These include assisting the planning council with needs assessment and integrated/comprehensive planning and providing information the planning council needs to carry out its priority setting and resource allocation responsibilities. It also shares responsibility for coordination with other RWHAP activities and services. In addition, the recipient has administrative duties, which means that it is responsible for making sure that RWHAP Part A funds are fairly and correctly managed and used. The main duties of the recipient are described below.

ADDITIONAL RECIPIENT ADMINISTRATIVE DUTIES

- ☐ Establish intergovernmental agreements (IGAs) with other cities/counties in the EMA or TGA
- ☐ Establish grievance procedures to address funding-related decision making
- ☐ Ensure delivery of services to women, infants, children, and youth with HIV
- ☐ Ensure that RWHAP funds are used to fill gaps and do not pay for care that can be supported with other existing funds
- ☐ Ensure that services are available and accessible to eligible clients
- ☐ Control recipient and provider administrative costs
- ☐ Prepare and submit the annual RWHAP Part A funding application
- ☐ Meet HRSA/HAB reporting requirements

Appendix III briefly describes these duties.

RECIPIENT ADMINISTRATIVE DUTIES

Below are the major RWHAP Part A recipient duties designed to make sure that funds are used fairly and appropriately, in a way that maximizes linkage of people living with HIV to care, retention in care, and positive medical outcomes. Additional duties are listed in the box and described in Appendix III.

Procurement of Services

The recipient is responsible for identifying and selecting qualified service providers for delivering RWHAP Part A services. The recipient must award service funds to eligible providers (***subrecipients***) based on a fair and equitable system, usually through a competitive Request for Proposals (RFP) process.

In contracting for services, the recipient must distribute RWHAP Part A funds according to the priority setting and resource allocation decisions of the planning council. The recipient can only spend the amount of money that the planning council decides should be used for each funded service category. In addition, the recipient must follow planning council directives about "how best to meet" priority needs.

The planning council has no say about how the recipient uses funds for its own administrative expenses.

Contract Monitoring

Once subrecipient contracts have been awarded, the recipient must manage them and regularly monitor subrecipients. The recipient must make sure that the providers who receive RWHAP Part A funds use the money according to the terms of the subrecipient contract they signed with the recipient and meet RWHAP Part A National Monitoring Standards and other federal requirements established by HRSA/HAB. The recipient monitors subrecipients to determine how quickly they spend RWHAP Part A funds, and if they are providing the contracted services, providing services only to eligible clients, using funds only as approved, and meeting reporting and other requirements. Contract monitoring is solely a recipient responsibility.

The planning council receives monitoring results only by service category, not by subrecipient.

The recipient must keep track of how rapidly RWHAP Part A money is, or isn't, being spent. If funds are not being spent in a timely fashion, there are two options:

1. The recipient may reallocate the funds to another provider within the same service category, or
2. The planning council may agree to reallocate funds to a different prioritized service category.

The recipient and the planning council must share information and work together to ensure that any changes are in agreement with the priorities and allocations established by the planning council.

Clinical Quality Management Activities and Evaluation of Performance and Outcomes

The recipient must establish a ***clinical quality management (CQM)*** program, designed to improve patient care, health outcomes, and patient satisfaction. Components include infrastructure, performance measurement, and quality improvement.

- An ideal ***infrastructure*** includes leadership, dedicated staffing and resources, a quality management plan that covers all funded medical and support services, a CQM committee, consumer and stakeholder involvement, and assessment of the CQM program.
- ***Performance measurement*** is the process of collecting, analyzing, and reporting data regarding patient care, health outcomes, and patient satisfaction with the services they receive. Recipients select a portfolio of performance measures based on funded services, local HIV epidemiology, the identified needs of PLWH, and the national goals to end the epidemic.
- Based on performance measurement results, recipients work with subrecipients in the development and implementation of ***quality improvement*** activities to make changes to the program to improve services.

Subrecipients must be actively involved in CQM activities. Recipients are expected to ensure that subrecipients have the capacity to contribute to the CQM program, have the resources to conduct CQM activities, and implement a CQM program in their organization.

Recipients can use up to 5 percent of the award or $3 million (whichever is less) to conduct CQM programs. The recipient shares with the planning council the results of its CQM activities. The planning council receives information by service category, but not about individual providers/subrecipients. These CQM data help the planning council in future cycles of priority setting and resource allocation.

QUALITY MANAGEMENT, QUALITY ASSURANCE, AND QUALITY IMPROVEMENT

Clinical Quality Management is the coordination of activities aimed at improving patient care, health outcomes, and patient satisfaction, as described in this section.

Quality Assurance refers to activities aimed at ensuring compliance with minimum quality standards. Quality assurance activities include the process of looking back to measure compliance with standards (e.g., HHS guidelines, professional guidelines, service standards). Site visits and chart reviews are examples of commonly used quality assurance activities.

Quality Improvement is a part of CQM. It uses CQM performance data as well as data collected as part of quality assurance processes to strengthen patient care, health outcomes, and patient satisfaction.

As part of, or along with, CQM, the recipient often evaluates clinical outcomes. These outcomes are often measured using the HIV care continuum, with its focus on linkage to care, retention in care, use of antiretroviral therapy, and viral suppression. These results may be reviewed for all people living with HIV in the service area, for all RWHAP clients, and for key client subpopulations. Subpopulations may be defined by characteristics such as race/ethnicity, gender, age, place of residence, and/or risk factor. This helps the planning council in future decision making.

RECIPIENT DUTIES SHARED WITH THE PLANNING COUNCIL

Support for Planning Council Operations

The recipient must cooperate with the planning council by negotiating and managing its budget, providing staff expertise to support committees, and providing information the planning council needs to carry out its responsibilities. This includes data on client characteristics, service utilization, and service costs, as well as information for assessing the efficiency of the administrative mechanism.

Both the planning council and the recipient have the responsibility to support participation of people living with HIV on the planning council, although primary responsibility lies with the planning council. Examples include reimbursing expenses of consumer members such as travel and child care costs. The planning council establishes reimbursement policies; the recipient helps to ensure timely payment of reimbursements. The recipient assists in training planning council members by explaining recipient roles and helping planning council members understand information provided by the recipient such as data on service costs and client utilization of funded services.

Needs Assessment

The recipient works with the planning council to assess the needs of communities affected by HIV. It usually arranges for an epidemiologic profile to be provided by its surveillance unit or by the state's surveillance unit, and it ensures that funded providers cooperate with needs assessment efforts such as surveys and focus groups of people living with HIV and providers.

Integrated/Comprehensive Planning

The recipient and planning council work together to develop, review, and periodically update the CDC and HRSA Integrated HIV Prevention and Care Plan for the organization and delivery of HIV services. The recipient helps develop goals and objectives, and works with the planning council to ensure a workable joint plan for implementing them. Usually the recipient plays a key role in arranging to collect performance and outcomes data to evaluate progress towards the goals and objectives of the plan. Both recipient and planning council participate in reviewing and updating the plan.

Coordination with Other RWHAP Parts and Other Services

The recipient and planning council work together to make sure that RWHAP Part A funds are coordinated with other services and funders. This coordination occurs partly through planning, including needs assessment and the Statewide Coordinated Statement of Need. Throughout the year, the recipient helps keep the planning council informed about changes in HIV-related prevention and care services and funding, as well as the evolving healthcare landscape.

RECIPIENT PLANNING DUTIES SHARED WITH THE PLANNING COUNCIL

- ☐ Needs assessment
- ☐ Integrated/comprehensive planning
- ☐ Development of service standards
- ☐ Coordination with other RWHAP activities and other services, including:
  - – Participation in the Statewide Coordinated Statement of Need (SCSN)
  - – Ensuring that use of RWHAP funds is coordinated with other funding sources and with other healthcare systems and services

Technical Assistance

The RWHAP Part A recipient and the planning council/planning body may request technical assistance from HRSA to help them develop the knowledge and skills needed to meet the responsibilities outlined in this Primer. Examples of the kinds of technical assistance that HRSA can provide include: supporting participation of people living with HIV in RWHAP planning, training the planning council on using data for decision making, helping in the design of a needs assessment, assisting the planning council to refine committee structures and operations, and providing training to help the planning council and recipient understand their roles and work well together. HRSA can provide information describing what other EMAs or TGAs have done, offer model training materials, or provide experts to work with the planning council and recipient either long distance or on-site.

RWHAP Part A recipients and planning councils may seek and request technical assistance through the following channels:

- **HRSA/HAB Project Officer:** HRSA federal Project Officers are the first point-of-contact for RWHAP recipients in accessing technical assistance. Requests for technical assistance for the recipient or the planning council must be made in writing by the recipient to the HRSA/HAB Project Officer. For more information, visit the HAB Web Site at www.hab.hrsa.gov
- **TargetHIV.org** The TargetHIV website is the central source and "one-stop shop" for finding technical assistance and training resources for the Ryan White HIV/AIDS Program. Among the website's key features are a resource library, a calendar of technical assistance and training events, contact information for RWHAP recipients, a Help Desk, and information about specific programs and services including tools and tips. Users can search for information on a particular topic or directed at a particular audience. Visit the TargetHIV website at www.targetHIV.org
- **Planning CHATT:** The *Community HIV/AIDS TA and Training for Planning* project (*Planning CHATT*) builds the capacity of RWHAP Part A planning councils and planning bodies across the U.S. to meet their legislative requirements, strengthen consumer engagement, and increase the involvement of community providers in HIV service delivery planning. The Planning CHATT project provides training and technical assistance to support the work of planning council/planning body members, staff, and RWHAP Part A recipients. Find Planning CHATT on the TargetHIV website: www.targetHIV.org/planning-chatt

References and Resources for Further Information

Descriptions of Ryan White HIV/AIDS Treatment Extension Act of 2009

Materials available on the HRSA/HAB website describing the Ryan White HIV/AIDS program (RWHAP), including each of its Parts:

Overview

- About the Ryan White HIV/AIDS Program
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/about-ryan-white-hivaids-program

RWHAP Fact Sheets

Fact sheets on all RWHAP Parts

www.hab.hrsa.gov/publications/hivaids-bureau-fact-sheets

- Part A: Eligible Metropolitan Areas and Transitional Grant Areas
- Part B: States and U.S. Territories
- Part B: AIDS Drug Assistance Program
- Part C: Early Intervention Services and Capacity Development
- Part D: Women, Infants, Children, and Youth
- Part F: Special Projects of National Significance
- Part F: AIDS Education and Training Centers Program
- Part F: Dental Programs

RWHAP Part A

- RWHAP Part A: Grants to Eligible Metropolitan and Transitional Areas, including list of current Eligible Metropolitan Areas (EMAs) and Transitional Grant Areas (TGAs)
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-a-grants-emerging-metro-transitional-areas

RWHAP Part B

- RWHAP Part B: Grants to States & Territories
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-b-grants-states-territories
- RWHAP Part B: AIDS Drug Assistance Program
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-b-aids-drug-assistance-program

RWHAP Part C

- RWHAP Part C: Early Intervention Services and Capacity Development Program Grants
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-c-early-intervention-services-and-capacity-development-program-grants

RWHAP Part D

- RWHAP Part D: Services for Women, Infants, Children, and Youth
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-d-services-women-infants-children-and-youth

RWHAP Part F

- Special Projects of National Significance
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-f-special-projects-national-significance-spns-program
- AIDS Education and Training Centers
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-f-aids-education-and-training-centers-aetc-program
- Dental Programs
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-f-dental-programs
- Minority AIDS Initiative
  www.hab.hrsa.gov/about-ryan-white-hivaids-program/part-f-minority-aids-initiative

RWHAP Recipients

- Recipient lists and addresses by RWHAP Part, and list of RWHAP Part A planning councils/planning bodies
  www.targethiv.org/content/grantees-part

Planning Council Legislative Requirements

Current legislation, which is a part of the Public Health Service Act

- Ryan White HIV/AIDS Treatment Extension Act of 2009
  www.hab.hrsa.gov/sites/default/files/hab/About/RyanWhite/legislationtitlexxvi.pdf
- Title XXVI, HIV Health Care Services Program, of the Public Health Service Act
  www.legcounsel.house.gov/Comps/PHSA-merged.pdf

Service Standards

- Service Standards: Guidance for Ryan White HIV/AIDS Program Grantees/Planning Bodies. December 2, 2014
  www.targetHIV.org/ServiceStandards

The Planning Process

Strengthening the Healthcare Delivery System through Planning: a three-part planning institute at the 2016 National Ryan White Conference on HIV Care and Treatment

www.targetHIV.org/planning-CHATT/planning-institute-2016

- Planning Bodies 101
- Planning Infrastructures 201
- Data-Driven Decision Making 301

Planning Council Roles, Responsibilities, and Operations

RYAN WHITE HIV/AIDS PROGRAM PART A MANUAL, REVISED 2013

A primary source of information about requirements, expectations, and suggested practices for planning council operations and for implementation of legislative responsibilities. Chapters identified below address legislative duties and some key aspects of planning council operations.

www.hab.hrsa.gov/sites/default/files/hab/Global/happartamanual2013.pdf

Implementing Legislative Responsibilities

- Planning Council Responsibilities: Section X. Chapter 3
- Needs Assessment: Section XI. Chapter 3
- Priority Setting and Resource Allocations: Section XI. Chapter 4
- Integrated/Comprehensive Plan: Section XI. Chapter 5
- Effectiveness of Funded Services to Meet Identified Need: Section X. Chapter 9
- Outcomes Evaluation: Section X. Chapter 10

Planning Council Operations

Membership

- Planning Council Membership: Section X. Chapter 4
- Planning Council Nominations: Section X. Chapter 5
- Member Involvement and Retention: Section XI. Chapter 8

People living with HIV/Consumer Participation

- Section X. Chapter 6
- Section XI. Chapter 9

Policies and Procedures

- Grievance Procedures: Section X. Chapter 7
- Conflict of Interest: Section X. Chapter 8

Federal Regulations and Guidelines

National Monitoring Standards (NMS)

See Monitoring Standards Guidance under www.hab.hrsa.gov/program-grants-management/ryan-white-hivaids-program-recipient-resources

- Frequently Asked Questions www.hab.hrsa.gov/sites/default/files/hab/Global/programmonitoringfaq.pdf
- Universal Monitoring Standards www.hab.hrsa.gov/sites/default/files/hab/Global/universalmonitoringpartab.pdf
- RWHAP Part A Fiscal Monitoring Standards www.hab.hrsa.gov/sites/default/files/hab/Global/fiscalmonitoringparta.pdf
- RWHAP Part A Program Monitoring Standards www.hab.hrsa.gov/sites/default/files/hab/Global/programmonitoringparta.pdf

Policy Clarification Notices (PCNs) and Program Letters

www.hab.hrsa.gov/program-grants-management/policy-notices-and-program-letters

Among the PCNs and program letters most important to Planning Councils are the following:

- *Transitional Grant Areas and Planning Councils Moving Forward, Program Letter,* December 4, 2013. Clarifies expectations and recommendations around the continued maintenance of planning councils by Transitional Grant Areas (TGAs) that were formerly Eligible Metropolitan Areas (EMAs) after Fiscal Year 2013.
- *Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds* Policy Clarification Notice (PCN) #16-02, Revised December 5, 2016 and effective for awards made after October 1, 2016. Identifies eligible individuals, describes allowable service categories for RWHAP, and provides program guidance for implementation.
- *Clinical Quality Management,* Policy Clarification Notice (PCN) #15-02, undated. Clarifies HRSA RWHAP expectations for clinical quality management (CQM) programs.

Uniform Guidance

- For all federal awards, *OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Guidance), 2 CFR [Code of Federal Regulations] Part 200.* The Guidance will supersede and streamline requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102 and A-133 and the guidance in Circular A-50 on Single Audit Act follow-up.
  www.bit.ly/2EJqWwt
- For HHS Programs: *45 CFR Part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards*
  www.bit.ly/2GX2Cc9

RWHAP Part A Application Requirements

Ryan White HIV/AIDS Program Part A, HIV Emergency Relief Grant Program, Notice of Funding Opportunity (NOFO) No. HRSA-18-066

www.targetHIV.org/library/funding-opportunity-rwhap-fy18-part-hrsa-18-066

Program Use and Impact

- *Annual Client-Level Data Report: Ryan White HIV/AIDS Program Services Report (RSR) 2015.* Health Resources and Services Administration, December 2016.
  www.hab.hrsa.gov/sites/default/files/hab/data/datareports/2015rwhapdatareport.pdf

Appendix I: Types of Data Reviewed by Planning Councils for Priority Setting and Resource Allocation

Epidemiologic profile: A description of the HIV epidemic in the EMA or TGA, usually prepared annually by local or state HIV surveillance staff, for use in both HIV prevention and HIV care planning. It usually describes characteristics of the general population, persons newly diagnosed with HIV infection, persons living with HIV disease, and persons at risk for HIV. Data help planning councils identify trends in the epidemic that will affect service needs.

Needs assessment data: Information about the number, characteristics, and service needs and barriers of people living with HIV, both in and out of care; current provider resources available to meet those needs; and service gaps. These data help the planning council improve service access and quality, overall and for specific subpopulations.

Service expenditure and cost data: Information provided by the recipient showing how much money is spent for each funded service category and what it costs to provide one "unit" of service or to serve one client for a year. Planning councils use this information in funding decisions and estimating the costs of serving additional clients.

Client characteristics and service utilization data: Data on the total number and characteristics of local RWHAP clients, including the number and characteristics of RWHAP Part A clients served in each service category. Data usually come from the annual Ryan White Services Report (RSR). Data help planning councils understand the demand for specific services and identify subpopulations facing barriers to access.

HRSA performance measures and clinical outcomes data: Data used to monitor and improve the quality of care across the EMA/TGA and in individual provider organizations, usually based on the percent of clients that meet the goal or service standard. Measures may relate to a process (such as frequency of medical visits or development of a case management care plan) or clinical outcome (such as viral suppression). Data help planning councils make funding decisions and agree on changes in service standards or models of care.

Clinical Quality Management (CQM) data: Information on patient care, health outcomes, and patient satisfaction. Performance measures are gathered through CQM processes. Then subrecipients work together on structured quality improvement projects that make changes to address identified weaknesses. CQM data help planning councils decide whether program or funding changes are needed to improve service quality and outcomes.

Testing/EIIHA data: Data on the number of people who receive HIV tests, the number and percent testing positive and their characteristics, and the number referred to needed services. HRSA/HAB requires RWHAP Part A programs to implement a strategy for the Early Identification of Individuals with HIV/AIDS (EIIHA). This includes identifying key target populations, locating individuals with HIV who do not know their HIV status, informing them of their status through testing, and helping link them to medical care and support services.

Unmet Need data: An estimate of the number of people living with HIV in the service area who know they are HIV-positive but are not receiving HIV-related medical care. May also include an assessment of the characteristics of individuals with unmet need and their service barriers and gaps. Planning councils use this information to make decisions about use of funds to find people with unmet need and link or relink them to care.

HIV care continuum data: Data that outline the steps or stages of HIV care that people living with HIV go through, and the number and proportion of individuals at each stage in the EMA or TGA. The continuum may begin with the estimated total number of people living with HIV (including those unaware of their status) or with the number diagnosed and living with HIV. Typical steps include diagnosis, linkage to care, retention in care (based on doctor visits and/or laboratory tests), treatment with antiretroviral therapy, and viral suppression (a very low level of HIV in the body). Planning councils use this information to improve services all along the continuum, often based on HIV care continuum data for specific RWHAP Part A subpopulations (for example, young gay men of color or African American women).

Appendix II: Sample Planning Council/ RWHAP Part A Program Calendar

Most planning councils operate on a RWHAP Part A program year, which runs from March through February. The chart below provides a "typical" annual calendar, though of course planning councils vary in their timing of key activities. Recipient activity is included in the chart, since some tasks, especially priority setting and resource allocations (PSRA), need to link to recipient deadlines, especially submission of the RWHAP Part A application. The application is usually due in September. The chart does not include regular committee meetings, but most planning councils have them monthly except in December. Most planning councils also have a retreat and/or some training during the year, but there is no set time for them.

MONTH	PLANNING COUNCIL ACTIVITY	RECIPIENT ACTIVITY
January	• Beginning of member terms [most frequent date] • Orientation for new members • Needs assessment	• Final reallocations • Review of RWHAP Part A competitive applications and selection of subrecipients for program year beginning March 1
February	• Election of officers [date varies] • Needs assessment (continued) • Committee development/approval of work plans for coming year	• Receipt of Notice of Award (NOA) for program year starting March 1—often a partial award
March	• Final allocations based on actual award amount [if full award is received; happens later if a partial award is received because there is not yet a final federal HHS budget] • Needs assessment (continued) • Review of progress on Integrated Plan	• Initial closeout of prior program year • Submission of Ryan White Services Report (RSR) • Review/preparation of response to conditions of award • Contracting with providers
April	• Town halls for input to PSRA • Obtain and review/integration of data from various sources • Directives development • Updating of Integrated Plan work plan as needed, with assignments to committees [process more complicated if joint plan was developed with state]	• Review of performance and outcome measures for prior year • Input to Integrated Plan update • Completion or obtaining of epi profile/ trends report
May	• Identification of any data problems or gaps • Assessment of the efficiency of the administrative mechan ism (AAM) begins • Data presentation	• Final closeout of prior year • Submission of Annual Progress Report for prior year • Submission of Program Expenditure Report for prior year
June	• Directives development (continued) • Priority setting and resource allocation (PRSA) begins	• Review of first quarter expenditures • Subrecipient monitoring [ongoing]

MONTH	PLANNING COUNCIL ACTIVITY	RECIPIENT ACTIVITY
July	• PSRA work sessions and final approval • Presentation/adoption of directives • Submission of PSRA results to recipient	• Submission of Annual Federal Financial Report • Planning for submission of RWHAP Part A application
August	• Presentation/discussion of AAM report • PC sections of RWHAP Part A application • Negotiation of PC budget amount with recipient • Development of PC budget • Reallocation of funds if needed based on expenditures	• Preparation of RWHAP Part A application • Negotiation of PC budget amount • Recommendations for reallocation of funds if needed based on expenditures • Response to AAM report
September	• Review of draft application • Preparation of PC letter to accompany application, signed by Chair/Co-Chairs	• Completion and submission of RWHAP Part A application
October	• Review of service standards	• Issuance of RFP for RWHAP Part A services (selected services each year; often a 3-year cycle)
November	• Rapid reallocations • Planning for needs assessment	• Rapid reallocations • Receipt of provider applications in response to RFP for RWHAP Part A services
December	• Planning for new program year, including committee work plans	• Estimated Unobligated Balance (UOB) and estimated carryover request

Appendix III: Additional Recipient Administrative Duties

Establish Intergovernmental Agreements (IGAs): The recipient must make sure that RWHAP Part A funds reach all communities in the EMA or TGA where need exists. Thus, it must establish formal, written agreements with cities and counties within the EMA or TGA that provide HIV-related services and also account for at least 10 percent of the EMA's or TGA's reported AIDS cases. This agreement is called an Intergovernmental Agreement (IGA.) An IGA should describe how RWHAP Part A funds will be distributed and managed.

Establish Grievance Procedures: The recipient must develop grievance procedures to handle complaints about funding, such as the process by which contractors (subrecipients) are chosen. Like the planning council's grievance procedures, they must specify who is allowed to file a grievance, types of grievances covered, and how grievances will be handled.

Ensure Services to Women, Infants, Children, and Youth with HIV/AIDS: The recipient must assure that the percentage of money spent on serving women, infants, children, and youth with HIV is at least in proportion to each group's percent of the total number of cases of HIV disease in the EMA or TGA. An exception is allowed when the recipient can show that their needs are met through other programs like Medicaid, Medicare, or RWHAP Part D. The planning council must consider this requirement when setting priorities and allocating resources.

Ensure that RWHAP Funds are Used to Fill Gaps: RWHAP Part A recipients must ensure that RWHAP Part A funds do not pay for services that are funded by other sources and are not used to replace local spending on HIV care. The legislation requires that RWHAP be the "payor of last resort." This means, for example, that the recipient must require subrecipients such as clinics to make sure clients are not eligible for Medicaid or some other source of funding before they use RWHAP Part A funds to pay for their care. This requirement makes sure that RWHAP funds are used to assist people living with HIV who do not have any other source of payment for the services they need.

Ensure Availability and Accessibility of Services to Eligible Clients: Recipients must ensure that RWHAP Part A services are available regardless of an individual's health condition or ability to pay and in settings that are accessible to low-income people living with HIV.

Outreach must be provided to inform people of the availability of services and to link them to care. One of the most important

priorities of the RWHAP legislation is to identify people who are unaware of their HIV status and need to be tested, help them determine their status, and refer and link people newly diagnosed with HIV to care. (This process is called Early Identification of Individuals with HIV and AIDS, or EIIHA.) Another priority is to find people who know their HIV status but are not receiving regular HIV-related medical care (people with "unmet need") and help them to enter and stay in care.

Subrecipients receiving RWHAP Part A funds must be required to work with other providers so that people living with HIV have access to services. This network of providers is called a "continuum of care" or "system of care." As part of this, providers should prioritize getting people into care as soon after diagnosis as possible by maintaining what the legislation calls "appropriate relationships with entities that constitute key points of access to the health care system." Key points of access include, for example, testing sites, emergency rooms, substance abuse treatment programs, and sexually transmitted disease clinics. Processes must be in place to ensure that people newly diagnosed with HIV are immediately referred and linked to care and helped to remain in care.

Control Administrative and Quality Management Costs: The recipient may use up to 10 percent of the RWHAP Part A grant for managing the RWHAP Part A program and for other administrative activities, including planning council support, and up to 5 percent of the grant for Clinical Quality Management. Examples of administrative duties include writing applications, preparing reports, and activities related to procurement and contract monitoring (including reviewing provider applications, negotiating and monitoring contracts, and paying subrecipients). The recipient must control those costs, and also ensure that local subrecipients, contractors, and other entities, collectively, spend no more than 10 percent of total RWHAP Part A service funds for administrative expenses.

Prepare and Submit the RWHAP Part A Application: The recipient is responsible for preparing and submitting a RWHAP Part A application to the federal government each year. Although this is the recipient's responsibility, the planning council should participate in the preparation of this application because the application requires information about the planning council and how it works, as well as the planning council's priorities and proposed resource allocations for the coming year. The Chair or Co-Chairs of the planning council must certify in writing to HRSA that the priorities in the application are the ones developed by the planning council. They must also verify that the recipient spent funds in the past year according to the planning council's allocation decisions and indicate how the planning council established priorities for the upcoming program year.

Meet HRSA/HAB Reporting Requirements: As a federal grantee, the recipient is required to meet a variety of HRSA/HAB requirements, including submission of data, programmatic, and fiscal reports. Some reports include input from the planning council/planning body or reflect its decisions. For example, the Program Terms Report and the Program Submission are due 90 days after the final Notice of Award. The Program Terms Report includes information such as a consolidated list of contractors (subrecipients). Among the information required for the Program Submission are a signed endorsement letter from the planning council Chair or Co-Chairs endorsing the priorities and allocations submitted by the recipient, and a planning council membership roster and information on member reflectiveness. The recipient also submits an Estimated Unobligated Balance (UOB) and an estimate of anticipated carryover funding to HRSA by December 31, a RWHAP Part A and Minority AIDS Initiative Final Expenditure Report and an Annual Progress Report 90 days after the end of the program period, and a Carryover Request for any unspent funds within 30 days after the Final Expenditure Report.

All recipients under RWHAP Parts A-D, along with their contracted subrecipients, must also submit an annual client-level data report called the Ryan White Program Services Report (RSR) that covers the calendar year. The RSR provides data on the characteristics of RWHAP recipients, providers, and clients served. RSR data document program performance and accountability. RSR data on client characteristics and service utilization are used by the planning council and recipient in decision making about use of funds and the system of care. Because it provides data from all recipients, the RSR provides information used by HRSA/HAB for monitoring client health outcomes, assessing organizational capacity and service utilization, monitoring the use of RWHAP to address HIV in the U.S., and tracking progress toward the national goals to end the epidemic.

PLANNING
CHATT

Community HIV/AIDS
Technical Assistance & Training

Ryan White Planning Council of the Dallas Area:

Operations Manual

Version: 2022.1

Manual developed by:
RWPC Office of Support

DCHHS
Safe families, healthy lives
Dallas County Health and Human Services

Ryan White Part A

The purpose of the Ryan White Planning Council Operations Manual is to provide information about the structure, roles, and responsibilities of the Ryan White Planning Council of the Dallas Area. It is intended to serve as a resource and guide. It is important to note that this Manual is a “living” document; as updates are made to bylaws and/or procedures, the Manual will be updated accordingly.

Special appreciation is extended to Glenda Blackmon-Johnson, RWPC Program Manager, RWPC Planner Jasmine Sanders, and RWPC Coordinator, Logane Brazile for lending their knowledge and edits to the Manual.

- Office of Support

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The following resources were used in the development of this manual:

1. Health Resources & Services Administration. *Ryan White Program Legislation*. Accessed from: http://hab.hrsa.gov/abouthab/legislation.html.

2. Ryan White Planning Council Dallas. *Ryan White Part A Planning Council Website*. Access from: https://www.dallascounty.org/departments/rwpc/

3. Ryan White Planning Council Dallas. Dallas EMA *Ryan White – Part A Planning Council New Member Orientation Manual.* Access from: https://www.dallascounty.org/departments/rwpc/membership.php; https://www.dallascounty.org/Assets/uploads/docs/rwpc/RWPC-&-Leadership-Orientation-Training%202022_Final_1-24-22.pdf

4. Ryan White Planning Council Dallas. Dallas EMA Ryan White Part Bylaws. Access from: https://www.dallascounty.org/Assets/uploads/docs/rwpc/2018_RWPCBylaws_Final.pdf

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Section I:
Ryan White Program

Background

The Ryan White HIV/AIDS Program is the largest federal program focused exclusively on providing HIV care and treatment services to people living with HIV. The program provides a comprehensive system of care for people living with HIV who are uninsured or underinsured.

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act was first authorized by the United States Congress in 1990 and then re-authorized in 1996, 2000, 2006 and 2009. The legislation provides federal funds for the treatment of HIV/AIDS in the medically uninsured or underinsured population. The legislation consists of five parts that serve different populations and regions based on HIV incidence rates.

Overview of Program Parts

Ryan White HIV/AIDS Program legislation is divided into five parts: A, B, C, D, and F. Dividing the legislation into parts provides a flexible structure to address HIV care needs on the basis of:

- different geographic areas.
- varying populations hardest hit by the HIV epidemic.
- types of HIV-related services; and
- service system needs.

Ryan White Part A

Ryan White Part A provides funding to locations that are most severely affected by the HIV/AIDS epidemic. These locations are called Eligible Metropolitan areas (EMAs). Grants are awarded to the CEO of the city or county that provides health care services to the greatest number of people living with HIV/AIDS in the EMA.

Due to rising numbers of new infections, Dallas was identified in 2013 as an eligible recipient for Part A of the Ryan White Treatment Extension Act of 2009. Dallas County Health and Human Services is the recipient of Part A funding for the Dallas Eligible Metropolitan Area (EMA) comprised of Collin, Dallas, Denton, Ellis, Henderson, Hunt, Kaufman, and Rockwall Counties and HIV Services Delivery Area (HSDA) and the Sherman-Denison HSDA. This service area is comprised of Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Henderson, Hunt, Kaufman, Navarro, and Rockwall Counties.

Ryan White Part B

Ryan White Part B provides funding to States and Territories to improve the quality, availability, and organization of HIV healthcare and support services. All 50 states, the District of Columbia, Puerto Rico, Guam, the US Virgin Islands, and the six US Pacific Territories/Associated Jurisdictions are eligible for Part B funding. In Dallas, the Texas Department of State Health Services is the recipient of Part B funding.

Ryan White Part C
Ryan White Part C provides funding to local community-based organizations to support outpatient HIV early intervention services and ambulatory care.

Ryan White Part D
Ryan White Part D provides funding to local community-based organizations to support outpatient ambulatory and family-centered primary medical care for women, infants, children, and youth living with HIV. Part D funds both family-centered primary and specialty medical care and support services. In the state of Texas, there are currently no agencies funded under Part D.

Ryan White Part F
Ryan White Part F (Special Projects of National Significance Program) provides funding to public and private non-profit organizations that serve people living with HIV for the development of innovative models of HIV care and treatment in order to quickly respond to emerging needs of clients served by Ryan White HIV/AIDS Programs.

Payer of Last Resort

The Ryan White HIV/AIDS Program is the “payer of last resort”. This means all funded service providers, regardless of which Part they are funded under, must make reasonable efforts to identify and secure other funding sources outside of Ryan White legislation funds, whenever possible. Funded service providers are responsible for verifying an individual’s eligibility by investigating and eliminating other potential billing sources for each service, including public or private insurance programs.

Section II:
Ryan White Part A

Ryan White Part A

Ryan White Part A provides funding to locations (Eligible Metropolitan areas {EMAs} and Transitional Grant Areas {TGAs}) most severely affected by the HIV/AIDS epidemic. Grants are awarded to the Chief Executive Officer (CEO) of the city/county that provides health care services to the greatest number of people living with HIV/AIDS in the EMA or TGA. Funding for the Dallas EMA is awarded to the County Judge as the CEO of the city, who then directs Dallas County Health and Human Services to administer the grant.

Part A Eligibility Requirements
Ryan White Part A funded services are available to any individual who meets the following guidelines:

- diagnosis of HIV/AIDS.
- resides within the Dallas EMA (Collin, Dallas, Denton, Ellis, Henderson, Hunt, and Kaufman Counties)
- low-income as defined as less than 300% of federal poverty level (FPL), (or with Texas Department of State Health Services exception, less than 500% of FPL).

Ryan White services are available to meet unmet medical and support service needs, as payer of last resort.

Part A Services
Part A services must be used to provide medical and support services to people living with HIV. Dallas County Health and Human Services funds the following Ryan White service categories:

- ***Core Medical Services:***
  - *Outpatient/Ambulatory Medical Care*: provision of professional diagnostic and therapeutic services provided directly to a client by a licensed healthcare provider in an outpatient medical setting. ***
  - Oral Health Care
    Diagnostic, preventive, and therapeutic dental health care provided by general dental practitioners, dental specialists, dental hygienists, and licensed dental assistants. ***
  - *Mental Health Services*: provision of outpatient psychological and psychiatric treatment and counseling services offered to clients with a diagnosed mental illness (conducted in a group or individual setting) and provided by a mental health professional licensed or authorized within the State of Texas to render such services. ***
  - *AIDS Pharmaceutical Assistance: Medication assistance when a state AIDS Drug Assistance Program (ADAP) has limitations on medications, a waiting list, and/or restricted financial eligibility. Generally limited to long-term medication assistance greater than 90 days. ****

- *Early Intervention Services (EIS)*
  Can overlap with other service descriptions and must include the following: targeted HIV testing, referral, access and linkage to HIV care services, outreach, and health education/risk reduction.

- *Substance Abuse Services (Outpatient Only): Substance Abuse Outpatient Care is the provision of outpatient services for the treatment of drug or alcohol use disorders. ****

- *Health Insurance and Cost Sharing Assistance:* Health Insurance Premium and Cost Sharing Assistance provides financial assistance for eligible clients living with HIV to maintain continuity of health insurance or to receive medical and pharmacy benefits under a health care coverage program. ***

- *Home and Community-Based Health Services: Provided to an eligible client in an integrated setting appropriate to a client's needs, based on a written plan of care established by a medical care team under the direction of a licensed clinical provider.*

- *Home Health Care is the provision of services in the home that are appropriate to an eligible client's needs and are performed by licensed professionals. Activities provided under Home Health Care must relate to the client's HIV disease and may include:*

  - *Administration of prescribed therapeutics (e.g., intravenous and aerosolized treatment, and parenteral feeding)*
  - *Preventive and specialty care*
  - *Wound care*
  - *Routine diagnostic testing administered in the home*
  - *Other medical therapies*

- *Medical Nutrition Therapy*
  Registered/licensed dietitian provides nutrition assessment and screening, dietary/nutritional evaluation, nutritional plan, food and/or nutritional supplements per medical provider's recommendation, and nutrition education and/or counseling. Must have referral by a medical provider.

- *Hospice Services are end-of-life care services provided to clients in the terminal stage of an HIV-related illness. Allowable services are:*

  - *Mental health counseling.*
  - *Nursing care.*
  - *Palliative therapeutics.*
  - *Physician services; and*
  - *Room and board.*

- *Medical Case Management, including treatment-adherence services*: provision of a range of client-centered activities focused on improving health outcomes in support of the HIV care continuum. ***
- The AIDS Drug Assistance Program (ADAP) is a state-administered program authorized under Part B of the RWHAP to provide FDA-approved medications to low-income clients with HIV disease who have no coverage or limited health care coverage. ADAPs may also use program funds to purchase health insurance for eligible clients and for services that enhance access to, adherence to, and monitoring of antiretroviral therapy. RWHAP ADAP recipients must conduct a cost effectiveness analysis to ensure that purchasing health insurance is cost effective compared to the cost of medications in the aggregate. Eligible ADAP clients must be living with HIV and meet income and other eligibility criteria as established by the state.

- ***Support Services:***
  - *Food Bank: Food Bank/Home Delivered Meals refers to the provision of actual food items, hot meals, or a voucher program to purchase food. ****

  - *Non-Medical Case Management–Support Services*: provision of guidance and assistance in accessing medical, social, community, legal, financial, and other needed services.
    - *Case Management (Non-Medical - Housing):* provision of guidance and assistance to clients with securing and maintaining safe and appropriate housing with the ultimate goal of ensuring HIV infected persons are able to maintain stable housing arrangements and remain within the care system. ***

  - *Outreach-Lost to Care: Identification of people who do not know their HIV status and linkage into medical care, provision of information on health care coverage options, and/or reengagement into medical care of HIV positive people who are not receiving treatment. Must be conducted where high probability of individuals with HIV infection, coordinated with prevention outreach programs to avoid duplication, and targeted to populations known to be at disproportionate risk for HIV infection. ****

  - *Medical Transportation Services*: provision of non-emergency transportation services that enables an eligible client to access or be retained in core medical and support services. ***

  - *Housing Services*: provision of limited, short-term housing assistance to support emergency, temporary, or transitional housing to enable a client or family to gain or maintain outpatient/ambulatory health services. ***

  - *Emergency Financial Assistance*: provision of limited one-time or short-term payments to assist clients with an emergent need for paying for essential utilities and housing. ***

  - *Other Professional Services (Legal Services): Other Professional Services allow for the provision of professional and consultant services rendered by members*

*of particular professions licensed and/or qualified to offer such services by local governing authorities.****

- *Referral for Healthcare: Referral for Health Care and Support Services directs a client to needed core medical or support services in person or through telephone, written, or other type of communication. Activities provided under this service category may include referrals to assist HRSA RWHAP-eligible clients to obtain access to other public and private programs for which they may be eligible (e.g., Medicaid, Medicare Part D, State Pharmacy Assistance Programs, Pharmaceutical Manufacturer's Patient Assistance Programs, and other state or local health care and supportive services, or health insurance Marketplace plans). ****

- *Linguistics Services: Include interpretation and translation activities, both oral and, written, to eligible clients. These activities must be provided by a qualified linguistic services provider as a component of HIV service delivery between the healthcare provider and the client. These services are to be provided when such services are necessary to facilitate communication between the provider and client and/or support delivery of HRSA Ryan White HIV/AIDS Program (RWHAP) eligible services. ****

- *Respite Care: The provision of community or home-based, non-medical assistance designed to relieve the primary caregiver responsible for providing day-to-day care of a client with HIV/AIDS. ****

- *Child Care Services: Intermittent childcare services are provided for the children living in the household of people living with HIV who are RWHAP-eligible clients to enable clients to attend medical visits, related appointments, and/or RWHAP-related meetings, groups, and/or training sessions. ****

- *Health Education/Risk Reduction (HE/RR): The provision of education to clients living with HIV about HIV transmission and how to reduce the risk of HIV transmission. It includes sharing information about medical and psychosocial support services and counseling with clients to improve their health status.*

Service Categories marked with (*) are services that a currently funded*

Grievance Procedures

Part A

All Ryan White Part A service providers must adhere to their established system for grievances about the operation of the service program. Complaints and grievances against the service provider related to Ryan White Part A funded services should be properly recorded and communicated to Dallas County Health and Human Services upon request.

Additionally, case management service providers are required to inform clients that unresolved grievances related to Ryan White Part A funded services can be directed to call 1-877-464-4772 (HRSA) for further instructions.

Ryan White Planning Council Dallas. *Ryan White Part A Planning Council Website*. Access from: https://www.dallascounty.org/departments/rwpc/

Section III:
Ryan White Part A Planning Council Structure, Mission and Bylaws

Formation

Dallas County Health and Human Services administers the Ryan White Part A program, HIV Prevention program, and Housing Opportunities for Persons with AIDS (HOPWA) program. To reduce duplication of leadership and planning efforts and to reflect the recommendations of both the CDC and HRSA, the Ryan White Part A Planning Council is complimentary and interdependent with the Administrative Agency and works collaboratively with the HIV Prevention Planning Body. The name of the Dallas EMA Ryan White Part A Planning Council and HIV Prevention Planning Body is the Planning Alliance (RWPC)[1]. Members of RWPC are appointed by the County Judge of Dallas.

Mission

The mission of the Ryan White Planning Council of the Dallas Area is to optimize the health and wellbeing of people living with HIV/AIDS through coordination, evaluation, and continuous planning to improve the North Texas Regional System of medical, supportive, and prevention services.

Governance

RWPC has an established set of bylaws that guide its structure, purpose, and operations. Included in the bylaws are:

- name and service area.
- mission and responsibilities.
- membership.
- planning council co-chairs.
- organizational structure.
- meetings.
- reimbursement; and
- Conflict of interest/change in affiliation/grievance.

RWPC and its committees are governed by these bylaws. The bylaws may be amended, revised, or otherwise changed at any regularly scheduled meeting of the membership. Amendments and revisions are accepted upon consensus or membership vote.
(https://www.dallascounty.org/Assets/uploads/docs/rwpc/2018_RWPCBylaws_Final.pdf)

Membership

Appointed Members
The Ryan White legislation requires planning councils (RWPC) to consist of membership appointed by the county's Chief Executive Officer who is: Judge Clay Jenkins.

[1] The terms "RWPC" and "planning council" will be used interchangeably throughout this manual.

- At least one third (33%) people living with HIV/AIDS who receive Ryan White Part A services (consumers) and are “unaffiliated”. This refers to consumers who do not have a conflict of interest. For example, they are not staff, consultants, or board members of Ryan White Part A-funded agencies.
- representative of any of the following:
    - people living with HIV/AIDS who receive Ryan White Part A services.
    - health care providers.
    - community-based organizations.
    - social service providers.
    - mental health providers.
    - substance abuse providers.
    - local public health agencies.
    - hospital planning agencies.
    - affected communities.
    - non-elected community leaders.
    - state Medicaid agency.
    - Ryan White Parts B, C, or D.
    - formerly incarcerated people living with HIV/AIDS; and/or
    - Grantees of other federal HIV programs.
- Reflective of the population served by Ryan White Part A funds.

RWPC uses an open nominations process. Please see *Bylaws* for additional information.

Membership Application
Individuals invited by RWPC or Dallas County Health and Human Services and/or individuals interested in becoming an appointed member of the RWPC must complete the Ryan White Part A Planning Council Membership Application (please see Bylaws for more information).

RWPC’s Membership Committee is responsible for reviewing all applications, meeting individually with each candidate, and making recommendations on perspective members. Applications of candidates recommended by the Membership Committee are sent to the CEO or consideration and appointment to RWPC.

Non-Appointed Members
Non-appointed members include individuals interested in the Ryan White program and may include representatives from service organizations, individuals who participate on a more occasional basis, and/or other interested parties.

Responsibilities of Members
Attendance and participation are vital to being a strong RWPC member. RWPC members are responsible for:
- upholding the goals, objectives, and mission of RWPC.
- attending RWPC meetings and participating in the decision-making of RWPC.
- contributing professional and personal expertise to further the work of RWPC.

- actively supporting the planning, needs assessment, priority-setting, and evaluation processes of RWPC; and
- Learning about the Ryan White Part A planning process and soliciting community involvement.

Membership Term
RWPC appointed members serve for a three (3) year term. The CEO appoints the RWPC leadership team annually. Members currently on the Planning Council are eligible for Leadership Appointments and must submit an application and pass the background check. Appointed members may serve consecutive terms if they meet all membership requirements, successfully complete the application and nomination process, and are reappointed by the CEO. Please see the bylaws in *Section V* for more information on RWPC's term limits.

Support of RWPC Members
Both RWPC and Dallas County Health and Human Services are responsible for supporting the participation of people living with HIV on RWPC. Examples of support include reimbursement for travel and provision of food and training at meetings.

Co-Chairs

RWPC has 5 co-chairs, who are current members in good standing:
- CEO appoints one chair to represent HIV care.
- one chair is a person living with HIV, nominated by executive committee and approved by CEO of the RWPC membership

The co-chairs are responsible for guiding and facilitating the planning process. As few as one, or as many as all, of the co-chairs preside at all of the RWPC and executive committee meetings.

Committees

RWPC has seven standing committees and may create ad-hoc committees to address specific needs or complete specific tasks.

Executive Committee
The purpose of the Executive Committee is to:
- review the appropriateness of RWPC's calendar of activities.
- discuss, for appropriateness of presentation to RWPC for discussion, review or action, issues, concerns in the community, and/or developing situations; and
- establish and review the agenda for RWPC meetings.

Planning Council

The purpose of the Planning Council Committee is to:

- review RWPC membership for appropriateness in the areas of composition and reflectiveness of the population served by Ryan White Part A funds.
- recruit, screen, interview, and recommend potential candidates for membership to RWPC.
- provide orientation and training for new RWPC members, as needed; and
- develop and maintain new membership packets.

Consumer Council Committee

The purpose of the Consumer Council Committee is to:

- serve as voices for people living with HIV/AIDS in the community.
- advocate for improving the quality and/or process of care in Dallas.
- serve as a safe space for peer support and interaction.
- ensure scholarship and education programming information is shared with consumers; and
- ensure there are education resources for clients and staff about HIV and the services available in Dallas.
- provide outreach at community events and conferences.

Allocations Committee

The purpose of the Allocation Committee is to:

- prioritize service categories using identifiable source, needs, and trend data.
- allocate Ryan White funds among priority goals using all available information regarding community service needs, current funding for HIV/AIDS services from all identifiable sources, and trend data; and
- monitor Ryan White expenditures or service delivery and make recommendations on the reallocation of Ryan White Part A funds.

Needs Assessment Committee

The purpose of the Needs Assessment Committee is to:

- oversee the development and implementation of the community needs assessment; and
- prepare a needs assessment report that includes:
    - updated information about local HIV/AIDS demographics.
    - needs of people living with HIV/AIDS, especially those who know their status and are not in care.
    - disparities in access to services among people living with HIV/AIDS.
    - capacity development needs of HIV service providers.
    - need for early intervention services and outreach services; and
    - needed coordination with other programs, such as prevention and substance abuse treatment.

Evaluation Committee

The purpose of the Evaluation Committee is to:

- Ensure that all parties receiving funding adhere to high standards of fiscal & programmatic accountability.
- Conducting and Evaluation of the Administrative Mechanism. (annually)

- Conducting an Evaluative study as outlined in the Comprehensive Plan (as needed)
- Reviewing the Standards of Care for services (annually or as needed)
- Reviewing and revising the Outcome Measures (as necessary)

Planning and Priorities Committee

The purpose of the Planning and Priorities Committee is to:

- Developing & implementing the Comprehensive Plan (every 3 years)
- Advising the Administrative Agency on how best to meet the need for prioritized services
- Ensuring the Needs Assessment process is conducted and is current (every 3 years)
- Determining program development and capacity need recommendations
- Updating the Continuum of Care annually, or as appropriately needed.

Support Staff

Dallas County Health and Human Services assigns a staff member to provide support to RWPC. The RWPC support professional is responsible for:

- securing and facilitating space, food, and supplies for RWPC meetings, committee meetings, and activities.
- maintaining the RWPC listserv to assure all members and attendees receive communication in a timely manner.
- preparing and distributing information for RWPC members including agendas, minutes, and other pertinent information.
- providing annual planning council training.
- facilitating review of bylaws, standards of care, consensus or votes on election of RWPC chairperson(s) and other voting activities.
- facilitating member application process, appointments, and new member training.
- planning, implementing, and/or facilitating capacity building, trainings, events, and educational information for RWPC members and/or consumers.
- assuring and retaining conflict of interest and confidentiality forms are signed; and Distributing Ryan White promotional materials.

Please see *Bylaws* for more detailed information.

Meetings

All RWPC meetings are open to the public, except under circumstances and procedures prescribed by state or local policies. Regular RWPC meetings occur twelve (12) times a year, however, the co-chairs may cancel, or schedule additional meetings based upon need. An annual schedule of regular meetings is made available to all members, funded service providers, and relevant agencies. A notice of RWPC and/or committee meetings is typically sent seven (7) days prior to the date of the meeting by email (but may also be sent through US mail, docu sign (adobe sign), website postings, or other reasonable alternatives to reach members).

Meeting Agendas, Attendance, Minutes, and Materials

Agendas are prepared for all meetings and indicate the subject matter of the meeting.

Members and non-members interested in having an item on the agenda are responsible for submitting information and supporting paperwork to the RWPC co-chairs at least five (5) days before a regularly scheduled RWPC or committee meeting. To be considered for inclusion on the agenda, the item must be relevant and within the scope of RWPC practice and decision-making. Agendas are posted at least two (2) business days prior to the meeting and distributed to members. It is the responsibility of each member to review materials and come to RWPC meetings prepared for discussion. Please see *Bylaws* for additional information.

Texas Open Meetings Act

The Open Meetings Act (the "Act") was adopted to help make governmental decision-making accessible to the public. It requires meetings of governmental bodies to be open to the public, except for expressly authorized closed sessions,1 and to be preceded by public notice of the time, place, and subject matter of the meeting. "The provisions of [the Act] are mandatory and are to be liberally construed in favor of open government."

Texas Open Meetings Act training link: https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/open-meetings-act-training
Source Link: https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings_hb.pdf

All members and non-members present at RWPC meetings indicate their attendance by signing in on Dallas County Health and Human Services virtual and in-person Sign-In Sheet. Please see *Section V* for a sample sign-in sheet. Minutes are documented for all meetings and distributed to respective committees for approval. Additionally, minutes and materials from regular RWPC meetings are provided to all members and are open to the public, except as allowed by law to be confidential.

Decision-Making
In an effort to provide everyone with a voice, voting is done by consensus. All members vote whether an appointed or non-appointed member. In instances when consensus is not reached after further discussion of the issue or concern, appointed members will hold a deciding vote. The issue will be determined by a majority vote.

- Appointed members may hold a deciding vote as long as a quorum (more than 50% of the appointed membership is present.
- If a quorum is not present, the meeting may be conducted, but all decisions will remain pending until ratified by a quorum.

Orientation and Training

RWPC is committed to providing training and education to its members both on how to participate in Ryan White planning, as well as the role of serving as a member. An annual orientation is organized and provided as a part of a RWPC meeting. Information covered in the orientation includes:

- background of the Ryan White Program, including the five Parts and service categories.
- information about the Dallas EMA.
- roles and responsibilities of Dallas County Health and Human Services, RWPC, and support staff.
- formation and membership of RWPC.
- managing conflicts of interest; and
- supporting RWPC members.
- Primer
- Bylaws
- Membership Welcome Packet

Ryan White Planning Council Dallas. Ryan White Part A Planning Council Website. Access from: *https://www.dallascounty.org/departments/rwpc/membership.php*

Additionally, educational presentations are provided as a part of each RWPC meeting to increase the knowledge of members and to assist with understanding Ryan White legislation and community resources.

Managing Conflicts of Interest

In order to prevent the existence, or the appearance of the existence, of a conflict of interest, all RWPC members complete a Ryan White Part A EMA. Conflict of Interest and membership packet on an annual basis. A conflict of interest can occur when a RWPC member has a monetary, personal, and/or professional interest in a decision to vote. Please note, being a consumer of a specific provider is not considered a conflict of interest. Additionally, RWPC does not discuss specific providers (but instead uses aggregate data) and members do not advocate for specific providers. In the event that a matter raises a potential conflict of interest, the disclosure is presented to RWPC or a committee for consideration, recommendation, and decision. Please see Section V for additional information

Confidentiality

It is imperative that RWPC protects the confidentiality of client/consumer names and related information contained in documents/records or discussed during interviews, meetings, or other situations that may arise as RWPC carries out its responsibilities. All RWPC members agree to keep confidential any concerns or recommendations voiced by any member of RWPC along with individual views of RWPC members, HIV/health status, and/or other sensitive information obtained due to membership on RWPC. All RWPC members agree to keep this information confidential and sign a Statement of Confidentiality Form annually. Please see *Bylaws* for additional information.

Grievance Procedures

RWPC has established grievance procedures to address complaints related to RWPC. RWPC is committed to providing a fair solution to conflicts that may arise during the operation of the planning council. The RWPC co-chairs are responsible for serving as a neutral body to resolve conflicts that arise. RWPC will attempt to resolve conflicts through informal support resolution. If the conflict cannot be resolved through informal discussion, mediation is also available.

Any individual or entity directly affected by the outcome of a decision of RWPC regarding priorities or allocation of resources may file a grievance. RWPC only accepts grievances under the following circumstances, where RWPC may have:

- deviated from or exceed its established, written procedures for setting funding priorities.
- deviated or exceeded its established, written procedures for allocating funding priorities; and/or
- deviated from or exceeded its established, written procedures for making subsequent changes to priorities, funding percentages, or allocations of funds.

Grievances must be filed within 30 days of the alleged infraction.

Separate grievance procedures have been established for Ryan White Part A grant-supported services. Please see page 6 for additional information.

Section IV:
Roles and Responsibilities of the Ryan White Part A Planning Council

Roles and Responsibilities

RWPC and Dallas County Health and Human Services, as the Ryan White Part A grantee, have separate roles that are stated in the Ryan White legislation, but also share some responsibilities. The table below illustrates each of the roles and functions and indicates the responsible party(ies).

Role/Function	CEO/Dallas County HHS	RWPC
RWPC Formation/Membership	X	
Needs Assessment	X	X
Integration Planning	X	X
Priority Setting		X
Directives		X
Resource Allocation		X
Coordination of Services	X	X
Procurement	X	
Contract Monitoring	X	
Clinical Quality Management	X	X
Cost-Effectiveness and Outcomes Evaluation	X	X
Assessment of the Efficiency of the Administrative Mechanism		X

Needs Assessment

RWPC and Dallas County Health and Human Services work together to conduct a needs assessment and prepare a report that includes:

- updated information about local HIV/AIDS demographics.
- needs of people living with HIV/AIDS, especially those who know their status and are not in care.
- disparities in access to services among people living with HIV/AIDS.
- capacity development needs of HIV service providers.
- need for early intervention and outreach services; and
- need for coordination with other programs such as prevention and substance abuse treatment.

Integrated Plan

RWPC and Dallas County Health and Human Services, along with Texas Department of State Health Services, work together to develop a written plan that defines short- and long-term goals for the EMA. This plan is based on results of the needs assessment and is used to guide decisions on how to deliver HIV services to people living with HIV/AIDS.

Priority Setting and Resource Allocation

RWPC is responsible for deciding what services are priorities for funding and how much funding should be provided for each service category. RWPC makes these decisions based upon:

- results of the needs assessment.

- information about the most successful and economical ways of providing services.
- actual cost and utilization data provided by Dallas County Health and Human Services.
- priorities of people living with HIV/AIDS who will use services.
- making Ryan White Part A funds work well with other services, such as prevention and substance abuse.
- amount of funds from other sources such as Medicaid; and
- capacity for HIV services in historically underserved communities.

RWPC follows the legislative requirement that at least 75% of Ryan White funds go to core medical services and not more than 25% of funds go to supportive services. After priorities for services are set, RWPC allocates resources (*i.e.*, decides how much funding will be used for each of the service priorities).

Core Medical Services:

- AIDS Drug Assistance Program Treatments
- AIDS Pharmaceutical Assistance
- Early Intervention Services
- Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals
- Home and Community-Based Health Services
- Home Health Care
- Hospice
- Medical Case Management
- Medical Nutrition Therapy
- Mental Health Services
- Oral Health Care
- Outpatient/Ambulatory Health Services
- Substance Abuse Outpatient Care

Supportive Services:

- Child Care Services
- Emergency Financial Assistance
- Food Bank/Home Delivered Meals
- Health Education/Risk Reduction
- Housing
- Legal Services
- Linguistic Services
- Medical Transportation
- Non-Medical Case Management Services
- Other Professional Services
- Outreach Services
- Permanency Planning
- Psychosocial Support Services
- Referral for Health Care and Support Services
- Rehabilitation Services

- Respite Care
- Substance Abuse Services

RWPC provides “directives” to Dallas County Health and Human Services on how best to meet the service priorities. RWPC is also involved with approving reallocation of funds to ensure all Ryan White Part A funds are spent and that priority service needs are met.

Dallas County Health and Human Services is accountable for managing Ryan White Part A funds and awarding funds to agencies to provide services that are identified as priorities through a competitive bid process. RWPC is not involved in selecting agencies to fund or any aspect of contractor selection (procurement) or management or monitoring Ryan White Part A contracts.

Coordination of Services

Ryan White funds are designed to fill gaps in services for people living with HIV/AIDS and must be used as the payer of last resort. RWPC makes sure that Ryan White Part A funds work well with other funds. Through the needs assessment, priority setting and resource allocation, and integration planning, RWPC obtains input and explores the existence of other funding sources. This helps avoid duplication in spending and ensures coordination between HIV prevention and care.

Representatives of RWPC and Dallas County Health and Human Services participate with other Ryan White programs in Texas to develop a statewide coordinated statement of need, which is a way to plan how to use Ryan White funds to avoid duplication of services

Development of Standards of Care and Evaluation of Services (Clinical Quality Management)

Dallas County Health and Human Services develops, and RWPC provides input and approves, standards of care to guide funded providers in delivering services. Dallas County Health and Human Services uses the standards of care to monitor funded agencies and determine service quality as part of its clinical quality management.

Dallas County Health and Human Services is responsible for measuring how funded providers use standards of care for their services and if services are consistent with these guidelines. Client satisfaction and outcomes are also monitored. Dallas County Health and Human Services shares with RWPC aggregate results of its quality management activities (by service category, not by individual providers or clients) and RWPC uses this information in priority setting and resource allocation.

Procurement

Dallas County Health and Human Services is responsible for writing Requests for Proposals (RFPs), publicizing the availability of funds, using a fair and impartial review process to choose providers, and writing and monitoring contracts with providers. RWPC determines the amount of funding available per service category through the priority setting and resource allocation process.

Contract Monitoring

Dallas County Health and Human Services is responsible for making sure funded providers use Ryan White Part A funds according to the terms of their contract. Dallas County Health and Human Services monitors providers to determine how quickly providers spend Ryan White Part A funds, if they are performing the services, if they are using funds only as approved, and meeting reporting and contract requirements.

Cost-Effectiveness and Outcomes Evaluation

Dallas County Health and Human Services is responsible for monitoring cost-effectiveness of service and clinical outcomes as part of quality management. Findings are used in selecting providers through the procurement process and used by RWPC in priority setting, resource allocation, and development of directives on service models.

Assessment of the Efficiency of the Administrative Mechanism

RWPC is responsible for evaluating how well Dallas County Health and Human Services gets funds to providers. This includes reviewing the timeframe contracts are signed with service providers, as well as the timeframe it takes Dallas County Health and Human Services to pay providers. Additionally, RWPC also reviews whether funds are used to pay only for services that were identified as priorities and the amounts contracted for each service category match the allocations determined by RWPC.

Priority Setting and Resource Allocation Process

For this planning process, members of the Planning and Priorities Committee and the Consumer Council Committee will each receive this planning guide, which is updated to reflect current trends in our consumer population and any changes in policy that would affect the way that we plan for and prioritize services in our area. This guide is organized to outline the specific data needed to complete the priority setting process. In addition to receiving a planning guide the Committee also participated in a series of trainings that explained the PSRA process and current HIV/AIDS data for the Dallas EMA. For each planning year, at set of multiple decision-making criteria were utilized. The criteria were as follows:

- 2019 Comprehensive Needs Assessment
- 2021 Mini Needs Assessment
- FY 2021-2022 Expenditure Data
- Value Matrix

The decision-making process will consist of committee members individually assigning each services category a number for Part A, Part B, & State Services (1-12 for core medical services, 1-12 for support services) and MAI (1-5 for core medical, 1-3 for support services) which will represent their individual ranking for each service category. Additionally, the committees will consider the value matrix. The committee will arrive at a final list of priorities by averaging all committee member rankings into one for each service category. The Consumer Council Committee will also convene to rank priorities and their individual scores will be aggregated into a single score in addition to the scores of the Planning and Priorities Committee members. Finally, the rankings from the value matrix will also be considered as a single score as well. The Health Resources and

Services Administration (HRSA) suggested Steps in Priority Setting include the following:

- Agree on the priority setting process and its desired outcomes.
- Agree on responsibilities for carrying out the decision-making process.
- Determine and obtain available information, including needs assessment, utilization, and expenditure data.
- Agree on the criteria to be used in priority setting.
- Agree on decision-making process to be used.

Reallocation Policy and Procedure

Background

Dallas County Health and Human Services (DCHHS) administers Ryan White Part A, Ryan White Minority AIDS Initiative (MAI), Department of State Health Services (DSHS) Ryan White Part B, and DSHS Housing Opportunities for Persons with AIDS (HOPWA), and State of Texas HIV Health Services and Social Services (State Services) funds to be used in providing services to individuals who are infected with HIV/AIDS. DCHHS serves as project sponsor for HOPWA funds administered by the City of Dallas. DCHHS serves as the administrative agency (AA) for the Ryan White Part A and B, MAI, DSHS HOPWA, and State Services Grant. The Allocations Committee of the Ryan White Planning Council (RWPC) develops recommendations for service category allocations by utilizing the current needs assessment, the long-range comprehensive plan, service category prioritization, and funding threshold formulas for the core services.

Purpose

This document establishes the process by which unexpended funds will be reallocated to service providers by the AA. The policy affects voluntary or involuntary returned funds, carryover funds, or any funds that may be available for reallocation. The following may cause funds to be reallocated:

- Under or over-expenditure of funds in a service category or by a service provider;
- Non-achievement of programmatic goals (when a line-item budget contractor is significantly off target with regards to the programmatic goal)
- De-funding or closure of an agency within the contract term.

The reallocation process must provide to the extent possible the best allocation or reallocation of available resources to adequately address that demonstrated need.

Overview

The Allocations Committee (AC) is charged with the responsibility to determine allocations and reallocate funds among service categories for Ryan White Part A, and MAI. Under Ryan White Part B and State Services grants, the AC committee performs an advisory role and provides their recommendation for the reallocation of Ryan White Part B and State Services funds to the AA. DSHS Reallocation Form must be submitted to DSHS for approval to reallocate Ryan White Part B and State Services funds. For details on the DSHS Reallocation Policy, please refer to the DSHS website, https://www.dshs.texas.gov/hivstd/policy/policies/241-006

When funds are available for reallocation, the AA notifies funded providers and request that they submit a Categorical Funding Increase (CFI) forms. If there is a need within the same category, these forms are processed through the AA reallocations procedures detailed below. If there is a need outside of the same service categories they are submitted to the AC to be address via their reallocations process.

Allocations Committee Reallocation of Funds Process

At approximately the fifth and seventh month of the contract term, the AA will provide the AC with programmatic and fiscal data for analysis to determine if funds should be reallocated

among service categories. This data typically includes:

- Monthly and year-to-date units of service and expenditures per service category;
- YTD units of services and expenditures provided per service category;
- Total number of units of services to be provided per service category;
- Total clients served per service category;
- Percentage of goal achievement (this information is necessary to assess what service category is off target, on target, or over target); and
- Categorical funding request forms from funded providers (de-identified)

Other data that affects the reallocations is the unit cost, the presence of other funding sources in the Dallas service delivery area for some service categories, and funding thresholds for the core services. Indeed, sources such as SAMHSA and Ryan White Part D are available to PLWH in the Dallas delivery area.

For details regarding the AC reallocation process, please refer to the *reallocations process managed by planning council staff.*

AA Reallocation of Funds Process

The AA may reallocate funds to other service providers within the same category without AC review.

The AA monitors actual provider expenditures against contractual budgets to assess whether funds are being under- or over-spent at any point during the fiscal year. The same service utilization data provided to AC is used to determine if funds will be allocated within a service category. At the five and seven month period of the contract, the AA will review programmatic and fiscal expenditure data to determine if agencies are on track to meet the goals set in their contracts. If they are not on-track they will be contacted to provide an update on their status and the AA will make the final determination of funds will be reallocated within the service category between agencies.

If funds are available for reallocation between service providers, the CFI forms are reviewed. Subsequently, the AA will prepare a one-page request for proposals (RFP) for funded providers to submit one-page proposal. The one-page RFP also includes any funds that the AC has reallocated among service categories.

One-Page Proposals

Once proposals are received from funded providers, an Internal Review Committee (IRC) is convened to review the proposals and make award recommendations. The award recommendations will be announced and service providers selected to receive an award must submit revised budget attachments pending final approval and contract execution by the Dallas County Commissioner's Court.

Historically, agencies have displayed a lack of interest in bidding on one-page proposals for amounts of less than $2,000. This is primarily due to the work required by agencies to process the funding award through to execution of a contract. Therefore, it is recommended, whenever possible, that one-page RFP's will not be issued in amounts of less than $2,000 for any service category.

Miscellaneous Policies and Procedures

Gift Card Policy

HONORARIUMS AND INCENTIVES

PURPOSE: To establish guidelines by which honorariums, incentives, or other forms of allowable gratuity.

SCOPE: This policy encompasses Ryan White Planning Council and Standing Committee members, Empower Dallas Students, consumer input group participants, needs assessment survey participants, and needs assessment focus group participants living with HIV.

AUTHORITY: Policy Clarification Notice (PCN) #16-02

Eligible Individuals	Allowable Use of Funds	Unallowable Use Incentive Card
Individual Living with HIV/AIDS	Commodity (e.g. Food/Transportation)	Cannot be exchanged for cash
Store gift cards can be redeemed at one merchant or an affiliated group of merchants for specific goods and services that further the goals and objectives of the RWHAP are also allowable as incentives or eligible program participants.		Cannot be used for anything other than the allowable goods or services.

1. All gift cards are provided consistent with current Planning Council bylaws, federal guidance, and local (county) regulations as incentives for consumer and Persons Living With HIV (PLWH) participation in Planning Council activities such as needs assessment; Consumer Council's Forums panelist/speakers/subject matter experts; membership orientation speaker/presenter. Further eligibility for receipt of the gift card is aligned by Planning Council/Body Membership category/categories /representation/ representatives. Section 2602(b)(2)

2. Council/Standing Committee Members must participate/show up at their respective meeting each month for a minimum of 6 months. The quorum sheet will reflect participation. Absences must be linked to a correspondence from the member.

3. Planning Council Staff will administer voucher and store gift cards which cannot be exchanged for cash, alcohol, tobacco products, firearms, or used for anything other than 6 allowable goods or services. General use prepaid cards are considered "cash equivalent" and are therefore unallowable. Such cards generally bear the logo of a payment 8 network, such as Visa, MasterCard, or American Express, and are accepted by any merchant that accepts those credit or debit cards as payment. Gift cards that are cobranded with the logo of a payment network and the logo of a merchant or affiliated group of merchants are general use prepaid cards, not store gift cards, and therefore are also unallowable.

4. Planning Council Staff will maintain an inventory of all pre-purchased gift cards which shall be locked away securely. The inventory will identify gift card serial numbers, amount of the gift card, date of issuance, signature or/and initials of the person receiving the gift card.

5. All undistributed gift cards and the inventory list will remain locked in a file with Planning Council Staff.

Data Service and Equipment Policy

1. PURPOSE:
To provide parameters and expectations for the use and maintenance of Dallas County Ryan White Planning Council (DCHHS-RWPC) issued data service and/or equipment (including Wi-Fi hotspots and tablets) to members of the DCHHS-RWPC and/or its standing committees.

2. POLICY STATEMENT:
This policy establishes minimum guidelines related to the issuance, lending, and proper use of data service and equipment by Dallas County. Data service and/or equipment may be assigned to individuals who require virtual access to government meetings to address federally mandated tasks. Data service and equipment provided by the DCHHS-RWPC and/or Dallas County are for official use only. Personal use is to be kept to a minimum.

3. DEFINITIONS:
Data service: All data plans and Wi-Fi hotspots (i.e., through prepaid data cards) to be used with related equipment.
Equipment: All electronic communication devices including but not limited to tablets.
Official Use: Refers to Dallas County or DCHHS-RWPC business which relates to the official duties of the member.
Personal Use: Refers to any use of service or equipment which does not relate to the official DCHHS-RWPC duties. This includes audio or video streaming, audio or video downloads, web browsing unrelated to DCHHS-RWPC work, large data downloads of any type, and sharing hotspot with family members, friends, or other non-employees.

4. SCOPE:
This procedure encompasses all DCHHS-RWPC and/or standing committee members who are issued data service and/or equipment for accessing DCHHS-RWPC meetings, emails, and other official business.

5. PROCEDURES:
An individual member who requires data service and/or equipment will make a written formal request to Planning Council Office of Support. Office of Support will loan the equipment and/or accompanying data service based on a first come, first served basis. If approved, data service and/or equipment will be assigned as follows:

1. Each member will be required to sign an Equipment Receipt Form listing any equipment assigned to him or her. The original signed form will be kept by the Office of Support, with an electronic copy submitted to the Dallas County HIV Grants Administrator and the Grant Auditor staff for filing.

a. While the equipment is in the possession of the member, the member is responsible for ensuring the proper use of the equipment, including keeping the equipment updated. If the equipment is damaged through misuse, stolen, or lost, the member will not receive replacement equipment, and may be required to reimburse Dallas County for expenses due to damage or loss.

2. Any time an individual receives new or additional equipment, the Equipment Receipt Form will be updated and submitted to Office of Support, the Dallas County HIV Grants Administrator, and the Grant Auditor.

3. Should equipment be returned to Office of Support for any reason, the individual will

complete an Equipment Return Form. This form releases the individual from responsibility for the equipment assigned them. Similarly, the original form will be kept by Office of Support with an electronic copy submitted to the Dallas County HIV Grants Administrator and the Grant Auditor staff for filing.

4. Equipment and data service is on loan to DCHHS-RWPC members. All equipment must be returned, and all services will be discontinued, at the end of the individual's membership on the Planning Council and/or standing committee.

Section V:

Documents and Forms

This section contains the following documents and forms:

1. RWPC Bylaws (Please see access link on pg.ii)
2. Ryan White Part A Planning Council Membership Application
3. Background Investigation Form
4. Support Staff Job Description
5. Dallas County Health and Human Services Multi-Agency Quorum Sheet
6. Sample RWPC Meeting Agenda
7. Ryan White Part A EMA Conflict of Interest and Statement of Commitment
8. Member Statement of Confidentiality

Ryan White Planning Council of the Dallas Area
Application for Membership

To help us process your membership application, please provide all of the information requested. Enter N/A (not applicable) where appropriate. *Please type or print clearly*. If there is any part of the application that you don't understand, please contact the **Planning Council Office of Support** for help at **(214) 819-1840**.

This application is for *membership* for the following:

☐ Ryan White Planning Council:

☐ Standing Committee of the Ryan White Planning Council
Check Committee of interest (see page 6 for explanations of committees):
- ☐ Allocations Committee
- ☐ Consumer Council Committee
- ☐ Evaluation Committee
- ☐ Planning and Priorities Committee
- ☐ Needs Assessment Committee

Part 1 Contact Information		
Name		
Home Address		
City	**State**	**Zip Code**
County of Residence		
Home Phone Number ( )	**Alternate Phone Number** ( )	
Current Place of Employment (if applicable)		
Work Address		
City	**State**	**Zip Code**
Work Phone Number ( )		
E-mail Address	**Fax Number** (if available)	

Please be aware that the Planning Council is a public body. While your HIV status will be kept confidential, your membership on the Council will not. You will receive e-mail, mail, and phone calls from the Ryan White Planning Council. Would you prefer to receive email, phone calls, messages, and/or mail at home or at work?

I prefer to receive email, phone calls, and messages at: Home Work (circle one)

I prefer to receive mail at: Home Work (circle one)

Part 2 Personal Information

For the questions below, please check the box for each category with which you most closely identify, even if you do not use identical language to describe yourself. Feel free to include any additional information that you use to describe yourself on the "other" lines provided. **Your responses will be kept CONFIDENTIAL and will be available only to the Chair of the Planning Council, the Planning Council CEO (Dallas County Judge) and the Planning Council Office of Support.**

A. **Gender:** ☐ **Male** ☐ **Female** ☐ **Transgender** ☐ **Other** _____

B. **Are you a person living with HIV/AIDS?** ☐ **Yes** ☐ **No**

This question will remain confidential and you can leave it blank. The Chair of the Planning Council will discuss this with you privately.

If you answered yes, are you willing to self-identify as a person living with HIV/AIDS?
☐ **Yes** ☐ **No**

If you answered yes, are you also living with hepatitis B or C?
☐ **Yes** ☐ **No**

C. **Race/ethnicity:**

Hispanic or Latino	Federal Race Categories
You **MUST** check one: ☐ Hispanic or Latino ☐ Not Hispanic or Latino ☐ Unknown	Choose as many as applicable, but you **MUST** check at least one: ☐ American Indian or Alaskan Native ☐ If American Indian, please list the tribe(s): _____ ☐ Asian ☐ Black or African-American ☐ Native Hawaiian or other Pacific Islander ☐ White ☐ Unknown

D. **Have you ever been convicted of a felony?** ☐ **Yes** ☐ **No**
A yes answer does not necessarily disqualify you. Please be prepared to address this issue with the Chair of the Planning Council. (This will remain confidential).

E. Are you affiliated with any of the following types of organizations, agencies, or programs as an EMPLOYEE, BOARD MEMBER, or VOLUNTEER? (Check all that apply and list the specific organization and your role in the space provided).

- ☐ I am not affiliated as an employee or board member with any of the types of agencies listed below.
- ☐ Health care providers, including any Federally Qualified Health Centers (FQHCs)
- ☐ Community-based organizations (CBOs) servicing affected populations/AIDS service organizations (ASOs)
- ☐ Social service providers, including housing and homeless service providers
- ☐ Mental health providers
- ☐ Substance abuse providers
- ☐ Prevention providers
- ☐ Local public health agencies
- ☐ Hospital planning agencies or other health care planning agencies
- ☐ Persons Living with HIV/AIDS
- ☐ Non-elected community leaders
- ☐ Representatives of/or formerly incarcerated PLWHA
- ☐ State Medicaid agencies
- ☐ Treatment Modernization Act Part A funded agencies
- ☐ Treatment Modernization Act Part C funded agencies
- ☐ Treatment Modernization Act Part D funded agencies, or organizations addressing the needs of children, youth, and families with HIV
- ☐ State government agencies
- ☐ Homeless providers (non-HOPWA)
- ☐ Other Federal HIV programs
- ☐ Other _____

Please provide the names of the organizations that you have checked and your role in those organizations:

_____

_____

_____

_____

F. In the following list, identify three (3) areas of interest or expertise that you can contribute to the Planning Council

- ☐ Health needs of men who have sex with men
- ☐ Women's HIV health needs
- ☐ Children's HIV health needs
- ☐ Youth's HIV health needs
- ☐ Substance use/abuse services, including injection drug users' health needs
- ☐ Financial resource allocation/budgeting
- ☐ General public health
- ☐ Mental health services
- ☐ Other non-medical support services
- ☐ Health planning
- ☐ Evaluation
- ☐ Primary medical care
- ☐ Other (please specify) _____

Part 3

Please give a brief response to the questions below.

1. The ability to facilitate the gathering a diverse group is crucial to the leadership of the Planning Council and/or its standing committees. The group facilitation process allows the Council/committee to conduct business efficiently and to fulfill its mission successfully. **Please describe a situation where you have facilitated the work of a team to meet a common goal.**

2. What special skills, knowledge, qualities or life experiences would you bring to the Planning Council/committee as its Chair or Vice-Chair?

3. Please list any work or volunteer experience that you have had, including leadership experience (or attach a resume).

4. Are you on the board of any volunteer agency in the Dallas or North Texas area? If yes, please explain.

Part 4 Signature and Date

All Chairs of standing committees must also be members of the Planning Council. Membership seating is an open, ongoing process. The Executive Committee meets monthly as necessary to review applications and interview candidates for potential membership to the Planning Council or its committees. Planning Council seating is limited and must meet federal guidance to accommodate mandated seats.

Upon receipt of this application, the information will be forwarded to the Executive Committee, and potential candidates will be asked to interview with the committee.

Signature _____ **Date**_____

Completed applications may be submitted by mail, email or fax to:

Ryan White Planning Council of the Dallas Area
2377 N. Stemmons Freeway, Suite 200
Dallas, TX 75207-2710
Phone: 214.819.1840
Fax: 214.819.6023
Email: RWPC.RWPC@dallascounty.org

Operational Standing Committees of the Ryan White Planning Council of the Dallas Area

The Ryan White Planning Council (RWPC) was created due to legislative mandates of the Ryan White Care Act of 1990, Part A, which called for the establishment of Planning Councils to oversee a plan for the distribution of emergency financial assistance for the implementation and provision of a continuum of health and social services to persons living with HIV and AIDS. The work is performed largely through committee structure by volunteers with a wide array of expertise in health, finance, business and social services. Appointments to these committees are made from the membership of the RWPC, Health and Social Service providers, and individuals including HIV positive persons and those interested in HIV service delivery who have expressed a desire to serve on the committees of the Council.

The committees that make up the Ryan White Planning Council of the Dallas Area are described in the following paragraphs along with their charges, responsibilities and scheduled meeting times:

The Planning and Priorities Committee: This committee provides direction for the overall planning activities of the RWPC. Members oversee the process of identifying the needs and barriers to care for individuals affected by HIV disease through a Comprehensive Needs Assessment. They then categorically prioritize service needs. The Planning and Priorities committee also develops and/or contracts for a current comprehensive HIV services plan to implement the priority goals approved by the RWPC. **The Planning and Priorities Committee meets every 3rd Wednesday at 9:00 a.m.**

The Allocations Committee: This committee is responsible for recommending categorical distribution of funds among the prioritized service categories. In making its recommendations for service category allocations, the committee utilizes all available information regarding community needs, the current needs assessment, the long-range Comprehensive HIV Services Plan, and relevant trend data. **The Allocations Committee meets every 4th Monday at 5:15 p.m.**

The Evaluation Committee: This committee ensures that all parties receiving funding adhere to high standards of fiscal and programmatic accountability. This committee conducts an annual evaluation of the Administrative Agency's responsibility to rapidly allocate funds to the service categories of greatest needs, and it evaluates the RWPC's ability to establish an effective priority and allocation-setting process. **The Evaluation Committee meets every 4th Tuesday at 3:00 p.m.**

The Consumer Council: The Consumer Council Committee (CCC) is comprised of individuals infected or affected by HIV/AIDS and incorporates Persons Living with HIV/AIDS (PLWHA), caregivers, HIV service providers, and other interested parties. The committee is charged with empowering consumers, care givers, and other affected individuals through education by providing the tools and knowledge to interact with those individuals and committees that affect categorical service delivery of the Ryan White Treatment Modernization Act and the Texas State Department of Health Services (DSHS). As a council of diversity, the CCC encourages other individuals impacted by HIV/AIDS to participate in the planning process. This is accomplished through focus groups, community forums, and other public meetings to assure that the input from affected communities is incorporated into the planning for and evaluation of HIV/AIDS related services. **The Consumer Council Committee meets every 4th Thursday at 12:00 p.m.**

The Needs Assessment Committee: Needs Assessment Committee charge is to oversee the development and implementation of the needs assessment process to identify the needs, barriers to care, and gaps in services for PL WH, and to ensure that Planning Council activities are working towards meeting the needs, overcoming the barriers and closing the gaps. The Needs Assessment Committee will design consumer surveys that will comprehensively gather demographic, epidemiologic, behavioral, and service-related data; develop strategies to target special populations and organize focus groups to detem1ine what information to gather and how to collect it; determine the best means by which to conduct the comprehensive needs assessment that meets the frequency needs of the Health Resources and Services Administration; identify needs trends as identified by consumers from previous assessment cycles and provide recommendations related to consumer needs to the other Ryan White Planning Council standing committees. **The Needs Assessment Committee meets every 3rd Tuesday at 2:00 p.m**.

If you are applying to be seated on the *Ryan White Planning Council,* please request the **Background Investigation Form** from the Office of Support.

DALLAS COUNTY
COMMISSIONERS COURT

CONFIDENTIAL

Background Investigation Form – Board Appointment

For Business Use Only: ☐ SSN/Criminal ☐ MVR ☐ Employment Verification

Personal Information Section:

PLEASE PRINT IN INK OR TYPE		CONFIDENTIAL
NAME: LAST, FIRST, MIDDLE		MAIDEN OR OTHER NAMES KNOWN BY:
BIRTH DATE*	SOCIAL SECURITY NO.	DRIVERS LICENSE NO. & STATE
BOARD/COMMISSION OF CONSIDERATION:		

Residential Section:

PRESENT ADDRESS**	CITY	STATE	ZIP	DATES: From/To
PREVIOUS ADDRESS	CITY	STATE	ZIP	DATES: From/To
PREVIOUS ADDRESS	CITY	STATE	ZIP	DATES: From/To
PREVIOUS ADDRESS	CITY	STATE	ZIP	DATES: From/To

Employment History Section:

Employer		Address	
Job Title	Start Date	End Date	Contact Name and Number
Employer		Address	
Job Title	Start Date	End Date	Contact Name and Number
Employer		Address	
Job Title	Start Date	End Date	Contact Name and Number

* Date of birth and Social Security Number are required solely for the purpose of verifying background information and to insure the accuracy in the search of public records. Neither will be used for any other purpose.

** Provide addresses for at least the last seven (7) years.

In connection with my board appointment with Dallas County, I understand that Dallas County or an outside agency may complete a background investigation regarding such areas as employment history, driver's license, and criminal history or convictions.

I agree that a Photostat or copy of this authorization shall be considered as effective and valid as the original.

I authorize and request all persons, schools, businesses, corporations, government agencies, credit bureaus, and law enforcement to release such records without restrictions or qualifications. I also release Dallas County or any of its employees, representatives, or agents from any and all liability associated with this background investigation. If discrepancies are found, I understand I will be given the opportunity to explain any inaccuracies.

I have read and understand the above statement.

Applicant Signature _____ Date _____

411 Elm Street, 2nd Floor
Administration Building

Dallas, Texas
Equal Opportunity Employer

214.653.7327

C:\Documents and Settings\ALSMITH\Local Settings\Temporary Internet Files\Content.Outlook\UHFECPD6\Dallas Co Board Appointment Background Check Form222812.doc

DALLAS COUNTY

BOARD AND COMMISSION NOMINEE RESUME AND INFORMATION

Notice: By signing this form you agree that the information you provide below may be used to check your criminal history. You also agree that this information may be shared with the Commissioners Court. You also acknowledge that some of this information may become public information and subject to open records requests and available to anyone who requests the information.

_____

Nominee's full name (Last name, First name, Middle name) (Maiden name)

_____

Additional name or names ever used by nominee (Alias name or names) Maiden name

_____ _____ _____

Date of birth Sex Race

_____ _____

Texas driver's license number Social Security number

Name of board to which you have been nominated _____

Have you ever been finally convicted of a felony offense? Yes _____ No _____

I hereby state that all of the information in this statement is true and correct. I further request and authorize all law enforcement officials and criminal justice agencies to release any criminal history records concerning me to Dallas County in order that my qualifications for service on a county board or commission may be checked. I understand that any information so released is public information and may be released to members of the Dallas County Commissioners Court and to any other person requesting it.

_____

Signature of Nomine

Job Duties for RWPC Office of Support Staff

Job Duties	Expected Outcomes	Allocation of time
Planning Council Job Duties	**Outcomes**	**20%**
Plan, prepare, implement and facilitate Planning Council meetings and activities to assure RWA grant compliance	1. Determine annual meeting frequency for Planning Council 2. Secure and facilitate space, food and supplies for Planning Council meetings and activities, including the creation and management of purchase orders, event set up and take down 3. Prepare and distribute information for Planning Council members including agendas, minutes and other pertinent information 4. Provide annual Planning Council training 5. Research and implement techniques for continuous improvement to improve group facilitation skills to manage conflict and increase collaboration of Planning Council members. 6. Facilitate annual review of bylaws 7. Facilitate Planning Council review and approval of standards of care. 8. Facilitate Planning Council consensus or votes on elections of chairs and other voting activities 9. Facilitate member application process, appointments and new member trainings 10. Other duties as assigned	
Facilitate assigned Planning Group sub-committees	1. Secure and facilitate space for Planning Council sub-committee meetings 2. Organize capacity building information based on requests from Planning Council sub-committees 3. Facilitate Planning Council sub-committee consensus or vote decisions 4. Prepare and distribute information for Planning Council sub-committee members 5. Other duties as assigned	
Educate and support RWA Planning Council consumer members and RWA consumers	1. Prepare and distribute information 2. Plan, implement or facilitate capacity building, trainings, events and educational information for consumers 3. Distribute Ryan White promotional items 4. Other duties as assigned	
Represent Ryan White Part A Planning Council in the community	1. Attendance and participation in other community groups, committees and organizations as assigned 3. Other duties as assigned	
Other program or department duties as assigned	1. Attendance at CPH required trainings or events. 2. Professional development. 3. Other duties as assigned.	**5%**

PLANNING & PRIORITIES COMMITTEE

QUORUM CERTIFICATION – April 17, 2024

Voting Members			Action Item-Vote
Present/Excused	**Name**	**Polling Response Y/N**	**Approve the March 20, 2024, Minutes Action Item**
	1. Lori Davidson		
	2. Donna Wilson		
	3. Helen Zimba, **Chair**		
	4. Korey Willis		
	5. Laticcia Riggins		
	6. Chris Walker		
	7. Habakkuk Yumo (HA)		
	8. Grace Balaoing		
	9. Nathaniel Holley		
	10. Gary Benecke		
	11. Thomas Baxley		
	12. Auntjuan Wiley		
	13. Te'Quan Penny		
	John Dornheim, **RWPC Vice-Chair**		

**** Need 7 voting members to establish quorum****

Quorum certified by: _____ **Date:** ____
RWPC Office of Support

Quorum confirmed by: _____ **Date:** ____
Helen Zimba, Chair or John Dornheim, RWPC Vice Chair

PLANNING AND PRIORITIES COMMITTEE

The RWPC envisions a seamless, flexible, and efficient healthcare system dedicated to the wellness and empowerment of Persons Living With HIV/AIDS (PLWHA) in North Texas.

The RWPC of the Dallas Area is a collaborative partnership of consumers, volunteers, and providers entrusted with the planning and coordination of healthcare services on behalf of PLWHA in North Texas.

Meeting Agenda
P&P Committee Meeting
Wednesday, April 17, 2024
9:00 a.m.

I. Call to Order — Helen Zimba, Chair or John Dornheim, RWPC Vice-Chair

II. Certification of Quorum — Helen Zimba, Chair or John Dornheim, RWPC Vice-Chair

III. Introductions/Announcements — Helen Zimba, Chair or John Dornheim, RWPC Vice-Chair

IV. **Approve the meeting minutes for March 20, 2024,** — **Action Item**

V. Office of Support Report – *Reflectiveness/ Representation*

VI. PSRA Data and Decision-Making Training — Jasmine Sanders, Office of Support

VII. Standards of Care Review — Jasmine Sanders, Office of Support

- ✓ *Early Intervention Services*
- ✓ *Home and Community-Based Health Services*
- ✓ *Home Healthcare*
- ✓ *Hospice Services*
- ✓ *Medical Nutrition Therapy*
- ✓ *Childcare Services*
- ✓ *Outreach (Street)*
- ✓ *Respite Care+*
- ✓ *Linguistic Services*

VIII. New Business

IX. Adjournment — Helen Zimba, Chair or John Dornheim, RWPC Vice-Chair

Due to COVID-19
Until Further Notice
NEXT SCHEDULED MEETING
Thursday, May 15, 2024, 9:00 AM
Will be held via TELE-CONFERENCE
Dallas County Health and Human Services
2377 N. Stemmons Freeway, Dallas, TX 75207

Conflict of Interest

RYAN WHITE PLANNING COUNCIL
OF THE DALLAS AREA

CONFLICT OF INTEREST POLICY
(BYLAWS SECTION 7.1 - GENERAL)

I, as a member of the Ryan White Planning Council of the Dallas Area (RWPC), understand that I must fully disclose any and all professional or personal affiliations with organizations that receive or may request funds from the Dallas County Health and Human Services Grants Management Division (Administrative Agent) to provide HIV-related care services.

I further understand that as a member of the RWPC, I must not use my official position to Influence decisions of the RWPC that result or appear to result in direct or indirect financial, personal, organizational, or professional gain for myself or an associated party with whom I have family, business, or other ties. I have read, understand, and support the section of the RWPC bylaws pertaining to "Conflict of Interest". Affiliations severed more than twelve months prior to the date of signing this form do not present a conflict of interest and therefore do not need to be disclosed. This authorization will expire 365 days from the date shown below.

_____ _____

Member's Name (Print or Type) Member's Signature

_____

Date Signed

To the best of my knowledge, I have personal, professional, family or business affiliations with the organizations or persons listed below who either are funded through the Administrative Agent, work for an agency funded by Administrative Agent, or who may apply to Administrative Agent for funding. This information is provided in good faith to avoid any real or perceived conflict of interest in the discharge of my duties as an RWPC member.

(1) Organization:
Position in organization:
Services provided by organization:

(2) Organization:
Position in organization:
Services provided by organization:

(3) Organization:
Position in organization:
Services provided by organization:

Ratified by theRyan White Planning Council of the Dallas Area

Statement of Confidentiality
for RWPC Council Members

RYAN WHITE PLANNING COUNCIL

OF THE DALLAS AREA

MEMBER STATEMENT OF CONFIDENTIALITY
(BYLAWS SECTION 6.9 – TRAINING)

I, the undersigned, am a member of the Ryan White Planning Council of the Dallas Area/Standing Committees

I understand that in the course of my term on the Ryan White Planning Council I may learn certain facts about individuals in the application/nomination and membership selection process and during activities associated with the Local Needs Assessment Task Force, HIV Planning Council, or Community Planning Group activities, that are of a highly personal and confidential nature (i.e. information such as, but not limited to: HIV status, medical conditions, sexual orientation, or other personal matters)

I agree not to disclose any information of a personal and confidential nature to any person not affiliated with the Ryan White Planning Council of the Dallas Area or any other persons not authorized to access such information, without specific written consent of the individual to whom such information pertains.

I further agree not to disclose any information of a personal and confidential nature after the termination of my relationship with the Ryan White Planning Council of the Dallas Area.

I understand that discussion or decisions that occur during meetings associated with the activities of the Ryan White Planning Council of the Dallas Area may be documented in meeting minutes and if I disclose personal, confidential or private information about myself, (i.e. information such as, but not limited to: HIV status, medical conditions, sexual orientation, or other personal matters), that this information may become a part of public record in the form of meeting minutes.

I also understand that a violation of this confidentiality agreement will result in my immediate removal from the Ryan White Planning Council of the Dallas Area and may also result in civil monetary penalties, criminal penalties, or liability for monetary damages. This form will expire 365 days from the date shown below.

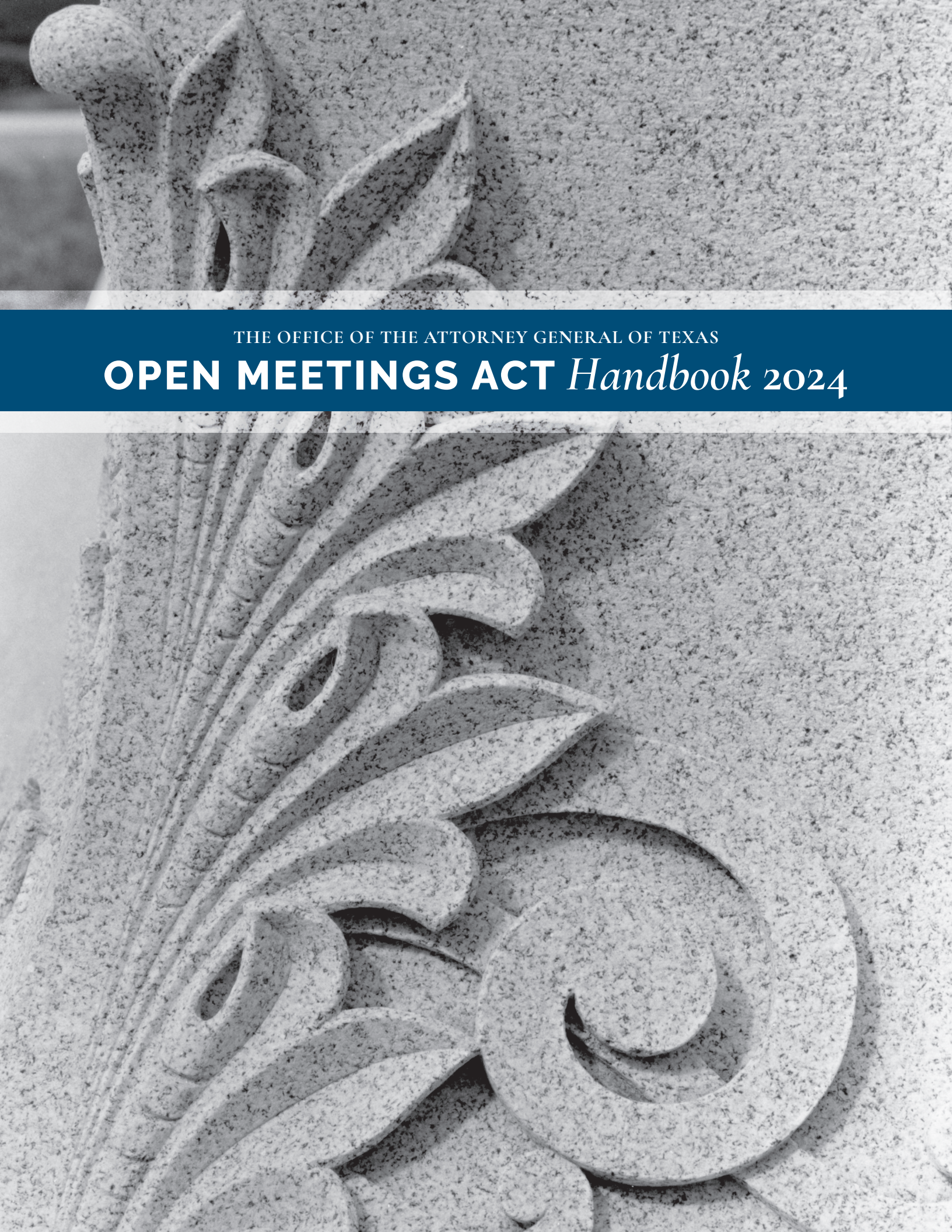
Printed Name: _____

Signature: _____

Date: _____

Statement of Confidentiality

For RWPC Council Members



THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS

OPEN MEETINGS ACT *Handbook 2024*

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

Dear Fellow Texans:

Founding Father James Madison once wrote that democracy without information was "but prologue to a farce or a tragedy," and he regarded the diffusion of knowledge as "the only guardian of true liberty." Texas law has long agreed the inherent right of Texans to govern themselves depends on their ability to observe how public officials conduct the people's business. The Texas Open Meetings Act was enacted to ensure the Texas government is transparent, open, and accountable to the people.

At its core, the Texas Open Meetings Act requires government entities to keep official business accessible to the public. The *Open Meetings Act Handbook* helps public officials comply with the provisions of the Texas Open Meetings Act and familiarizes our citizens with using the Open Meetings Act as a resource for obtaining information about their government. The handbook is available online and as a printable document at www.texasattorneygeneral.gov/openmeetings_hb.pdf.

As Attorney General, I am proud of my office's efforts to promote open government. We have established an Open Government Hotline for anyone seeking a better understanding of their rights and responsibilities under the law. The toll-free number is 877-OPEN TEX (877-673-6839).

Public access to the proceedings and decision-making processes of government is essential to a properly functioning and free state. It is my sincere hope that this handbook will make it easier for public officials and citizens to understand and comply with the Texas Open Meetings Act.

Best regards,

Ken Paxton

Ken Paxton
Attorney General of Texas

Table of Contents

I. Introduction

A. Open Meetings Act

The Open Meetings Act (the "Act") was adopted to help make governmental decision-making accessible to the public. It requires meetings of governmental bodies to be open to the public, except for expressly authorized closed sessions,[1] and to be preceded by public notice of the time, place, and subject matter of the meeting. "The provisions of [the Act] are mandatory and are to be liberally construed in favor of open government."[2]

The Act was adopted in 1967[3] as article 6252-17 of the Revised Civil Statutes, substantially revised in 1973,[4] and codified without substantive change in 1993 as Government Code chapter 551.[5] It has been amended many times since its enactment.

Before addressing the Act itself, we will briefly mention certain other issues relevant to conducting public meetings.

B. A Governmental Body Must Hold a Meeting to Exercise its Powers

Predating the Act is the common-law rule that decisions entrusted to governmental bodies must be made by the body as a whole at a properly called meeting.[6] This requirement gives each member of the body an opportunity to state his or her views to other board members and to give them the benefit of his or her judgment, so that the decision "may be the composite judgment of the body as a whole."[7] This rule may be changed by the Legislature.[8]

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1 The term "executive session" is often used to mean "closed meeting," even though the Act uses the latter term. *See* TEX. GOV'T CODE § 551.101; *Cox Enters., Inc. v. Bd. of Trs.*, 706 S.W.2d 956, 957 (Tex. 1986) (stating that an executive session is a meeting or part of a meeting that is closed to the public).

2 *See City of Laredo v. Escamilla*, 219 S.W.3d 14, 19 (Tex. App.—San Antonio 2006, pet. denied); *Willmann v. City of San Antonio*, 123 S.W.3d 469, 473 (Tex. App.—San Antonio 2003, pet. denied); *Toyah Indep. Sch. Dist. v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377, 380 (Tex. App.—San Antonio 1971, no writ).

3 Act of May 8, 1967, 60th Leg., R.S., ch. 271, § 1, 1967 Tex. Gen. Laws 597, 597–98.

4 Act of Mar. 28, 1973, 63d Leg., R.S., ch. 31, § 1, 1973 Tex. Gen. Laws 45, 45–48.

5 Act of May 4, 1993, 73d Leg., R.S., ch. 268, § 1, 1993 Tex. Gen. Laws 583, 583–89.

6 *See Webster v. Tex. & Pac. Motor Transp. Co.*, 166 S.W.2d 75, 76–77 (Tex. 1942); *Fielding v. Anderson*, 911 S.W.2d 858, 864 (Tex. App.—Eastland 1995, writ denied).

7 *Webster*, 166 S.W.2d at 76–77.

8 *See Faulder v. Tex. Bd. of Pardons & Paroles*, 990 S.W.2d 944, 946 (Tex. App.—Austin 1999, pet. ref'd) (concluding that board was authorized by statute to perform duties in clemency matters without meeting face-to-face as a body).

C. Quorum and Majority Vote

The authority vested in a governmental body may generally be exercised only at a meeting of a quorum of its members.[9] The Code Construction Act[10] states as follows:

> (a) A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members fixed by statute.[11]
>
> (b) A quorum of a public body is a majority of the number of members fixed by statute.[12]

The Act defines "quorum" as a majority of the governing body, unless otherwise defined by applicable law or the governing body's charter.[13] For example, three members of the five-member commissioners court constitute a quorum for conducting county business, except for levying a county tax, which requires the presence of at least four members of the court.[14] Ex officio, nonvoting members of a governmental body are counted for purposes of determining the presence of a quorum.[15] A person who has been elected to serve as a member of a governmental body but whose election has not been certified and who has not yet taken the oath of office is not yet a member of the governmental body.[16] Thus, a meeting between two newly elected persons who have not yet taken the oath of office and two serving directors is not subject to the Act because no quorum is present.[17] A board member may not delegate his or her authority to deliberate or vote to another person, absent express statutory authority to do so.[18]

Absent an express provision to the contrary, a proposition is carried in a deliberative body by a majority of the legal votes cast, a quorum being present.[19] Thus, if a body is "composed of twelve members, a quorum of seven could act, and a majority of that quorum, four, could bind the body."[20]

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9 *But see* TEX. GOV'T CODE § 418.1102(b) (providing that a quorum is not required of local governmental entities if the entity's "jurisdiction is wholly or partly located in the area of a disaster declared by the president . . . or governor; and . . . a majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster").

10 *Id.* §§ 311.001–.034 (chapter 311).

11 A statute may expressly provide a different rule. *See* TEX. LOC. GOV'T CODE § 363.105 (providing that two-thirds majority vote required of a board of crime control and prevention district to reject application for funding).

12 TEX. GOV'T CODE § 311.013; *see id.* § 312.004 ("A joint authority given to any number of officers or other persons may be executed by a majority of them unless expressly provided otherwise."); *see also Tex. State Bd. of Dental Exam'rs v. Silagi*, 766 S.W.2d 280, 284 (Tex. App.—El Paso 1989, writ denied) (stating that absent a statutory provision, the common-law rule that a majority of all members of a board constitutes a quorum applies).

13 TEX. GOV'T CODE § 551.001(6).

14 TEX. LOC. GOV'T CODE § 81.006.

15 Tex. Att'y Gen. Op. No. JC-0580 (2002) at 2–3 (overruling Tex. Att'y Gen. Op. No. DM-160 (1992) in part).

16 Tex. Att'y Gen. Op. No. GA-0355 (2005) at 3.

17 *Id.* at 4.

18 Tex. Att'y Gen. Op. No. JM-903 (1988) at 4–5.

19 *Comm'rs Ct. of Limestone Cnty. v. Garrett*, 236 S.W. 970, 973 (Tex. [Comm'n Op.] 1922); Tex. Att'y Gen. Op. Nos. GA-0554 (2007) at 2, GA-0412 (2006) at 3.

20 *Webster*, 166 S.W.2d at 77.

D. Other Procedures

1. In General

Governmental bodies should consult their governing statutes for procedures applicable to their meetings. Home-rule cities should also consult their charter provisions.[21]

Governmental bodies may draw on a treatise such as *Robert's Rules of Order* to assist them in conducting their meetings, as long as the provisions they adopt are consistent with the Texas Constitution, statutes, and common law.[22] A governmental body subject to the Act may not conduct its meetings according to procedures inconsistent with the Act.[23]

2. Preparing the Agenda

An agenda is "[a] list of things to be done, as items to be considered at a meeting."[24] The terms "agenda" and "notice" are often used interchangeably in discussing the Act because of the practice of posting the agenda as the notice of a meeting or as an appendix to the notice.[25]

Some governmental entities are subject to statutes that expressly address agenda preparation.[26] Other entities may adopt their own procedures for preparing the agenda of a meeting.[27] Officers and employees of the governmental body must avoid deliberations subject to the Act while preparing the agenda.[28]

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21 *See Shackelford v. City of Abilene*, 585 S.W.2d 665, 667 (Tex. 1979) (considering home-rule city charter that required all city meetings to be open to the public).

22 *See* Tex. Att'y Gen. Op. No. GA-0412 (2006) at 2; *see also generally* Tex. Att'y Gen. Op. No. GA-0554 (2007).

23 *See* Tex. Att'y Gen. Op. Nos. GA-0412 (2006) at 2; DM-228 (1993) at 3 (addressing governmental body's adoption of provisions of *Robert's Rules of Order* to govern conduct of meetings).

24 BLACK'S LAW DICTIONARY 72 (9th ed. 2009).

25 *See, e.g.*, *City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762, 764 (Tex. 1991).

26 *See* TEX. TRANSP. CODE § 201.054 (providing that Chair of Transportation Commission shall oversee the preparation of an agenda for each meeting).

27 *See* Tex. Att'y Gen. Op. No. DM-473 (1998) at 3 (discussing home-rule city's procedure for agenda preparation).

28 *Id.*

II. Recent Amendments

Below is a brief discussion of the relevant enactments of the 88th Legislature, Regular Session:

A. Section 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, Development Corporations, Authorities, and Joint Boards

House Bill 3440 amends subsection 551.056(b) in two main aspects.[29] First, it requires specified governmental bodies or economic development corporations to post a meeting agenda concurrently with the meeting notice on the entity's website.[30] Second, it adds "a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution" as one of the specified governmental bodies subject to the provision.[31] House Bill 3440 also repeals subsection 551.056(c), which had previously required the concurrent posting of the meeting agenda of only a subset of governmental bodies and economic development corporations based on population.[32] The repeal of subsection 551.056(c) does away with the population limitation such that all of the specified governmental bodies, regardless of population, must post both a meeting notice and a meeting agenda on their internet website. House Bill 3440 takes effect on September 1, 2023.[33]

B. Other Notable Changes[34]

The Legislature adopted legislation that does not amend Government Code chapter 551 but nonetheless implicates open meetings.

House Bill 2800 amends Election Code section 51.002 to require that a meeting of the county election board be held in person and be open to the public.[35] House Bill 2800 also requires the county clerk to post notice of a meeting of the county election board on the county's internet website, if it maintains one, "[n]ot later than 48 hours before each meeting . . . ."[36] House Bill 2800 takes effect on September 1, 2023.[37]

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29 *See* Act of May 28, 2023, 88th Leg., R.S., ch. 855, § 1, 2023 Tex. Sess. Law Serv. 2656 (to be codified at TEX. GOV'T CODE § 551.056(b)).

30 *See id.* (to be codified at TEX. GOV'T CODE § 551.056(b)).

31 *Id.* (to be codified at TEX. GOV'T CODE § 551.056(b)(8)).

32 *See id.* § 2.

33 *See id.* § 4.

34 The Legislature also adopted Senate Bill 335, which amended Human Resources Code chapter 40 to require the Family and Protective Services Council to broadcast its meetings live over the internet and to provide access to the meeting over the internet or to make a recording of the meeting available on its internet website within two days of the meeting. *See* Tex. S.B. 335, 88th Leg., R.S. (2023). However, the bill was vetoed by Governor Abbott. *See* Veto Message of Gov. Abbott, Tex. S.B. 335, 88th Leg., R.S. (2023).

35 *See* Act of May 24, 2023, 88th Leg., R.S., ch. 733, § 1, 2023 Tex. Sess. Law Serv. 1780, 1781 (to be codified at TEX. ELEC. CODE § 51.002(d)).

36 *Id.* (to be codified at TEX. ELEC. CODE § 51.002(e)).

37 *See id.* § 2.

House Bill 4611 relates to the Health and Human Services Commission, Medicaid, and other social services.[38] Relevant to open meetings, House Bill 4611 adds several new chapters to the Government Code, including chapter 522, subchapter E, titled "Public Access to Meetings."[39] It requires the Health and Human Services Commission or a health and human services agency, and their advisory bodies, with certain exceptions, to broadcast live video and audio of each open meeting, to make a video and audio recording of the meeting, and to provide access to the archived video and audio recording on their website not later than seven days after the meeting.[40] The bill also requires the Health and Human Services Commission or a health and human services agency to provide the same notice of an open meeting that is required by the Act on its internet website and to do so in the same time required for posting required by the Act.[41] House Bill 4611 expressly directs the Health and Human Services Commission to consider contracting with a private individual or entity to broadcast and archive the meeting.[42] It also requires the Health and Human Services Commission Executive Council established under Government Code chapter 523 to comply with chapter 522, subchapter E.[43] House Bill 4611 takes effect on April 1, 2025.[44]

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38 *See* Act of May 19, 2023, 88th Leg., R.S., ch. 769, § 1.01, 2023 Tex. Sess. Law Serv. 2015.

39 *See id.* at 2023–24 (to be codified at TEX. GOV'T CODE §§ 522.0201–.0206).

40 *See id.* (to be codified at TEX. GOV'T CODE §§ 522.0202(a), (b), 522.0203(a), (c)); *see also id.* at 2016 (defining "Commission" and "Health and human services agencies") (to be codified at TEX. GOV'T CODE § 521.0001(3), (5)).

41 *See id.* at 2024 (to be codified at TEX. GOV'T CODE § 522.0204).

42 *See id.* (to be codified at TEX. GOV'T CODE § 522.0206).

43 *See id.* at 2031 (to be codified at TEX. GOV'T CODE § 523.0106(c)).

44 *See id.* § 4.02 at 2371.

III. Noteworthy Judicial Decisions Since 2022 *Handbook*

A. Judicial Decisions

In *Pete v. Dunn*, a federal district court clarified that individuals cannot generally assert claims for monetary damages for violations of the Act.[45] The *pro-se* plaintiff, Pete, filed a claim in federal district court that the Beaumont Independent School District's adoption of a mask mandate violated the 1st and 14th Amendments.[46] To these claims, he joined a state-law claim seeking monetary damages from the school board for violating the Act.[47] The court dismissed his Open Meetings Act claim as lacking "facial plausibility" under federal pleading rules.[48] The court added that Pete could not "assert a claim for monetary damages for violations of [the Act]" because the relief provided for by the Act was injunctive.[49] The court concluded the statute which Pete claimed was violated did not allow for damages and his pleading failed to state a claim for which relief could be granted.[50]

In *Hardy v. Carthage Independent School District*, a federal district court ruled on the scope of section 551.146 of the Act, which makes it an offense to knowingly disclose the certified agenda or recording of a closed meeting.[51] Hardy filed an employment discrimination lawsuit against his former employee, the school district.[52] During the deposition of a school board member, the school district's counsel objected to a line of questioning related to discussions between board members at a closed meeting.[53] Counsel advised the board member not to answer questions on the substance of the closed meeting invoking the criminal penalty in section 551.146.[54] The court stated that section 551.146 "is not a blanket prohibition against testifying about conversations occurring in a closed meeting, it merely penalizes disclosure of the certified agenda or recording—nothing more."[55] Noting that the plain language of section 551.146 limits its application to the agenda and recording, the court declined to expand its scope beyond its plain meaning.[56]

In *Burleson v. Collin County Community College District*, the Dallas Court of Appeals considered who constitutes an "interested person" in section 551.142, which sets out who has standing to sue for a violation under the Act.[57] In connection with the plaintiffs' claims, the court had the

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45 *Pete v. Dunn*, No. 1:21-CV-546, 2022 WL 2032306 (E.D. Tex. May 11, 2022).
46 *Id.* at *1.
47 *Id.* at *5–6.
48 *Id.* at 5.
49 *Id.* at 6.
50 *Id.*
51 *Hardy v. Carthage Indep. Sch. Dist.*, No. 2:19-CV-00277, 2022 WL 609151 (E.D. Tex. Mar. 1, 2022).
52 *Id.* at *1.
53 *Id.*
54 *Id.*
55 *Id.*
56 *Id.* at *2 (noting that its interpretation of section 551.146 is "further corroborated by" Attorney General Opinion JM-1071, which construed section 551.146's statutory predecessor to not prohibit persons present at an executive session from afterwards talking about the subject matter of the session).
57 *Burleson v. Collin Cnty. Cmty. Coll. Dist.*, No. 05-21-00088-CV, 2022 WL 17817965 (Tex. App.—Dallas Dec. 20, 2022, no pet. h.) (mem. op.).

opportunity to address disagreement among Texas appellate courts.[58] Noting that only one Texas court requires a plaintiff to allege a particular injury or damage, the court recognized the majority view is that the Act "broadly confers standing on any person who shares an injury in common with the general public."[59] Agreeing with the majority view, the court said "[i]t makes little sense to require a plaintiff to demonstrate an injury distinct from the general public when 'the interest protected by the Open Meetings Act *is* the interest of the general public.'"[60]

In *State ex rel. Durden v. Shahan*, the Texas Supreme Court addressed the scope of "interested person" in section 551.142 of the Act in a different context.[61] Durden filed three separate cases in his official capacity as county attorney on behalf of the State of Texas, two of which involved violations of the Act.[62] He argued that because Government Code subsection 311.005(2), the Code Construction Act, defines "person" to include a "governmental subdivision or agency," that he—acting as county attorney on the state's behalf—qualified as an "interested person" under the Act.[63] The court rejected the argument because he "purported to file the[] suits on behalf of *the state*, not on behalf of a governmental subdivision or agency."[64] The court said it found nothing in the Act or in the Code Construction Act "to support the notion that the state itself qualifies as an 'interested person.'"[65] The Court referred to the Legislature's 2019 amendment of section 551.142, which authorizes the attorney general to bring certain actions related to the enforcement of one of the Act's provisions and observed that such change would have been unnecessary and meaningless if an "interested person" included the state.

In an unpublished opinion, *In re City of Amarillo*, the Amarillo Court of Appeals held a meeting notice failed to substantially comply with the Act.[66] The case involved a taxpayer's suit against the City of Amarillo challenging the city's plan to pay for renovations and expansion of its civic center complex.[67] For context, the city's voters had previously voted against a $275 million bond proposition regarding the civic center complex, and the city was precluded from issuing certificates of obligation to fund the project for three years.[68] The city worked on a plan involving several proposed ordinances to generate $260.525 million by other financing mechanisms not requiring voter approval.[69] The court considered meeting notice issues with respect one of the ordinances.[70] The notice vaguely recited "the discussion and consideration of an ordinance authorizing the issuance of the City of Amarillo, Texas Combination Tax and Revenue Notes, Series 2022A

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58 *Id.* at *9.

59 *Id.* (citing *Dallas Indep. Sch. Dist. v. Peters*, No. 05-14-00759-CV, 2015 WL 8732420, at *9 (Tex. App.—Dallas Dec. 14, 2015, pet. denied) (mem. op.).

60 *Id.* (quoting *Save Our Springs All., Inc. v. Lowry*, 934 S.W.2d 161, 163 (Tex. App.—Austin 1996, orig. proceeding [leave denied]).

61 *State ex rel. Durden v. Shahan*, 658 S.W.3d 300 (Tex. 2022).

62 *Id.* at 302.

63 *Id.* at 303–04.

64 *Id.*

65 *Id.* at 304.

66 *In re City of Amarillo*, No. 07-22-00341-CV, 2023 WL 5279473, at *5 (Tex. App.—Amarillo Aug. 16, 2023, no pet. h.) (mem. op.).

67 *Id.* at *1.

68 *See id.*

69 *See id.*

70 *See id.* at *1–2.

resolving other matters incident and related thereto including the approval of a paying agent/registrar agreement and a purchase contract."[71] Citing two prior Texas Supreme Court cases, the court first considered whether the notice's description of the ordinance required a higher degree of specificity due to any special interest of the public.[72] Then it considered the adequacy of the notice.[73]

In concluding the issue was one of special interest to the public such that the notice required more detail, the court noted that the project had occupied over a decade of the city's time and that the proposed financing "would have an effect to be felt for years to come."[74] The court was particularly troubled by the fact that the issue had been submitted to—and rejected by—the voters less than two years earlier.[75] The court also observed that the notice did not adequately inform the public that the purpose of the alternative financing vehicle was to revive the "previously-voter-rejected civic center project."[76] The court recognized that notice under the Act need not state all the consequences that might flow from an action, but criticized the city's vague description of the financing vehicles and its omission from the notice of the its intent to finance more than a quarter-billion dollars.[77] Lastly, the court noted the notice was "patently incorrect" and misled the public by suggesting that the debt would be secured by a "combination of taxes and revenue" instead of solely by ad valorem taxes as provided by the actual executed ordinance and finance documents.[78]

Lastly, the court also considered and disregarded the city's argument that a citizen's appearance at the city council meeting "refuted" any conclusion that the notice was deficient.[79] The court asked whether attendance by one citizen excused the city's obligations to its other citizens.[80] The court concluded the notice did not substantially comply with the Act and found the ordinance void.[81]

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71 *Id*. at *2.

72 *See id.* at *4–5 (relying on *Cox Enters., Inc. v. Bd. of Trs.,* 706 S.W.2d 956 (Tex. 1986) and *City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762, 763 (Tex. 1991)).

73 *See id*. at *5–6.

74 *Id*. at *5.

75 *Id*.

76 *Id*.

77 *See id.* at *6 (disagreeing with the city's position that the Act is satisfied "so long as the notice mentions possible debt issuance of some amount" when the debt was anticipated to be in excess of $260 million).

78 *Id*. at *3, 6.

79 *See id.* at *6.

80 *Id*.

81 *See id.*

IV. Training for Members of Governmental Bodies

Section 551.005 requires each elected or appointed public official who is a member of a governmental body subject to the Act to complete a course of training addressing the member's responsibilities under the Act. The public official must complete the training not later than the 90th day after taking the oath of office, if required to take an oath to assume duties as a member of the governmental body, or after the public official otherwise assumes these duties if the oath is not required.

Completing training as a member of the governmental body satisfies the training requirements for the member's service on a committee or subcommittee of the governmental body and ex officio service on any other governmental body. The training may also be used to satisfy any corresponding training requirements concerning the Act that another law requires members of a governmental body to complete. The failure of one or more members of a governmental body to complete the training does not affect the validity of an action taken by the governmental body.

The attorney general is required to ensure that the training is made available, and the attorney general's office may provide the training and may approve any acceptable training course offered by a governmental body or other entity. The attorney general must also ensure that at least one course approved or provided by the attorney general's office is available at no cost on videotape, DVD, or a similar and widely available medium.[82]

The training course must be at least one and no more than two hours long and must include instruction on the following subjects:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter;

(5) penalties and other consequences for failure to comply with this chapter.[83]

The entity providing the training shall provide a certificate of completion to public officials who complete the training course. A governmental body shall maintain and make available for public inspection the record of its members' completion of training. A certificate of course completion is

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[82] An Open Meetings Act training video is available online at https://www.texasattorneygeneral.gov/open-government/open-meetings-act-training.

[83] In its review of Open Meetings Act training materials submitted for approval, the Office of the Attorney General considers whether the written materials demonstrate that each subject is accurately and sufficiently covered. Materials may be submitted for review at https://www.texasattorneygeneral.gov/open-government/online-training-application-approval.

admissible as evidence in a criminal prosecution under the Act, but evidence that a defendant completed a training course under this section is not *prima facie* evidence that the defendant knowingly violated the Act.

V. Governmental Bodies

A. Definition

Section 551.002 of the Government Code provides that "[e]very regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter."[84] "Governmental body" is defined by subsection 551.001(3) as follows:

"Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section 2308.253;

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;[85] and

(K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(L) a joint board created under Section 22.074, Transportation Code; and

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84 TEX. GOV'T CODE § 551.002. An agency financed entirely by federal money is not required by the Act to conduct an open meeting. *Id.* § 551.077.

85 *See* 42 U.S.C.A. §§ 9901–26 (Community Services Block Grant Program).

(M) a board of directors of a reinvestment zone created under Chapter 311, Tax Code.

Section 551.0015 provides that certain property owners' associations in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more are subject to the Act in the same manner as a governmental body.[86]

B. State-Level Governmental Bodies

Subsection 551.001(3)(A), the definition of "governmental body" applicable to state-level entities, does not name specific entities but instead sets out a general description of such entities. Thus, a state-level entity will be a governmental body within the Act if it is "within the executive or legislative branch of state government" and under the direction of "one or more elected or appointed members."[87] Moreover, it must have supervision or control over public business or policy.[88] A university auxiliary enterprise was a governmental body under the Act because (1) as an auxiliary enterprise of a state university, it was part of the executive branch of state government; (2) a board of directors elected by its membership controlled the entity, formulated policy, and operated the organization; (3) the board acted by vote of a quorum; (4) the board's business concerned public education and involved spending public funds; and (5) the university exerted little control over the auxiliary enterprise.[89] In contrast, an advisory committee without control or supervision over public business or policy is not subject to the Act, even though its membership includes some members, but less than a quorum, of a governmental body.[90] *See Handbook* Part V.E.

The subsection 551.001(3)(A) definition of "governmental body" includes only entities within the executive and legislative departments of the State. It therefore excludes the judiciary from the Act.[91]

Other entities are excluded from the Act or from some parts of the Act by statutes other than chapter 551. For instance, the Texas HIV Medication Advisory Committee is expressly excluded from the

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86 TEX. GOV'T CODE § 551.0015; *but see* TEX. PROP. CODE § 209.0051(c) (requiring that regular and special board meetings of property owner associations not otherwise subject to chapter 551 be open to the owners), 209.0051(b)(1) (defining "board meeting" as "a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business is considered and the board takes formal action").

87 TEX. GOV'T CODE § 551.001(3)(A); *see id.* § 551.003.

88 *Id*. § 551.001(4) (definition of "meeting"); *Beasley v. Molett*, 95 S.W.3d 590, 606 (Tex. App.—Beaumont 2002, pet. denied); Tex. Att'y Gen. Op. No. GA-0019 (2003) at 5.

89 *Gulf Reg'l Educ. Television Affiliates v. Univ. of Houston*, 746 S.W.2d 803, 809 (Tex. App.—Houston [14th Dist.] 1988, writ denied); Tex. Att'y Gen. Op. No. H-438 (1974) at 4 (concluding that Athletic Council of The University of Texas, as governmental body that supervises public business, must comply with the Act).

90 Tex. Att'y Gen. Op. Nos. JM-331 (1985) at 3 (concluding that citizens advisory panel of Office of Public Utility Counsel, with no power to supervise or control public business, is not governmental body), H-994 (1977) at 2–3 (concluding that committee appointed to study process of choosing university president and make recommendations to Board of Regents not subject to the Act).

91 *See* Tex. Att'y Gen. Op. No. JM-740 (1987) at 4 (concluding that meetings of district judges to choose county auditor is not subject to the Act).

definition of "governmental body" but still must hold its open meetings in compliance with chapter 551, "except that the provisions allowing executive sessions do not apply to the committee."[92]

C. Local Governmental Bodies

Subsection 551.001(3)(B) through (M) lists a number of specific types of local governmental bodies. These include a county commissioners court, a municipal governing body and the board of trustees of a school district.

Subsection 551.001(3)(D) describes another kind of local governmental body: "a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality.[93] An inquiry into a local entity's powers and relationship to the city or county government is necessary to determine whether it is a governmental body under subsection 551.001(3)(D).

A judicial decision guides us in applying subsection 551.001(3)(D) to particular entities. The court in *City of Austin v. Evans*[94] analyzed the powers of a city grievance committee and determined it was not a governmental body within this provision. The court stated that the committee had no authority to make rules governing personnel disciplinary standards or actions or to change the rules on disciplinary actions or complaints.[95] It could only make recommendations and could not adjudicate cases. The committee did not possess quasi-judicial power, described as including the following:

(1) the power to exercise judgment and discretion;

(2) the power to hear and determine or to ascertain facts and decide;

(3) the power to make binding orders and judgments;

(4) the power to affect the personal or property rights of private persons;

(5) the power to examine witnesses, to compel the attendance of witnesses, and to hear the litigation of issues on a hearing; and

(6) the power to enforce decisions or impose penalties.[96]

An entity did not need all of these powers to be considered quasi-judicial, but the more of those powers it had, the more clearly it was quasi-judicial in the exercise of its powers.[97]

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92 TEX. HEALTH & SAFETY CODE § 85.276(d).
93 TEX. GOV'T CODE § 551.001(3)(D).
94 *City of Austin v. Evans*, 794 S.W.2d 78, 83 (Tex. App.—Austin 1990, no writ).
95 *Id.*
96 *Id.* (emphasis omitted); *see also Blankenship v. Brazos Higher Educ. Auth., Inc.*, 975 S.W.2d 353, 360 (Tex. App.—Waco 1998, pet. denied).
97 *City of Austin*, 794 S.W.2d at 83.

The court in *Fiske v. City of Dallas*[98] concluded that a citizens group set up to advise the city council as to persons qualified to serve as municipal judges was not a governmental body within the Act because it was not part of the city council or a committee of the city council, and it had no rulemaking power or quasi-judicial power.[99]

In contrast, Attorney General Opinion DM-426 (1996) concluded that a municipal housing authority created under chapter 392 of the Local Government Code was a governmental body subject to the Act.[100] It was "a department, agency, or political subdivision of a . . . municipality" as well as "a deliberative body that has rule-making or quasi-judicial power" within section 551.001(3)(D) of the Act.[101] Attorney General Opinion DM-426 concluded on similar grounds that a county housing authority was a governmental body.[102]

Subsection 551.001(3)(H) provides "the governing board of a special district created by law"[103] is a governmental body. This office has concluded that a hospital district[104] and the Dallas Area Rapid Transit Authority[105] are special districts.

Sierra Club v. Austin Transportation Study Policy Advisory Committee[106] is the only judicial decision that has addressed the meaning of "special district" in the Act. The court in *Sierra Club* decided that the Austin Transportation Study Policy Advisory Committee (ATSPAC) was a "special district" within the Act. The committee, a metropolitan planning organization that engaged in transportation planning under federal law, consisted of state, county, regional and municipal public officials. Its decisions as to transportation planning within a five-county area were used by federal agencies to determine funding for local highway projects. Although such committees did not exist when the Act was adopted in 1967, the court compared ATSPAC's functions to those of a "governmental body" and concluded that the committee was the kind of body that the Act should govern.[107] The court relied on the following definition of special district:

> a limited governmental structure created to bypass normal borrowing limitations, to insulate certain activities from traditional political influence, to allocate functions to entities reflecting particular expertise, to provide services in otherwise

98 *Fiske v. City of Dallas*, 220 S.W.3d 547, 551 (Tex. App.—Texarkana 2007, no pet.).

99 *See id.*; *see also* Tex. Att'y Gen. Op. No. GA-0361 (2005) at 5–7 (concluding that a county election commission is not a deliberative body with rulemaking or quasi-judicial powers).

100 Tex. Att'y Gen. Op. No. DM-426 (1996) at 2.

101 *Id.* at 2.

102 *Id.*; *see also* Tex. Att'y Gen. Op. Nos. JC-0327 (2001) at 2 (concluding that board of the Bryan-College Station Economic Development Corporation did not act in a quasi-judicial capacity or have rulemaking power), H-467 (1974) at 3 (concluding that city library board, a department of the city, did not act in a quasi-judicial capacity or have rulemaking power).

103 TEX. GOV'T CODE § 551.001(3)(H).

104 *See* Tex. Att'y Gen. Op. No. H-238 (1974) at 2.

105 *See* Tex. Att'y Gen. Op. No. JM-595 (1986) at 2.

106 *Sierra Club v. Austin Transp. Study Pol'y Advisory Comm.*, 746 S.W.2d 298, 301 (Tex. App.—Austin 1988, writ denied).

107 *Id.* at 300–01.

> unincorporated areas, or to accomplish a primarily local benefit or improvement, *e.g.*, parks and planning mosquito control, sewage removal.[108]

Relying on the *Sierra Club* case, this office has concluded that a committee of judges meeting to participate in managing a community supervision and corrections department is a "special district" subject to the Act.[109] It also relied on *Sierra Club* to decide that the Act applied to the Border Health Institute, a consortium of public and private entities established to assist the work of health-related institutions in the Texas-Mexico border region.[110] It determined that other governmental entities, such as a county committee on aging created under the Non-Profit Corporation Act, were not "special districts."[111]

D. Committees and Subcommittees of Governmental Bodies

Generally, meetings of less than a quorum of a governmental body are not subject to the Act.[112] However, when a governmental body appoints a committee that includes less than a quorum of the parent body and grants it authority to supervise or control public business or public policy, the committee may itself be a "governmental body" subject to the Act.[113] In *Willmann v. City of San Antonio*,[114] the city council established a subcommittee consisting of less than a quorum of council members and charged it with recommending the appointment and reappointment of municipal judges.[115] The appellate court, reviewing the conclusion on summary judgment that the committee was not subject to the Act, stated that a "governmental body does not always insulate itself from . . . [the Act's] application simply because less than a quorum of the parent body is present."[116] Because the evidence indicated that the subcommittee actually made final decisions and the city council merely "rubber stamped" them, the appellate court reversed the summary judgment as to the Open Meetings Act issue.[117]

Attorney General Opinion GA-0957 recently concluded that if a quorum of a governmental body attends a meeting of a committee of the governmental body at which a deliberation as defined by

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108 *Id.* at 301 (quoting BLACK'S LAW DICTIONARY 1253 (5th ed. 1986)).

109 *See* Tex. Att'y Gen. Op. No. DM-395 (1996) at 3–4; *but see* Tex. Att'y Gen. Op. No. KP-0038 (2015) at 2 (acknowledging statutory changes to judges' managerial authority modified conclusion in DM-395).

110 *See* Tex. Att'y Gen. Op. No. GA-0280 (2004) at 8–9; *see also* Tex. Att'y Gen. Op. No. DM-426 (1996) at 4 (concluding that regional housing authority created under chapter 392 of the Local Government Code is special district within the Act).

111 *See* Tex. Att'y Gen. Op. No. DM-7 (1991) at 2–3; *see also* Tex. Att'y Gen. Op. No. JC-0160 (1999) at 3 (concluding that *ad hoc* intergovernmental working group of employees is not a "special district" within the Act).

112 *See Hays Cnty. v. Hays Cnty. Water Plan. P'ship*, 106 S.W.3d 349, 356 (Tex. App.—Austin 2003, no pet.); Tex. Att'y Gen. Op. No. JC-0407 (2001) at 9.

113 Tex. Att'y Gen. Op. Nos. JC-0060 (1999) at 2, JC-0053 (1999) at 3; Tex. Att'y Gen. LO-97-058 (1997) at 2–5; LO-97-017 (1997) at 5.

114 *Willmann v. City of San Antonio*, 123 S.W.3d 469 (Tex. App.—San Antonio 2003, pet. denied).

115 *See id.* at 471–72.

116 *Id.* at 478.

117 *See id.* at 480; *see also Finlan v. City of Dallas*, 888 F. Supp. 779, 785 (N.D. Tex. 1995) (noting concern that danger exists that full council is merely a "rubber stamp" of committee); Tex. Att'y Gen. Op. Nos. JC-0060 (1999) at 3, H-823 (1976) at 2, H-438 (1974) at 3 (discussing "rubber stamping" of committee and subcommittee decisions).

the Act takes place, the committee meeting will constitute a meeting of the governmental body.[118] Yet, in at least one statute, the Legislature has expressly provided that a committee of a board "where less than a quorum of any one board is present is not subject to the provisions of the open meetings law."[119]

E. Advisory Bodies

An advisory committee that does not control or supervise public business or policy is not subject to the Act,[120] even though its membership includes some members, but less than a quorum, of a governmental body.[121] For example, the multidisciplinary team established to review offenders' records under the Commitment of Sexually Violent Predators Act was not subject to the Act.[122] The team made an initial assessment of certain offenders to determine whether they should be subject to further evaluation for civil commitment. Subsequent assessments by other persons determined whether commitment proceedings should be filed. Thus, the team lacked ultimate supervision or control over public business or policy.[123]

However, if a governmental body that has established an advisory committee routinely adopts or "rubber stamps" the advisory committee's recommendations, the committee probably will be considered to be a governmental body subject to the Act.[124] Thus, the fact that a committee is called an advisory committee does not necessarily mean it is excepted from the Act.

The Legislature has adopted statutes providing that particular advisory committees are subject to the Act, including a board or commission established by a municipality to assist it in developing a zoning plan or zoning regulations,[125] the nursing advisory committee established by the statewide health coordinating council,[126] advisory committees for existing Boll Weevil Eradication zones appointed by the commissioner of the Official Cotton Growers' Boll Weevil Eradication Foundation,[127] and an education research center advisory board.[128]

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118 *See* Tex. Att'y Gen. Op. No. GA-0957 (2012) at 2–3.

119 TEX. WATER CODE § 49.064 (applicable to general law water districts); *see also Tarrant Reg'l Water Dist. v. Bennett*, 453 S.W.3d 51, 58 (Tex. App.—Fort Worth 2014, pet. denied) (discussing Water Code section 49.064 in relation to the Act and questioning previous attorney general opinions' conclusions that an advisory committee could be subject to the Act as a governmental body).

120 *See* Tex. Att'y Gen. Op. No. GA-0232 (2004) at 3–5 (concluding that student fee advisory committee established under Education Code section 54.5031 is not subject to the Act).

121 Tex. Att'y Gen. Op. Nos. JM-331 (1985) at 3 (concluding that citizens advisory panel of Office of Public Utility Counsel, with no power to supervise or control public business, is not governmental body), H-994 (1977) at 3 (discussing fact question as to whether committee appointed to study process of choosing university president and make recommendations to Board of Regents is subject to the Act).

122 *See Beasley*, 95 S.W.3d at 606.

123 *Id.*

124 Tex. Att'y Gen. Op. Nos. H-467 (1974) at 3–4, H-438 (1974) at 3.

125 TEX. LOC. GOV'T CODE § 211.0075.

126 TEX. HEALTH & SAFETY CODE § 104.0155(e).

127 TEX. AGRIC. CODE § 74.1041(e).

128 TEX. EDUC. CODE § 1.006(b).

F. Public and Private Entities That Are Not Governmental Bodies

Nonprofit corporations established to carry out governmental business generally are not subject to the Act because they are not within the Act's definition of "governmental body."[129] A nonprofit created under the Texas Nonprofit Corporation Act to provide services to a county's senior citizens was not a governmental body because it was not a governmental structure, and it had no power to supervise or control public business.[130]

However, the Act itself provides that certain nonprofit corporations are governmental bodies.[131] Other statutes provide that specific kinds of nonprofit corporations are subject to the Act, such as development corporations created under the Development Corporation Act of 1979[132] and the governing body of an open-enrollment charter school, which may be a private school or a nonprofit entity.[133] If a nonprofit corporation provides in its articles of incorporation or bylaws that its board of directors will conduct meetings in accord with the Act, then the board must do so.[134]

A private entity does not become a governmental body within the Act merely because it receives public funds.[135] A city chamber of commerce, a private entity, is not a governmental body within the Act although it receives public funds.[136]

G. Legislature

There is very little authority on section 551.003. A 1974 attorney general letter advisory discussed its connection with Texas Constitution article III, section 11, which provides in part that "[e]ach House may determine the rules of its own proceedings . . . ."[137] The letter advisory raised the possibility that the predecessor of section 551.003 is unconstitutional to the extent of conflict with Texas Constitution article III, section 11, stating that "neither House may infringe upon or limit the present or future right of the other to adopt its own rules."[138] However, it did not address the constitutional issue, describing the predecessor to Government Code section 551.003 as an exercise of rulemaking power for the 1973–74 legislative sessions.[139]

The Texas Supreme Court addressed Government Code section 551.003 in a 2000 case challenging the Senate's election by secret ballot of a senator to perform the duties of lieutenant governor.[140] Members of the media contended that the Act prohibited the Senate from voting by secret ballot.[141]

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129 TEX. GOV'T CODE § 551.001(3); *cf. id.* § 552.003(1)(A)(xi) (including certain nonprofit corporations in definition of "governmental body" for purposes of the Public Information Act).
130 Tex. Att'y Gen. Op. No. DM-7 (1991) at 3.
131 TEX. GOV'T CODE § 551.001(3)(J)–(K).
132 TEX. LOC. GOV'T CODE § 501.072.
133 TEX. EDUC. CODE § 12.1051.
134 Tex. Att'y Gen. LO-96-146 (1996) at 5.
135 Tex. Att'y Gen. LO-98-040 (1998) at 2.
136 Tex. Att'y Gen. LO-93-055 (1993) at 3.
137 Tex. Att'y Gen. LA-84 (1974) at 2.
138 *Id.*
139 *See id.*
140 *In re The Tex. Senate*, 36 S.W.3d 119 (Tex. 2000).
141 *See id.* at 119.

The Supreme Court stated that section 551.003 "clearly covers the Committee of the Whole Senate. Thus, its meeting and votes cannot be secret 'except as specifically provided' by the Texas Constitution."[142] The court then determined that Texas Constitution article III, section 41, which authorizes the Senate to elect its officers by secret ballot, provided an exception to section 551.003.[143]

More recently, the attorney general recognized in Opinion KP-0347 that pursuant to article III, section 11, "House and Senate rules supersede any contradictory procedural requirements for the Legislature found in the Texas Open Meetings Act or other state law."[144]

142 *Id.* at 120.
143 *See id.*
144 Tex. Att'y Gen. Op. No. KP-0347 (2021) at 2; *see* TEX. CONST. art. III, § 11.

VI. Meetings

A. Definitions

The Act applies to a governmental body, as defined by subsection 551.001(3), when it engages in a "regular, special, or called meeting."[145] Informal meetings of a quorum of members of a governmental body are also subject to the Act.[146]

"Deliberation," a key term for understanding the Act, is defined as follows:

> "Deliberation" means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body.[147]

"Deliberation" and "discussion" are synonymous for purposes of the Act.[148] And since 2019, the definition of "deliberation" includes written materials.[149]

The Act includes two definitions of "meeting."[150] Subsection 551.001(4)(A) uses the term "deliberation" to define "meeting":

> (A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action . . . .[151]

B. Deliberations Among a Quorum of a Governmental Body or Between a Quorum and a Third Party

The following test has been applied to determine when a discussion among members of a statewide governmental entity is a "meeting" as defined by subsection 551.001(4)(A):

(1) The body must be an entity within the executive or legislative department of the state.

(2) The entity must be under the control of one or more elected or appointed members.

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145 TEX. GOV'T CODE § 551.002.

146 *Acker v. Tex. Water Comm'n*, 790 S.W.2d 299, 300 (Tex. 1990) (considering meeting in restroom of two members of three-person board); *Bexar Medina Atascosa Water Dist. v. Bexar Medina Atascosa Landowners' Ass'n*, 2 S.W.3d 459, 460–61 (Tex. App.—San Antonio 1999, pet. denied) (considering "informational gathering" of water district board with landowners in board member's barn).

147 TEX. GOV'T CODE § 551.001(2).

148 *Bexar Medina Atascosa Water Dist.*, 2 S.W.3d at 461.

149 *See* TEX. GOV'T CODE § 551.001(2).

150 Tex. Att'y Gen. Op. Nos. GA-0896 (2011) at 2, JC-0307 (2000) at 5, DM-95 (1992) at 5.

151 TEX. GOV'T CODE § 551.001(4)(A).

(3) The meeting must involve formal action or deliberation between a quorum of members.[152]

(4) The discussion or action must involve public business or public policy.

(5) The entity must have supervision or control over that public business or policy.[153]

Statewide governmental bodies that have supervision or control over public business or policy are subject to the Act, and so are the local governmental bodies expressly named in the definition of "governmental body."[154] In contrast, a group of public officers and employees in a county who met to share information about jail conditions did not supervise or control public business or public policy and thus was not subject to the Act.[155] A purely advisory body, which has no authority over public business or policy, is not subject to the Act,[156] unless a governmental body routinely adopts or "rubber stamps" the recommendations of the advisory body.[157] *See* Part V.E.

C. Gathering at Which a Quorum Receives Information from or Provides Information to a Third Party

Subsection 551.001(4)(B) defines "meeting" as follows:

> (B) except as otherwise provided by this subdivision, a gathering:
>
> (i) that is conducted by the governmental body or for which the governmental body is responsible;
>
> (ii) at which a quorum of members of the governmental body is present;
>
> (iii) that has been called by the governmental body; and
>
> (iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

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152 Deliberation between a quorum and a third party now satisfies this part of the test. *See id.* § 551.001(2).

153 *Gulf Reg'l Educ. Television Affiliates v. Univ. of Houston*, 746 S.W.2d 803, 809 (Tex. App.—Houston [14th Dist.] 1988, writ denied) (citing Attorney General Opinion H-772 (1976)); *see also* Tex. Att'y Gen. Op. No. GA-0232 (2004) at 3–5 (relying on quoted test to determine that student fee advisory committee established under Education Code section 54.5031 is not subject to the Act).

154 *See* TEX. GOV'T CODE § 551.001(3).

155 *See* Tex. Att'y Gen. Op. No. GA-0504 (2007) at 3.

156 Tex. Att'y Gen. Op. Nos. H-994 (1977) at 2 (concluding that committee appointed to study process of choosing university president and to make recommendations to Board of Regents likely is not subject to the Act), H-772 (1976) at 6 (concluding that meeting of group of employees, such as general faculty of university, is not subject to the Act), H-467 (1974) at 3 (concluding that city library board, which is advisory only, is not subject to the Act).

157 Tex. Att'y Gen. Op. Nos. H-467 (1974) at 4, H-438 (1974) at 3–4.

> The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate.
>
> The term includes a session of a governmental body.[158]

Subsection 551.001(4)(A) applies when a quorum of a governmental body engages in deliberations, either among the members of the quorum or between the quorum and a third party.[159] Subsection 551.001(4)(B) reaches gatherings of a quorum of a governmental body even when the members of the quorum do not participate in deliberations among themselves or with third parties.[160] Under the circumstances described by subsection 551.001(4)(B), the governmental body may be subject to the Act when it merely listens to a third party speak at a gathering the governmental body conducts or for which the governmental body is responsible.[161]

D. Informal or Social Meetings

When a quorum of the members of a governmental body assembles in an informal setting, such as a social occasion, it will be subject to the requirements of the Act if the members engage in a verbal exchange about public business or policy. The Act's definition of a meeting expressly excludes gatherings of a "quorum of a governmental body at a social function unrelated to the public business that is conducted by the body[.]"[162] The definition also excludes from its reach the attendance by a quorum at certain other events such as a regional, state or national convention or workshop, ceremonial events, press conferences, and a candidate forum, appearance, or debate to inform the electorate.[163] In both instances, there is no "meeting" under the Act "if formal action is not taken and any discussion of public business is *incidental* to the social function, convention, workshop, ceremonial event, [or] press conference[.]"[164]

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158 TEX. GOV'T CODE § 551.001(4)(B).

159 *Id.* § 551.001(4)(A); *but see* Tex. Att'y Gen. Op. No. GA-0989 (2013) at 2 (concluding that a private consultation between a member of a governmental body and an employee that does not take place within the hearing of a quorum of other members does not constitute a meeting under subsection 551.001(4)).

160 *Cf.* Tex. Att'y Gen. Op. Nos. JC-0248 (2000) at 2 (concluding that quorum of state agency board may testify at public hearing conducted by another agency), JC-0203 (2000) at 4 (concluding that quorum of members of standing committee of hospital district may attend public speech and comment on matters of hospital district business within supervision of committee).

161 Tex. Att'y Gen. Op. No. JC-2000) at 3–4 (discussing the Act's application when quorum of governmental body listens to members of the public in a session commonly known as a "public comment" session, "public forum" or "open mike" session).

162 TEX. GOV'T CODE § 551.001(4)(B).

163 *See id.*

164 *Id.* (emphasis added).

E. Discussions Among a Quorum through a Series of Communications

On occasion, a governmental body has tried to avoid complying with the Act by deliberating about public business without a quorum being physically present in one place and claiming that this was not a "meeting" within the Act.[165] Conducting secret deliberations and voting over the telephone, when no statute authorized this, was one such method.[166]

Section 551.143 as originally written prohibited machinations to avoid complying with the Act by criminalizing multiple meetings in numbers less than a quorum to "conspire to circumvent the Act." One example of such a so-called walking quorum was described by *Esperanza Peace and Justice Center v. City of San Antonio*.[167]

Amended section 551.143 now prohibits discussion about an item of public business among a quorum of a governmental body through a series of communications. Section 551.143 provides that it is a criminal offense for a member of a governmental body to knowingly engage "in at least one communication among a series of communications that each occur outside of a meeting" and that "concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members[.]"[168] The member must know at the time he or she engaged in the communication that the series of communications "involved or would involve a quorum" and would "constitute a deliberation once a quorum of members engaged in the series of communications."[169]

Section 551.006 authorizes members of a governmental body to communicate through an online message board or similar internet application.[170] A governmental body utilizing an electronic message board may have only one such board and it can be used by only members of the governmental body and their authorized staff.[171] The online message board must be prominently displayed on the governmental body's primary internet web page and no more than one click away from that page.[172] A governmental body that removes a communication from the online message board that has been posted for at least 30 days must maintain the posting for a period of six years, and the communication is public information under the Public Information Act.[173] Most importantly, a governmental body may not vote or take any action by communication on an online message board.[174]

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165 One court of appeals stated that "[o]ne board member asking another board member her opinion on a matter does not constitute a deliberation of public business." *Foreman v. Whitty*, 392 S.W.3d 265, 277 (Tex. App.—San Antonio 2012, no pet.).

166 *See Hitt v. Mabry*, 687 S.W.2d 791, 793, 796 (Tex. App.—San Antonio 1985, no writ).

167 *Esperanza Peace & Just. Ctr. v. City of San Antonio*, 316 F. Supp. 2d. 433 (W.D. Tex. 2001).

168 *See* TEX. GOV'T CODE § 551.143(a)(1).

169 *Id.* § 551.143(a)(2).

170 *Id.* § 551.006.

171 *Id.* § 551.006(b), (c) (providing that a posting by a staff member must include the staff member's name and title).

172 *Id.* § 551.006(b).

173 *Id.* § 551.006(d).

174 *Id.* § 551.006(e).

F. Meetings Using Telephone, Videoconference, and the Internet

A governmental body may not conduct meetings subject to the Act by telephone or videoconference unless a statute expressly authorizes it to do so.[175]

1. Telephone Meetings

The Act authorizes governmental bodies to conduct meetings by telephone conference call under limited circumstances and subject to procedures that may include special requirements for notice, record-keeping and two-way communication between meeting locations.[176]

A governmental body may hold an open or closed meeting by telephone conference call if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.[177]

The emergency telephone meeting is subject to the notice requirements applicable to other meetings held under the Act. The open portions of the meeting are required to be audible to the public at the location specified in the notice and must be recorded. The provision also requires the location of the meeting to be set up to provide two-way communication during the entire conference call and the identity of each party to the conference call to be clearly stated prior to speaking.[178]

The Act authorizes the governing board of an institution of higher education, water districts whose territory includes land in three or more counties, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board to meet by telephone conference call if the meeting is a special called meeting, immediate action is required, and it is difficult or impossible to convene a quorum at one location.[179] The Texas Board of Criminal Justice may hold an emergency meeting by telephone conference call,[180] and, at the call of its presiding officer, the Board of Pardons and Paroles may hold a hearing on clemency matters by telephone conference call.[181] The Act permits

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175 *See generally Hitt*, 687 S.W.2d at 796; *Elizondo v. Williams*, 643 S.W.2d 765, 766–67 (Tex. App.—San Antonio 1982, no writ) (telephone meetings); Tex. Att'y Gen. Op. No. DM-207 (1993) at 3 (videoconference meeting); *but see Harris Cnty. Emergency Serv. Dist. No. 1 v. Harris Cnty. Emergency Corps.*, 999 S.W.2d 163, 169 (Tex. App.—Houston [14th Dist.] 1999, no pet.) (concluding that telephone discussion by fewer than a quorum of board members about placing items on the agenda, without evidence of intent, did not violate the Act.

176 TEX. GOV'T CODE §§ 551.121–.126, .129–.131 (authorizing meetings by telephone conference call under specified circumstances).

177 *Id.* § 551.125(b); *see* Tex. Att'y Gen. Op. No. GA-0379 (2005) at 2–3 (addressing Government Code subsection 551.125(b)(3)).

178 TEX. GOV'T CODE § 551.125(b)–(f).

179 *Id.* § 551.121(c).

180 *Id.* § 551.123.

181 *Id.* § 551.124.

the board of trustees of the Teacher Retirement System to hold an open or closed meeting by telephone conference call if a quorum of the board is present at one location and other requirements of the Act are followed.[182]

Section 551.091 authorizes certain county commissioners courts to hold an "open or closed meeting, including a telephone conference call, solely to deliberate about disaster or emergency conditions and related public safety matters that require an immediate response without complying with the requirements" of chapter 551.[183] The commissioners court must be in a county "for which the governor has issued an executive order or proclamation declaring a state of disaster or emergency" and "in which transportation to the meeting location is dangerous or difficult as a result of the disaster or emergency."[184]

Statutes other than the Act authorize some governing bodies to meet by telephone conference call under limited circumstances. For example, if the joint chairs of the Legislative Budget Board are physically present at a meeting, and the meeting is held in Austin, any number of the other board members may attend by use of telephone conference call, videoconference call, or other similar telecommunication device.[185]

A governmental body may consult with its attorney by telephone conference call, videoconference call or communications over the internet, unless the attorney is an employee of the governmental body.[186] If the governmental body deducts employment taxes from the attorney's compensation, the attorney is an employee of the governmental body.[187] The restriction against remote communications with an employee attorney does not apply to the governing board of an institution of higher education or the Texas Higher Education Coordinating Board.[188]

2. Videoconference Call Meetings

The Act also authorizes governmental bodies to conduct meetings by videoconference call and, unlike with telephone meetings, does not limit that authority to emergency circumstances.[189] Section 551.127 authorizes a member or employee of a governmental body to participate remotely in a meeting of the governmental body through a videoconference call if there is live video and

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182 *Id.* § 551.130.

183 *Id.* § 551.091(b). Section 551.091 expires on September 1, 2027. *See id.* § 551.091(e).

184 *Id.* § 551.091(a).

185 TEX. GOV'T CODE § 322.003(d); *see also* TEX. AGRIC. CODE §§ 41.205(b) (Texas Grain Producer Indemnity Board), 62.0021(a) (State Seed and Plant Board); TEX. FIN. CODE § 11.106(c) (Finance Commission); TEX. GOV'T CODE §§ 501.139(b) (Correctional Managed Health Care Committee), 436.054 (Texas Military Preparedness Commission).

186 TEX. GOV'T CODE § 551.129(a), (d).

187 *Id.* § 551.129(e).

188 *Id.* § 551.129(f).

189 *Id.* § 551.127.

audio feed of the remote participant that is broadcast live at the meeting and the feed complies with the other provisions of section 551.127.[190]

As a preliminary matter, a meeting held by videoconference call must meet the regular notice requirements of the Act.[191] In addition, section 551.127 authorizes two logistical scenarios depending on the territorial jurisdiction of the governmental body and requires that the notice specify a particular location of the meeting and who will be physically present there, as follows:

A state governmental body or a governmental body that extends into three or more counties may meet by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting.[192] The notice must specify that location, which must be open to the public during the open portions of the meeting, as well as state the intent to have the member of the governmental body presiding over the meeting present there.[193]

For all other governmental bodies, the Act authorizes a meeting by videoconference call only if a full quorum of the governmental body is physically present at one location of the meeting.[194] In that instance, the notice must specify that location, as well as the intent to have a quorum present there.[195]

The location where the presiding member is physically present must be open to the public during the open portions of the meeting.[196]

Beyond notice and location, the Act specifies certain technical requirements. The meeting location where the quorum or presiding member is present as well as each remote location from which a member participates "shall have two-way audio and video communication with each other location during the entire meeting."[197] The Act requires that, while speaking, each participant's face must be clearly visible and the voice audible to each other participant and to the members of the public in attendance at the location where the quorum or presiding member is present and any other location of the meeting that is open to the public.[198] The Act additionally requires that each open portion of the meeting is to be visible and audible to the public at the meeting location where the

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190 *Id.* § 551.127(a-1); *see id.* § 551.127(a) ("[T]his chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call."). Subsection 81.001(b) of the Local Government Code, which provides that the county judge, if present, is the presiding officer of the county commissioners court, does not apply to a meeting held by videoconference. *See* TEX. LOC. GOV'T CODE § 81.001(b). The subsection ensures that a county judge may remotely participate in a videoconference meeting while another member of the commissioners court presides over the meeting at the physical location accessible to the public.

191 TEX. GOV'T CODE § 551.127(d).

192 *Id.* § 551.127(c).

193 *Id.* § 551.127(e).

194 *Id.* § 551.127(b).

195 *Id.* § 551.127(e).

196 *Id.*

197 *Id.* § 551.127(h). "The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting." *Id.* § 551.127(j).

198 *Id.* § 551.127(h).

quorum or presiding member is present and that at any time that the meeting is no longer visible and audible to the public, the meeting must be recessed until the problem is resolved.[199] The meeting must be adjourned if the problem is not resolved in six hours.[200] The Act tasks the Department of Information Resources to specify minimum standards for the audio and video signals required at a videoconference meeting and the quality of the signals at each location of the meeting must meet or exceed those standards.[201]

Generally speaking, a remote participant "shall be counted as present at the meeting for all purposes."[202] However, if the audio or video communication is lost for any portion of the meeting, the remote participant is considered absent during that time.[203] Should this occur, the governmental body may continue the meeting only as follows: (1) If the meeting is being held by a statewide body or one that extends into three or more counties, there must continue to be a quorum participating in the meeting. (2) If the meeting is held by another governmental body, a full quorum must remain physically present at the meeting location.[204]

Section 551.127 also requires the governmental body to "make at least an audio recording of the meeting" and to make the recording available to the public.[205] And section 551.127 expressly permits a governmental body to allow a member of the public to testify at a meeting from a remote location by videoconference call.[206]

Relating to certain special districts subject to specific chapters of the Water Code and with a population of 500 or more, subsection 551.1283(e) provides that "[n]othing in this chapter shall prohibit a district from allowing a person to watch or listen to a board meeting by video or telephone conference call."[207]

3. Meetings Broadcast over the Internet

Section 551.128 of the Act provides that with certain exceptions a governmental body has discretion to broadcast an open meeting over the internet and sets out the requirements for a broadcast.[208] The exceptions referred to in section 551.128(b-1) make the broadcast of open meetings over the internet mandatory for a transit authority or department, an elected school district board of trustees for a school district with a student enrollment of 10,000 or more, an elected governing body of a home-rule municipality that has a population of 50,000 or more, and a county commissioners court in a county with a population of 125,000 or more.[209]

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199 *See id.* § 551.127(f).
200 *Id.*
201 *Id.* § 551.127(i); *see* 1 TEX. ADMIN. CODE §§ 209.1–.33 (Tex. Dept. of Info. Res., Minimum Standards for Meetings Held by Videoconference). The Department of Information Resources has published guidelines at https://pubext.dir.texas.gov/portal/internal/resources/DocumentLibrary/Videoconferencing%20Guidelines.pdf.
202 *See* TEX. GOV'T CODE § 551.127(a-2).
203 *See id.* § 551.127(a-3).
204 *See id.*
205 *Id.* § 551.127(g).
206 *See id.* § 551.127(k).
207 *See id.* § 551.1283(e).
208 *Id.* § 551.128(b).
209 *Id.* § 551.128(b-1).

A governmental body required to broadcast its open meetings over the internet under section 551.128(b-1) must make a video and audio recording of "each regularly scheduled open meeting that is not a work session or a special called meeting" and must make the recording available not later than seven days after the date of the meeting.[210] And the governmental body must maintain an archived recording of the meeting on the internet "for not less than two years after the date the recording was first made available."[211] Subsection 551.128(b-1) further requires an elected school district board of trustees of a school district with an enrollment of 10,000 or more to make an audio or video recording of any work session or special called meeting at which the board of trustees "votes on any matter or allows public comment or testimony."[212] Subsection 551.128(b-2) provides that a governmental body is not required to establish a separate internet site but may make the archived recording available "on an existing Internet site, including a publicly accessible video-sharing or social networking site."[213] Similarly, section 472.036 of the Transportation Code requires a metropolitan planning organization that serves one or more counties with a population of 350,000 to broadcast over the internet each open meeting held by the policy board of the metropolitan planning organization.[214]

Certain junior college districts and general academic teaching institutions are required under sections 551.1281 and 551.1282 to broadcast their open meetings in the manner provided by section 551.128.[215] An internet broadcast does not substitute for conducting an in-person meeting but provides an additional way of disseminating the meeting.

Outside of the Act, certain entities may have specific provisions imposing broadcasting requirements.[216]

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210 *Id.* § 551.128(b-1)(1), (b-4)(1).

211 *Id.* § 551.128(b-4)(2).

212 *See id.* § 551.128(b-1)(B).

213 *See id.* § 551.128(b-2).

214 *See* TEX. TRANSP. CODE § 472.036.

215 *See* TEX. GOV'T CODE §§ 551.1281–.1282.

216 *See id.* § 531.0165 (imposing broadcasting and recording requirements on the Health and Human Services Commission and related entities).

VII. Notice Requirements

A. Content

The Act requires written notice of all meetings. Section 551.041 of the Act provides:

> A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.[217]

A governmental body must give the public advance notice of the subjects it will consider in an open meeting or a closed executive session.[218] The Act does not require the notice of a closed meeting to cite the section or subsection numbers of provisions authorizing the closed meeting.[219] No judicial decision or attorney general opinion states that a governmental body must indicate in the notice whether a subject will be discussed in open or closed session,[220] but some governmental bodies do include this information. If the notices posted for a governmental body's meetings consistently distinguish between subjects for public deliberation and subjects for executive session deliberation, an abrupt departure from this practice may raise a question as to the adequacy of the notice.[221]

Governmental actions taken in violation of the notice requirements of the Act are voidable.[222] If some actions taken at a meeting do not violate the notice requirements while others do, only the actions in violation of the Act are voidable.[223] (For a discussion of the voidability of the governmental body's actions, refer to Part XI.C. of this *Handbook*).

B. Sufficiency

The notice must be sufficient to apprise the general public of the subjects to be considered during the meeting. In *City of San Antonio v. Fourth Court of Appeals*,[224] the Texas Supreme Court considered whether the following item in the notice posted for a city council meeting gave sufficient notice of the subject to be discussed:

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217 *Id.* § 551.041.

218 *Cox Enters., Inc. v. Bd. of Trs.*, 706 S.W.2d 956, 958 (Tex. 1986); *Porth v. Morgan*, 622 S.W.2d 470, 475–76 (Tex. App.—Tyler 1981, writ ref'd n.r.e.); *but see* TEX. GOV'T CODE § 551.091(b), (c) (authorizing county commissioners court in limited circumstances involving a governor-declared disaster or emergency to hold a meeting "without complying with the requirements" of chapter 551 but requiring such county to post "reasonable public notice" to the "extent practicable under the circumstances.").

219 *See Rettberg v. Tex. Dep't of Health*, 873 S.W.2d 408, 411–12 (Tex. App.—Austin 1994, no writ); Tex. Att'y Gen. Op. No. GA-0511 (2007) at 4.

220 Tex. Att'y Gen. Op. No. JC-0057 (1999) at 5; Tex. Att'y Gen. LO-90-27 (1990) at 1.

221 Tex. Att'y Gen. Op. No. JC-0057 (1999) at 5; *see also Mares v. Tex. Webb Cnty.*, No. 5:18-CV-121, 2020 WL 619902, at *4–5 (S.D. Tex. Feb. 10, 2020) (discussing a county's retreat from its custom of providing adequate notice).

222 TEX. GOV'T CODE § 551.141.

223 *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 182–83 (Tex. App.—Corpus Christi 1990, writ denied).

224 *City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762 (Tex. 1991).

> An Ordinance determining the necessity for and authorizing the condemnation of certain property in County Blocks 4180, 4181, 4188, and 4297 in Southwest Bexar County for the construction of the Applewhite Water Supply Project.[225]

A property owner argued that this notice item violated the subject requirement of the statutory predecessor to section 551.041 because it did "not describe the condemnation ordinance, and in particular the land to be condemned by that ordinance, in sufficient detail" to notify an owner reading the description that the city was considering condemning the owner's land.[226] The Texas Supreme Court rejected the argument that the notice be sufficiently detailed to notify specific owners that their tracts might be condemned. The Court explained that the "Open Meetings Act is not a legislative scheme for service of process; it has no due process implications."[227] Its purpose was to provide public access to and increase public knowledge of the governmental decision-making process.[228]

The Court held that the condemnation notice complied with the Act because the notice apprised the public at large in general terms that the city would consider the condemnation of certain property in a specific area for purposes of the Applewhite project. The Court also noted that the description would notify a landowner of property in the four listed blocks that the property might be condemned, even though it was insufficient to notify an owner that his or her tracts in particular were proposed for condemnation.[229]

In *City of San Antonio v. Fourth Court of Appeals*, the Texas Supreme Court reviewed its earlier decisions on notice.[230] In *Texas Turnpike Authority v. City of Fort Worth*,[231] the Court had addressed the sufficiency of the following notice for a meeting at which the turnpike authority board adopted a resolution approving the expansion of a turnpike: "Consider request . . . to determine feasibility of a bond issue to expand and enlarge [the turnpike]."[232] Prior resolutions of the board had reflected the board's intent to make the turnpike a free road once existing bonds were paid. The Court found the notice sufficient, refuting the arguments that the notice should have included a copy of the proposed resolution, that the notice should have indicated the board's proposed action was at variance with its prior intent, or that the notice should have stated all the consequences that might result from the proposed action.[233]

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225 *Id.* at 764.

226 *Id.*

227 *Id.* at 765 (quoting *Acker v. Tex. Water Comm'n*, 790 S.W.2d 299, 300 (Tex. 1990)); *see Rettberg*, 873 S.W.2d at 413 (holding that the Act does not entitle the executive secretary of a state agency to special notice of a meeting where his employment was terminated); *Stockdale v. Meno*, 867 S.W.2d 123, 125 (Tex. App.—Austin 1993, writ denied) (holding that Act does not entitle a teacher whose contract was terminated to more specific notice than notice that would inform the public at large).

228 *Fourth Court of Appeals*, 820 S.W.2d at 765.

229 *Id.* at 765–66.

230 *Id.* at 765.

231 *Tex. Tpk. Auth. v. City of Fort Worth*, 554 S.W.2d 675 (Tex. 1977).

232 *Id.* at 676.

233 *Id.*; *see also Charlie Thomas Ford, Inc., v. A.C. Collins Ford, Inc.*, 912 S.W.2d 271, 274 (Tex. App.—Austin 1995, writ dism'd) (holding that notice stating "Proposals for Decision and Other Actions–License and Other Cases" was sufficient to apprise the public that Motor Vehicle Commission would consider proposals for decision in dealer-licensing cases); *Washington v. Burley*, 930 F. Supp. 2d 790, 807 (S.D. Tex. 2013)

In *Lower Colorado River Authority v. City of San Marcos*,[234] the Texas Supreme Court found sufficient a Lower Colorado River Authority Board notice providing "ratification of the prior action of the Board taken on October 19, 1972, in response to changes in electric power rates for electric power sold within the boundaries of the City of San Marcos, Texas."[235] "Although conceding that the notice was 'not as clear as it might be,'" the Court held that it complied with the Act "because 'it would alert a reader to the fact that some action would be considered with respect to charges for electric power sold in San Marcos.'"[236]

The Texas Supreme Court noted that in *Cox Enterprises, Inc. v. Board of Trustees*[237] "we finally held a notice inadequate."[238] In the *Cox Enterprises* case, the Court held insufficient the notice of a school board's executive session that listed only general topics such as "litigation" and "personnel."[239] One of the items considered at the closed session was the appointment of a new school superintendent. The Court noted that the selection of a new superintendent was not in the same category as ordinary personnel matters, because it is a matter of special interest to the public; thus, the use of the term "personnel" was not sufficient to apprise the general public of the board's proposed selection of a new superintendent. The Court also noted that "litigation" would not sufficiently describe a major desegregation suit that had occupied the district's time for a number of years.[240]

(determining that notice indicating that school board would "[c]onsider recommendation to propose the termination of the . . . employment of the . . . Chief of Police" was sufficient to inform the public that the board would actually be terminating police chief's employment and that "the notice need not state all of the possible consequences resulting from consideration of the topic"); *City of San Angelo v. Tex. Nat. Res. Conservation Comm'n*, 92 S.W.3d 624, 630 (Tex. App.—Austin 2002, no pet.) (recognizing that "consideration" necessarily encompasses action and stating that the word "consideration alone was sufficient to put the general public on notice that the Commission might act during the meeting"); *but see Save Our Springs All., Inc. v. City of Dripping Springs*, 304 S.W.3d 871, 890 (Tex. App.—Austin 2010, pet. denied) (considering sufficiency of notice about development agreements and recognizing that a notice listing all possible consequences could overwhelm, rather than inform, the reader).

234 *Lower Colo. River Auth. v. City of San Marcos*, 523 S.W.2d 641 (Tex. 1975).

235 *Id.* at 646.

236 *Fourth Court of Appeals*, 820 S.W.2d at 765 (quoting *Lower Colo. River Auth.*, 523 S.W.2d at 646).

237 *Cox Enters. Inc. v. Bd. of Trs.*, 706 S.W.2d 956 (Tex. 1986).

238 *Fourth Court of Appeals*, 820 S.W.2d at 765 (describing its opinion in *Cox Enterprises*); *see also Lugo v. Donna Indep. Sch. Dist. Bd. of Trs.*, 557 S.W.3d 93, 98 (Tex. App.—Corpus Christi 2017, no pet.) (holding that an agenda item notifying the public that the board would discuss a special election to fill board vacancies by a special election did not give notice that the board would appoint replacement trustees to the board vacancies).

239 *Cox Enters. Inc.*, 706 S.W.2d at 959.

240 *Id.*; *see also Mayes v. City of De Leon*, 922 S.W.2d 200, 203 (Tex. App.—Eastland 1996, writ denied) (determining that "personnel" was not sufficient notice of termination of police chief); *Stockdale*, 867 S.W.2d at 124–25 (holding that "discussion of personnel" and "proposed nonrenewal of teaching contract" provided sufficient notice of nonrenewal of band director's contract); *Lone Star Greyhound Park, Inc. v. Tex. Racing Comm'n*, 863 S.W.2d 742, 747 (Tex. App.—Austin 1993, writ denied) (indicating that notice need not list "the particulars of litigation discussions," which would defeat purpose of statutory predecessor to section 551.071 of the Government Code); *Point Isabel Indep. Sch. Dist.*, 797 S.W.2d at 182 (holding that "employment of personnel" is insufficient to describe hiring of principals, but is sufficient for hiring school librarian, part-time counselor, band director, or school teacher); *In re City of Amarillo*, No. 07-22-00341-CV, 2023 WL 5279473, at *5 (Tex. App.—Amarillo Aug. 16, 2023, no pet. h.) (mem. op.) (concluding notice of a city's intention to issue funding notes for a civic center project required more detail due to increased public interest given the amount of time the city had previously devoted to the project and the fact that voters had previously rejected funding for

"If the facts as to the content of a notice are undisputed, the adequacy of the notice is a question of law."[241] The courts examine the facts to determine whether a particular subject or personnel matter is sufficiently described or requires more specific treatment because it is of special interest to the community.[242] Consequently, counsel for the governing body should be consulted if any doubt exists concerning the specificity of notice required for a particular matter.

In *City of Donna v. Ramirez*, a court of appeals considered a meeting notice indicating a cancelled meeting.[243] The meeting notice of the Donna city council posted outside city hall had the word "cancelled" written on it, but the notices posted online and inside the city hall did not.[244] The meeting occurred and the notice was challenged.[245] The court held the notice violated section 551.041's requirement that a governmental body give written notice of the date, hour, place, and subject of each meeting and section 551.043's requirement that the notice be posted at least 72 hours before the meeting.

C. Generalized Terms

Generalized terms such as "old business," "new business," "regular or routine business," and "other business" are not proper terms to give notice of a meeting because they do not inform the public of its subject matter.[246] The term "public comment," however, provides sufficient notice of a "public comment" session, where the general public addresses the governmental body about its concerns and the governmental body does not comment or deliberate, except as authorized by section 551.042 of the Government Code.[247] "Public comment" will not provide adequate notice if the governmental body is, prior to the meeting, aware, or reasonably should have been aware, of specific topics to be raised.[248] When a governmental body is responsible for a presentation, it an easily give notice of its subject matter, but it usually cannot predict the subject matter of public comment sessions.[249] Thus, a meeting notice stating "Presentation by [County] Commissioner" did not provide adequate notice of the presentation, which covered the commissioner's views on development and substantive policy issues of importance to the county.[250] The term "presentation"

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the project); Tex. Att'y Gen. Op. No. H-1045 (1977) at 5 (concluding "discussion of personnel changes" insufficient to describe selection of university system chancellor or university president).

241 *Burks v. Yarbrough*, 157 S.W.3d 876, 883 (Tex. App.—Houston [14th Dist.] 2005, no pet.); *see also Friends of Canyon Lake, Inc. v. Guadalupe-Blanco River Auth.*, 96 S.W.3d 519, 529 (Tex. App.—Austin 2002, pet. denied).

242 *River Rd. Neighborhood Ass'n v. S. Tex. Sports*, 720 S.W.2d 551, 557 (Tex. App.—San Antonio 1986, writ dism'd) (concluding that notice stating only "discussion" is insufficient to indicate board action is intended, given prior history of stating "discussion/action" in agenda when action is intended).

243 *City of Donna v. Ramirez*, 548 S.W.3d 26, 35–36 (Tex. App.—Corpus Christi 2017, pet. denied)

244 *See id.* at 33.

245 *See id.*

246 Tex. Att'y Gen. Op. No. H-662 (1975) at 3.

247 Tex. Att'y Gen. Op. No. JC-0169 (2000) at 4; *see* TEX. GOV'T CODE § 551.042 (providing that governmental body may respond to inquiry about subject not on posted notice by stating factual information, reciting existing policy or placing subject of inquiry on agenda of future meeting).

248 Tex. Att'y Gen. Op. No. JC-0169 (2000) at 4.

249 *Id.*

250 *Hays Cnty. Water Plan. P'ship v. Hays Cnty.*, 41 S.W.3d 174, 180 (Tex. App.—Austin 2001, pet. denied).

was vague; moreover, it was noticed for the "Proclamations & Presentations" portion of the meeting, which otherwise consisted of formalities.[251]

Attorney General Opinion GA-0668 (2008) had previously determined that notice such as "City Manager's Report" was not adequate notice for items similar to those included in section 551.0415 and that the subject of a report by a member of the city staff or governing body must be included in the notice in a manner that informs a reader about the subjects to be addressed. Section 551.0415, modifying Attorney General Opinion GA-0668, authorizes a quorum of the governing body of a municipality or county to receive reports about items of community interest during a meeting without having given notice of the subject of the report if no action is taken.[252] Section 551.0415 defines an "item of community interest" to include:

> (1) expressions of thanks, congratulations, or condolence;
>
> (2) information regarding holiday schedules;
>
> (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
>
> (4) a reminder about an upcoming event organized or sponsored by the governing body;
>
> (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and
>
> (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.[253]

D. Time of Posting

Notice must be posted for a minimum length of time before each meeting. Section 551.043(a) states the general time requirement as follows:

> The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044–551.046.[254]

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251 *Id.* at 180 (citing Tex. Att'y Gen. Op. No. JC-0169 (2000)).
252 TEX. GOV'T CODE § 551.0415(a).
253 *Id.* § 551.0415(b).
254 *Id.* § 551.043(a).

Section 551.043(b) relates to posting notice on the internet. Where the Act allows or requires a governmental body to post notice on the internet, the following provisions apply to the posting:

> (1) the governmental body satisfies the requirement that the notice be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;
>
> (2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and
>
> (3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.[255]

Section 551.044, which excepts from the general rule governmental bodies with statewide jurisdiction, provides as follows:

> (a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.
>
> (b) Subsection (a) does not apply to:
>
> > (1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or
> >
> > (2) the governing board of an institution of higher education.[256]

Section 551.046 excepts a committee of the legislature from the general rule:

> The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.[257]

The interplay between the 72-hour rule applicable to local governmental bodies and the requirement that the posting be in a place convenient to the general public in a particular location, such as the city hall or the county courthouse, at one time created legal and practical difficulties for local entities, because the required locations are not usually accessible during the night or on

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255 *Id.* § 551.043(b).
256 *Id.* § 551.044.
257 *Id.* § 551.046.

weekends. Section 551.043(b) solves this problem in part, providing that "if the governmental body makes a good faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public *during normal business hours*."[258]

The Texas Supreme Court had previously addressed this matter in *City of San Antonio v. Fourth Court of Appeals*.[259] The city had posted notice of its February 15, 1990, meeting in two different locations. One notice was posted on a bulletin board inside the city hall, and the other notice was posted on a kiosk outside the main entrance to the city hall. This was done because the city hall was locked at night, thereby preventing continuous access during the 72-hour period to the notice posted inside. The court held that the double posting satisfied the requirements of the statutory predecessors to sections 551.043 and 551.050.[260]

State agencies have generally had little difficulty providing seven days' notice of their meetings, but difficulties have arisen when a quorum of a state agency's governing body wished to meet with a legislative committee.[261] If one or more of the state agency board members were to testify or answer questions, the agency itself would have held a meeting subject to the notice, record-keeping and openness requirements of the Act.[262] Legislative committees, however, post notices "as provided by the rules of the house of representatives or of the senate,"[263] and these generally require shorter time periods than the seven-day notice required for state agencies.[264] Thus, a state agency could find it impossible to give seven days' notice of a quorum's attendance at a legislative hearing concerning its legislation or budget. The Legislature dealt with this difference in notice requirements by adopting section 551.0035 of the Government Code, which provides as follows:

> (a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.
>
> (b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.[265]

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258 *Id.* § 551.043(b)(3) (emphasis added).
259 *City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762 (Tex. 1991).
260 *Id.* at 768.
261 Tex. Att'y Gen. Op. No. JC-0308 (2000) at 2.
262 *Id.*; *see also* Tex. Att'y Gen. Op. No. JC-0248 (2000) at 2.
263 TEX. GOV'T CODE § 551.046.
264 Tex. Att'y Gen. Op. No. JC-0308 (2000) at 2.
265 TEX. GOV'T CODE § 551.0035.

E. Place of Posting

The Act expressly states where notice shall be posted. The posting requirements vary depending on the governing body posting the notice.[266] Sections 551.048 through 551.056 address the posting requirements of state entities, cities and counties, school districts, and other districts and political subdivisions. These provisions are quite detailed and, therefore, are set out here in full:

§ 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice

(a) A state governmental body shall provide notice of each meeting to the secretary of state.[267]

(b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

§ 551.049. County Governmental Body: Place of Posting Notice

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.050. Municipal Governmental Body: Place of Posting Notice

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the city hall.

§ 551.0501. Joint Board: Place of Posting Notice

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

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266 The Amarillo Court of Appeals recently rejected a challenge to the sufficiency of a notice that identified the building of the meeting "without identifying the meeting room, full street address, or name of the city." *Terrell v. Pampa Indep. Sch. Dist.*, 572 S.W.3d 294, 299 (Tex. App.—Amarillo 2019, pet. denied).

267 Notices of open meetings filed in the office of the secretary of state as provided by law are published in the Texas Register. TEX. GOV'T CODE § 2002.011(3); *see* 1 TEX. ADMIN. CODE § 91.21 (Tex. Sec'y of State, How to File an Open Meeting Notice).

(b) A joint board created under Section 22.074, Transportation Code, shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the board's administrative offices.

§ 551.051. School District: Place of Posting Notice

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

§ 551.052. School District: Special Notice to News Media

(a) A school district shall provide special notice of each meeting to any news media that has;

(1) requested special notice; and

(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone, facsimile transmission, or electronic mail.

§ 551.053. District or Political Subdivision Extending Into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice

(a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;

(2) provide notice of each meeting to the secretary of state; and

(3) either provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

(c) A county clerk shall post a notice provided to the clerk under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice

(a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) either provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) A county clerk shall post a notice provided to the clerk under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.055. Institution of Higher Education

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

Posting notice is mandatory, and actions taken at a meeting for which notice was posted incorrectly will be voidable.[268] In *Sierra Club v. Austin Transportation Study Policy Advisory Committee*, the court held that the committee was a special district covering four or more counties for purposes of the Act and, as such, was required to submit notice to the secretary of state pursuant to the statutory predecessor to section 551.053.[269] Thus, a governmental body that does not clearly fall within one of the categories covered by sections 551.048 through 551.056 should consider satisfying all potentially applicable posting requirements.[270]

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268 TEX. GOV'T CODE § 551.141; *see Smith Cnty. v. Thornton*, 726 S.W.2d 2, 3 (Tex. 1986).

269 *Sierra Club v. Austin Transp. Pol'y Advisory Comm.*, 746 S.W.2d 298, 301 (Tex. App.—Austin 1988, writ denied).

270 *See* Tex. Att'y Gen. Op. No. JM-120 (1983) at 3 (concluding that industrial development corporation must post notice in the same manner and location as political subdivision on whose behalf it was created).

§ 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, Development Corporations, Authorities, and Joint Boards

Section 551.056 requires certain governmental bodies and economic development corporations to post notice and an agenda of the meeting on their internet websites, in addition to other postings required by the Act. This provision applies to the following entities, if the entity maintains an internet website or has a website maintained for it:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code);

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code;

(7) a joint board created under Section 22.074, Transportation Code, and

(8) a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.[271]

Section 551.056 also provides that the validity of a posted notice made in good faith to comply with the Act is not affected by a failure to comply with its requirements due to a technical problem beyond the control of the entity.[272]

F. Internet Posting of Notice and Meeting Materials

Provisions in the Act specific to general academic teaching institutions and certain junior college districts require such institutions to post specified meeting materials to their internet website. If applicable, section 551.1281 and section 551.1282 require the internet posting "as early as practicable in advance of the meeting" of "any written agenda and related supplemental written materials" that are provided to the governing board members for their use in the meeting.[273] This

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271 TEX. GOV'T CODE § 551.056(b).

272 *Id.* § 551.056(d); *see also Argyle Indep. Sch. Dist. v. Wolf*, 234 S.W.3d 229, 248–49 (Tex. App.—Fort Worth 2007, no pet.) (determining that there was no evidence of bad faith on part of the school district). *Cf. Terrell v. Pampa Indep. Sch. Dist.*, 345 S.W.3d 641, 644 (Tex. App.—Amarillo 2011, pet. denied) (finding a material issue in summary judgment proceedings about whether ISD "actually attempted to post the notices and, therefore, met the good faith exception to the requirement to concurrently post notices").

273 *Id.* §§ 551.1281–.1282.

posting requirement excludes any written materials "that the general counsel or other appropriate attorney" for the particular governmental body certifies are confidential.[274]

G. Emergency Meetings: Providing and Supplementing Notice

Special rules allow for posting notice of emergency meetings and for supplementing a posted notice with emergency items. These rules affect the timing and content of the notice but not its physical location. Section 551.045 provides:

> (a) In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.
>
> (a-1) A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Subsection (a) other than:
>
> (1) a matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Subsection (c); or
>
> (2) an agenda item listed on a notice of the meeting before the supplemental notice was posted.
>
> (b) An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of:
>
> (1) an imminent threat to public health and safety, including a threat described by Subdivision (2) if imminent; or
>
> (2) a reasonably unforeseeable situation, including:
>
> (A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
>
> (B) power failure, transportation failure, or interruption of communication facilities;
>
> (C) epidemic; or

[274] *Id.*

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.[275]

The public notice of a meeting to deliberate or take action on an emergency or urgent public necessity must be posted at least one hour before the meeting is scheduled to begin. A governmental body may decide to consider an emergency item during a previously scheduled meeting instead of calling a new emergency meeting. The governmental body must post a supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda at least one hour before the meeting begins.[276]

In addition to posting the public notice of an emergency meeting or supplementing a notice with an emergency item, the governmental body must give special notice of the emergency meeting or emergency item to members of the news media who have previously (1) filed a request with the governmental body, and (2) agreed to reimburse the governmental body for providing the special notice.[277] The notice to members of the news media is to be given by telephone, facsimile transmission or electronic mail at least one hour before the meeting is convened.[278]

The public notice of an emergency meeting or an emergency item must "clearly identify" the emergency or urgent public necessity for calling the meeting or for adding the item to the agenda of a previously scheduled meeting.[279] The Act defines "emergency" for purposes of emergency meetings and emergency items.[280]

Section 551.045(a-1) prohibits a governmental body from deliberating or taking action on a matter at an emergency meeting or one for which a supplemental notice has been posted other than a matter directly related to responding to the emergency or urgent public necessity identified in the emergency notice or supplemental notice or an agenda item listed on the meeting notice before the

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275 *Id.* § 551.045.
276 *Id.* § 551.045(a).
277 *Id.* § 551.047(b).
278 *Id.* § 551.047(c).
279 *Id.* § 551.045(c).
280 *Id.* § 551.045(b); *see River Rd. Neighborhood Ass'n v. S. Tex. Sports*, 720 S.W.2d 551, 557 (Tex. App.—San Antonio 1986, writ dism'd) (construing "emergency" consistently with definition later adopted by Legislature).

supplemental notice was posted.[281] Section 551.142 expressly authorizes the attorney general to bring an action by mandamus or injunction in a Travis County district court to stop, prevent, or reverse a violation or threated violation of section 551.045(a-1).[282]

Because section 551.045 provides for one-hour notice only for emergency meetings or for adding emergency items to the agenda, a governmental body adding a *non*emergency item to its agenda must satisfy the general notice period of section 551.043 or section 551.044, as applicable, regarding the subject of that item.

A governmental body's determination that an emergency exists is subject to judicial review.[283] The existence of an emergency depends on the facts in a particular case.[284]

Under section 551.091, a commissioners court can hold an open or closed meeting, including by telephone, "solely to deliberate about disaster or emergency conditions and related public safety matters that require an immediate response."[285] This provision is limited and only applicable when the following two circumstances are present:

> (1) [The county is one] for which the governor has issued an executive order or proclamation declaring a state of disaster or a state of emergency; and
>
> (2) . . . transportation to the meeting location is dangerous or difficult as a result of the disaster or emergency.[286]

A meeting held under this provision may be held without complying with the requirements of chapter 551, including the requirement to provide notice.[287] However, to the extent practicable under the circumstances, the commissioners court shall provide reasonable public notice of a meeting held under section 551.091 and to allow members of the public and the media to observe the meeting if it is an open meeting.[288] Though it may deliberate, the commissioners court may not vote or take final action in the meeting.[289] The commissioners court is also required to prepare and

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281 TEX. GOV'T CODE § 551.045(a-1).

282 *Id.* § 551.142(c), (d).

283 *See River Rd. Neighborhood Ass'n*, 720 S.W.2d at 557–58 (concluding that immediate need for action was brought about by board's decisions not to act at previous meetings and was not due to an emergency); *Garcia v. City of Kingsville*, 641 S.W.2d 339, 341–42 (Tex. App.—Corpus Christi 1982, no writ) (concluding that dismissal of city manager was not a matter of urgent public necessity); *see also Markowski v. City of Marlin*, 940 S.W.2d 720, 724 (Tex. App.—Waco 1997, writ denied) (concluding that city's receipt of lawsuit filed against it by fire captain and fire chief was emergency); *Piazza v. City of Granger*, 909 S.W.2d 529, 533 (Tex. App.—Austin 1995, no writ) (concluding that notice stating city council's "lack of confidence" in police officer did not identify emergency).

284 *Common Cause v. Metro. Transit Auth.*, 666 S.W.2d 610, 613 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); *see generally* Tex. Att'y Gen. Op. No. JC-0406 (2001) at 5–6.

285 *See* TEX. GOV'T CODE § 551.091(b).

286 *Id.* § 551.091(a).

287 *Id.* § 551.091(b) .

288 *Id.* § 551.091(c).

289 *Id.* § 551.091(d)(1).

keep minutes or a recording of the meeting and make the minutes or recording available to the public as soon as practicable.[290]

H. Recess in a Meeting: Postponement in Case of a Catastrophe

Under section 551.0411, a governmental body that recesses an open meeting to the following regular business day need not post notice of the continued meeting if the action is taken in good faith and not to circumvent the Act. If a meeting continued to the following regular business day is then continued to another day, the governmental body must give notice of the meeting's continuance to the other day.[291]

Section 551.0411 also provides for a catastrophe that prevents the governmental body from convening an open meeting that was properly posted under section 551.041. The governmental body may convene in a convenient location within 72 hours pursuant to section 551.045 if the action is taken in good faith and not to circumvent the Act. However, if the governmental body is unable to convene the meeting within 72 hours, it may subsequently convene the meeting only if it gives written notice of the meeting.

A "catastrophe" is defined as "a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting" including:

(1) fire, flood, earthquake, hurricane, tornado, or wind, rain or snow storm;

(2) power failure, transportation failure, or interruption of communication facilities;

(3) epidemic; or

(4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.[292]

I. County Clerk May Charge a Fee for Posting Notice

A county clerk may charge a reasonable fee to a district or political subdivision to post an Open Meetings Act notice.[293]

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290 *Id.* § 551.091(d)(2). Section 551.091 expires on September 1, 2027. *See id.* § 551.091(e).

291 *See id.* § 551.0411(a). Before section 551.0411 was adopted, the court in *Rivera v. City of Laredo*, held that a meeting could not be continued to any day other than the immediately following day without reposting notice. *See Rivera v. City of Laredo*, 948 S.W.2d 787, 793 (Tex. App.—San Antonio 1997, writ denied).

292 TEX. GOV'T CODE § 551.0411(c).

293 *See* TEX. LOC. GOV'T CODE § 118.011(c); Tex. Att'y Gen. Op. Nos. GA-0152 (2004) at 3, M-496 (1969) at 3.

VIII. Open Meetings

A. Convening the Meeting

A meeting may not be convened unless a quorum of the governmental body is present in the meeting room.[294] This requirement applies even if the governmental body plans to go into an executive session, or closed meeting, immediately after convening.[295] The public is entitled to know which members are present for the executive session and whether there is a quorum.[296]

B. Location of the Meeting

The Act requires a meeting of a governmental body to be held in a location accessible to the public.[297] It thus precludes a governmental body from meeting in an inaccessible location. Recognizing that the question whether a specific location is accessible is a fact question, this office recently opined that a court would unlikely conclude as a matter of law that the Act prohibits a governmental body from holding a meeting held in a location that requires the presentation of photo identification for admittance.[298] This office has also opined that the Board of Regents of a state university system could not meet in Mexico, regardless of whether the board broadcast the meeting by videoconferencing technology to areas in Texas where component institutions were located.[299] Nor could an entity subject to the Act meet in an underwriter's office in another state.[300] In addition, pursuant to the Americans with Disabilities Act, a meeting room in which a public meeting is held must be physically accessible to individuals with disabilities. *See infra* Part XII.C of this *Handbook*.

C. Rights of the Public

A meeting that is "open to the public" under the Act is one that the public is permitted to attend.[301] Many governmental bodies conduct "public comment," "public forum" or "open mike" sessions at which members of the public may address comments on any subject to the governmental body.[302] A public comment session is a meeting as defined by section 551.001(4)(B) of the Government

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294 TEX. GOV'T CODE § 551.001(2), (4) (defining "deliberation" and "meeting"); *Cox Enters., Inc. v. Bd. of Trs.*, 706 S.W.2d 956, 959 (Tex. 1986); *but see* TEX. GOV'T CODE § 551.091(b) (authorizing commissioners courts in certain disaster circumstances to hold a meeting without complying with chapter 551, "including the requirement to . . . first convene in an open meeting").

295 TEX. GOV'T CODE § 551.101; *see Martinez v. State*, 879 S.W.2d 54, 56 (Tex. Crim. App. 1994); *Cox. Enters., Inc.*, 706 S.W.2d at 959.

296 *Martinez*, 879 S.W.2d at 56; *Cox Enters., Inc.*, 706 S.W.2d at 959.

297 Other statutes may specify the location of a governmental body's meeting. *See* TEX. WATER CODE § 49.062 (special purpose districts), TEX. LOC. GOV'T CODE §§ 504.054, .055 (specifying alternative meeting locations for a board of an economic development corporation organized under the Development Corporation Act, Title 12, subtitle C1, Local Government Code).

298 Tex. Att'y Gen. Op. No. KP-0020 (2015) at 2 (acknowledging that a court would likely weigh the need for the identification requirement as a security measure against the public's right of access guaranteed under the Act).

299 Tex. Att'y Gen. Op. No. JC-0487 (2002) at 7.

300 Tex. Att'y Gen. Op. No. JC-0053 (1999) at 5–6.

301 Tex. Att'y Gen. Op. No. M-220 (1968) at 5.

302 Tex. Att'y Gen. Op. No. JC-0169 (2000) at 4.

Code because the members of the governmental body "receive information from . . . or receive questions from [a] third person."[303] Accordingly, the governmental body must give notice of a public comment session.

Since 2019, section 551.007 has entitled members of the public to speak about items on the agenda at meetings of certain governmental bodies.[304] Section 551.007 applies to governmental bodies listed in subsections 551.001(3)(B)–(L), including most local governmental bodies and other specified entities.[305] But section 551.007 excludes a governmental body listed in subsection 551.001(3)(A), which is "a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed officials."[306] Section 551.007 provides that a governmental body to which the section applies "shall allow each member of the public who desires to address the body regarding an item on an agenda . . . to address the body regarding the item at the meeting before or during the body's consideration of the item."[307]

The United States Court of Appeals for the Fifth Circuit gave some meaning to the phrase "member of the public" as it appears in section 551.007 of the Act.[308] Stratta was a member of the Brazos Valley Groundwater Conservation District board of directors but attended a meeting of the board as a member of the public and signed up to speak as such during the period reserved for public comment on a matter not included on the agenda.[309] The District prohibited him from speaking on the matter claiming that because he was a director he could not discuss subjects that were not on the agenda even though the agenda included a public comment section on non-agenda items.[310]

In addressing Stratta's contention that he had a right to address the board of directors as a member of the public during a period reserved for public comment on open agenda items, the court recognized that the Act does not define "member of the public."[311] Looking to its common meaning, the court stated that "[w]hen 'member of the public' is used in conjunction with an identified or identifiable group—as it is here with 'governmental body'—its meaning is contextually modified to mean a person who does not belong to the identified group."[312] The court determined that Stratta could not bypass the Act's notice requirement by attending a meeting as a member of the public.[313]

Section 551.007 expressly authorizes a governmental body to adopt reasonable rules regarding the public's right to address the body, "including rules that limit the total amount of time that a member

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303 TEX. GOV'T CODE § 551.001(4)(B)(iv); *see* Tex. Att'y Gen. Op. No. JC-0169 (2000) at 3.

304 TEX. GOV'T CODE § 551.007; *see Stratta v. Roe*, 961 F.3d 340, 363 (5th Cir. 2020) (considering scope of the term "member of the public").

305 TEX. GOV'T CODE § 551.007(a); *see also id.* § 551.001(3)(B)–(L).

306 *See id.* §§ 551.007(a), .001(3)(A).

307 *See id.* § 551.007(b).

308 *Stratta*, 961 F.3d at 363.

309 *Id.* at 348–49.

310 *Id.* at 349.

311 *See id.* at 363.

312 *Id.* (quotation marks and citation omitted).

313 *See id.*

of the public may address the body on a given item."[314] In setting such rules, a governmental body may not unfairly discriminate among speakers for or against a particular point of view.[315] Additionally, section 551.007 provides that "a governmental body may not prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service," except criticism otherwise prohibited by law.[316] Further, a governmental body making a rule limiting the amount of time for a member to address the governmental body and that does not use simultaneous translation equipment must give twice as much time to a person who addresses the governmental body through a translator.[317]

The Act does not entitle the public to choose the items to be placed on the agenda for discussion at the meeting.[318] The Act permits a member of the public or a member of the governmental body to raise a subject that has not been included in the notice for the meeting, but any discussion of the subject must be limited to a proposal to place the subject on the agenda for a future meeting. Section 551.042 of the Act provides for this procedure:

> (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:
>
> (1) a statement of specific factual information given in response to the inquiry; or
>
> (2) a recitation of existing policy in response to the inquiry.
>
> (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.[319]

Another section of the Act permits members of the public to record open meetings with a recorder or a video camera:

> (a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.
>
> (b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

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314 *See* TEX. GOV'T CODE § 551.007(c); *see also* Tex. Att'y Gen. Op. No. KP-0300 (2020) at 2.

315 Tex. Att'y Gen. LO-96-111 (1996) at 1.

316 *See* TEX. GOV'T CODE § 551.007(e).

317 *See id.* § 551.007(d).

318 *See generally Charlestown Homeowners Ass'n, Inc. v. LaCoke*, 507 S.W.2d 876, 883 (Tex. App.—Dallas 1974, writ ref'd n.r.e.) (stating that the Act "does not mean that all such meetings must be 'open' in the sense that persons other than members are free to speak").

319 TEX. GOV'T CODE § 551.042.

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).[320]

D. Final Actions

Section 551.102 of the Act provides as follows:

> A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.[321]

A governmental body's final action, decision or vote on any matter within its jurisdiction may be made only in an open session held in compliance with the notice requirements of the Act. The governmental body may not vote in an open session by secret written ballot.[322] Furthermore, a governmental body may not take action by written agreement without a meeting.[323]

A city governing body may delegate to others the authority to make decisions affecting the transaction of city business if it does so in a meeting by adopting a resolution or ordinance by majority vote.[324] When six cities delegated to a consultant corporation the right to investigate and pursue claims against a gas company, including the right to hire counsel for those purposes, the attorney hired by the consultant could opt out of a class action on behalf of each city, and the cities did not need to hold an open meeting to approve the attorney's decision to opt out in another instance.[325] When the city attorney had authority under the city charter to bring a lawsuit and did not need city council approval to appeal, a discussion of the appeal by the city manager, a quorum of council members and the city attorney did not involve a final action.[326]

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320 *Id.* § 551.023.

321 *Id.* § 551.102; *see Rubalcaba v. Raymondville Indep. Sch. Dist.*, No. 13-14-00224-CV, 2016 WL 1274486, at *3 (Tex. App.—Corpus Christi, Mar. 31, 2016, no pet.) (mem. op.) (determining that "[w]hile a discussion may have taken place in executive session which may have been in violation of the Act," the fact that the vote occurred in open session after the alleged violations meant that "the vote was not taken in violation" of the Act); *Tex. State Bd. of Pub. Accountancy v. Bass*, 366 S.W.3d 751, 762 (Tex. App.—Austin 2012, no pet.) ("[T]he statute contemplates that some deliberations may occur in executive session, but establishes that the final resolution of the matter must occur in open session.").

322 Tex. Att'y Gen. Op. No. H-1163 (1978) at 2.

323 *Webster v. Tex. & Pac. Motor Transp. Co.*, 166 S.W.2d 75, 77 (Tex. 1942); Tex. Att'y Gen. Op. Nos. GA-0264 (2004) at 6–7, JM-120 (1983) at 4; *see also* Tex. Att'y Gen. Op. No. DM-95 (1992) at 5–6 (considering letter concerning matter of governmental business or policy that was circulated and signed by individual members of governmental body outside of open meeting).

324 *City of San Benito v. Rio Grande Valley Gas Co.*, 109 S.W.3d 750, 757 (Tex. 2003) (quoting from *Cent. Power & Light Co. v. City of San Juan*, 962 S.W.2d 602, 613 (Tex. App.—Corpus Christi 1998, pet. dism'd w.o.j.)).

325 *See id.* at 758.

326 *See City of San Antonio v. Aguilar*, 670 S.W.2d 681, 685–86 (Tex. App.—San Antonio 1984, no writ) (stating that the decision to appeal was "an internal administrative decision and not within the purview of the Open Meetings Act"); *see also* Tex. Att'y Gen. Op. No. MW-32 (1979) at 1–2 (concluding that procedure whereby

The fact that the State Board of Insurance discussed and approved a reduction in force at meetings that violated the Act did not affect the validity of the reduction, where the commissioner of insurance had independent authority to terminate employees.[327] The board's superfluous approval of the firings was irrelevant to their validity.[328] Similarly, the fact that the State Board of Public Accountancy's discussions in closed sessions, even if the closed sessions were improper under the Act, touched on the accountants' license revocations did not void the board's order removing the accountants' licenses when the vote of revocation was taken in open session.[329]

In the usual case, when the authority to make a decision or to take an action is vested in the governmental body, the governmental body must act in an open session. In *Toyah Independent School District v. Pecos-Barstow Independent School District*,[330] for example, the Toyah school board sued to enjoin enforcement of an annexation order approved by the board of trustees of Reeves County in a closed meeting.[331] The board of trustees of Reeves County had excluded all members of the public from the meeting room before voting in favor of an order annexing the Toyah district to a third school district.[332] The court determined that the board of trustees' action violated the Act and held that the order of annexation was ineffective.[333] The *Toyah Independent School District* court thus developed the remedy of judicial invalidation of actions taken by a governmental body in violation of the Act. This remedy is now codified in section 551.141 of the Act. The voidability of a governmental body's actions taken in violation of the Act is discussed in Part XI.C of this *Handbook*.

Furthermore, the actual vote or decision on the ultimate issue confronting the governmental body must be made in an open session.[334] In *Board of Trustees v. Cox Enterprises, Inc.*,[335] the court of appeals held that a school board violated the statutory predecessor to section 551.102 when it

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executive director notified board of his intention to request attorney general to bring lawsuit and board member could request in writing that matter be placed on agenda of next meeting did not violate the Act).

327 *Spiller v. Tex. Dep't of Ins.*, 949 S.W.2d 548, 551 (Tex. App.—Austin 1997, writ denied); *see also Swate v. Medina Cmty. Hosp.*, 966 S.W.2d 693, 698 (Tex. App.—San Antonio 1998, pet. denied) (concluding that hospital board's alleged violation of Act did not render termination void where hospital administrator had independent power to hire and fire).

328 *Spiller*, 949 S.W.2d at 551.

329 *Tex. State Bd. of Pub. Accountancy*, 366 S.W.3d at 761–62 ("Thus, to establish that the Board's orders violated the Act, the accountants must establish that 'the actual vote or decision' to adopt the orders was not made in open session.") (footnote and citation omitted).

330 *Toyah Indep. Sch. Dist. v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377 (Tex. App.—San Antonio 1971, no writ).

331 *Id.* at 377.

332 *Id.* at 378 n.1.

333 *Id.* at 380; *see also City of Stephenville v. Tex. Parks & Wildlife Dep't*, 940 S.W.2d 667, 674–75 (Tex. App.—Austin 1996, writ denied) (noting that Water Commission's decision to hear some complaints raised on motion for rehearing and to exclude others should have been taken in open session held in compliance with Act); *Gulf Reg'l Educ. Television Affiliates v. Univ. of Houston*, 746 S.W.2d 803, 809 (Tex. App.—Houston [14th Dist.] 1988, writ denied) (concluding that governmental body's decision to hire attorney to bring lawsuit was invalid because it was not made in open meeting); Tex. Att'y Gen. Op. No. H-1198 (1978) at 2 (concluding that Act does not permit governmental body to enter into agreement and authorize expenditure of funds in closed session).

334 TEX. GOV'T CODE § 551.102; *see also Nash v. Civil Serv. Comm'n*, 864 S.W.2d 163, 166 (Tex. App.—Tyler 1993, no writ).

335 *Bd. of Trs. v. Cox Enters., Inc.*, 679 S.W.2d 86, 90 (Tex. App.—Texarkana 1984*), aff'd in part, rev'd in part on other grounds*, 706 S.W.2d 956 (Tex. 1986).

selected a board member to serve as board president. In an executive session, the board took a written vote on which of two board members would serve as president, and the winner of the vote was announced. The board then returned to the open session and voted unanimously for the individual who won the vote in the executive session.[336] Although the board argued that the written vote in the executive session was "simply a straw vote" that did not violate the Act, the court of appeals found that "there is sufficient evidence to support the trial court's conclusion that the actual resolution of the issue was made in the executive session contrary to the provisions of" the statutory predecessor to section 551.102.[337] Thus, as *Cox Enterprises* makes clear, a governmental body should not take a "straw vote" or otherwise attempt to count votes in an executive session.

On the other hand, members of a governmental body deliberating in a permissible executive session may express their opinions or indicate how they will vote in the open session. The court in *Cox Enterprises* stated that "[a] contrary holding would debilitate the role of the deliberations which are permitted in the executive sessions and would unreasonably limit the rights of expression and advocacy."[338]

In certain circumstances, a governmental body may make a "decision" or take an "action" in an executive session that will not be considered a "final action, decision, or vote" that must be taken in an open session. The court in *Cox Enterprises* held that the school board did not take a "final action" when it discussed making public the names and qualifications of the candidates for superintendent or when it discussed selling surplus property and instructed the administration to solicit bids. The court concluded that the board was simply announcing that the law would be followed rather than taking any action in deciding to make public the names and qualifications of the candidates. The court also noted that further action would be required before the board could decide to sell the surplus property; therefore, the instruction to solicit bids was not a "final action."[339]

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336 *Id.* at 90.

337 *Id.*

338 *Id.* at 89 (footnote omitted); *see also Nash*, 864 S.W.2d at 166 (stating that Act does not prohibit board from reaching tentative conclusion in executive session and announcing it in open session where members have opportunity to comment and cast dissenting vote); *City of Dallas v. Parker*, 737 S.W.2d 845, 850 (Tex. App.—Dallas 1987, no writ) (holding that proceedings complied with Act when "conditional" vote was taken during recess, result was announced in open session, and vote of each member was apparent).

339 *Bd. of Trs.*, 679 S.W.2d at 89–90.

IX. Closed Meetings

A. Overview of Subchapter D of the Open Meetings Act

The Act provides certain narrowly drawn exceptions to the requirement that meetings of a governmental body be open to the public.[340] These exceptions are found in sections 551.071 through 551.090 and are discussed in detail in Part B of this section of the *Handbook*.

Section 551.101 states the requirements for holding a closed meeting. It provides:

> If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:
>
> (1) announces that a closed meeting will be held, and
>
> (2) identifies the section or sections of this chapter under which the closed meeting is held.[341]

Thus, a quorum of the governmental body must be assembled in the meeting room, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of the Act authorizing the closed session.[342] There are several purposes for requiring the presiding officer to identify the section or sections that authorize the closed session: to cause the governmental body to assess the applicability of the exceptions before deciding to close the meeting; to fix the governmental body's legal position as relying upon the exceptions specified; and to inform those present of the exceptions, thereby giving them an opportunity to object intelligently.[343] Judging the sufficiency of the presiding officer's announcement in light of whether it effectuated or hindered these purposes, the court of appeals in *Lone Star Greyhound Park, Inc. v. Texas Racing Commission* determined that the presiding officer's reference to the content of a section, rather than to the section number, sufficiently identified the exception.[344]

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340 TEX. GOV'T CODE §§ 551.071–.091; *see also Cox Enters., Inc. v. Bd. of Trs.*, 706 S.W.2d 956, 958 (Tex. 1986) (noting the narrowly drawn exceptions).

341 TEX. GOV'T CODE § 551.101.

342 *Martinez v. State*, 879 S.W.2d 54, 56 n.5 (Tex. Crim. App. 1994).

343 *Lone Star Greyhound Park, Inc. v. Tex. Racing Comm'n*, 863 S.W.2d 742, 747 (Tex. App.—Austin 1993, writ denied); *see also Standley v. Sansom*, 367 S.W.3d 343, 355 (Tex. App.—San Antonio 2012, pet. denied) (using the four purposes outlined in *Lone Star* to determine sufficiency of challenged notice for executive session).

344 *Lone Star Greyhound Park, Inc.*, 863 S.W.2d at 748.

B. Provisions Authorizing Deliberations in Closed Meeting

1. Section 551.071. Consultations with Attorney

Section 551.071 authorizes a governmental body to consult with its attorney in an executive session to seek his or her advice on legal matters. It provides as follows:

> A governmental body may not conduct a private consultation with its attorney except:
>
> (1) when the governmental body seeks the advice of its attorney about:
>
> (A) pending or contemplated litigation; or
>
> (B) a settlement offer; or
>
> (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.[345]

This provision implements the attorney-client privilege, an attorney's duty to preserve the confidences of a client.[346] It allows a governmental body to meet in executive session with its attorney when it seeks the attorney's advice with respect to pending or contemplated litigation or settlement offers,[347] including pending or contemplated administrative proceedings governed by the Administrative Procedure Act.

In addition, subsection 551.071(2) of the Government Code permits a governmental body to consult in an executive session with its attorney "on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts" with the Act.[348] Thus, a governmental body may hold an executive session to seek or receive its attorney's advice on legal matters that are not related to litigation or the settlement of litigation.[349] A governmental body may not invoke section 551.071 to convene a closed session and then discuss matters outside of that provision.[350] "General discussion of policy, unrelated to legal matters is not permitted under the language of [this exception] merely because

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345 TEX. GOV'T CODE § 551.071.

346 *Tex. State Bd. of Pub. Accountancy*, 366 S.W.3d at 759; *see* Tex. Att'y Gen. Op. Nos. JC-0506 (2002) at 4, JC-0233 (2000) at 3, H-816 (1976) at 4, M-1261 (1972) at 9–10.

347 TEX. GOV'T CODE § 551.071(1); *Lone Star Greyhound Park Inc.*, 863 S.W.2d at 748.

348 TEX. GOV'T CODE § 551.071(2).

349 *Cf. Weatherford v. City of San Marcos*, 157 S.W.3d 473, 486 (Tex. App.—Austin 2004, pet. denied) (concluding that city council did not violate Act when it went into executive session to seek attorney's advice about land use provision); Tex. Att'y Gen. Op. Nos. JC-0233 (2000) at 3, JM-100 (1983) at 2.

350 *Gardner v. Herring*, 21 S.W.3d 767, 776 (Tex. App.—Amarillo 2000, no pet.); *but see In re City of Galveston*, No. 14-14-01005-CV, 2015 WL 971314, at *5–6 (Tex. App.—Houston [14th Dist.] Mar. 3, 2015, orig. proceeding) (mem. op.) (acknowledging that the Act does not mandate a "rigid stricture of direct legal question . . . followed by a direct legal answer" and that the "conveyance of factual information or the expression of opinion or intent by a member of the governmental body may be appropriate in a closed meeting . . . if the purpose of such statement is to facilitate the rendition of legal advice by the government's attorney").

an attorney is present."[351] A governmental body may, for example, consult with its attorney in executive session about the legal issues raised in connection with awarding a contract, but it may not discuss the merits of a proposed contract, financial considerations, or other nonlegal matters in an executive session held under section 551.071 of the Government Code.[352]

The attorney-client privilege can be waived by communicating privileged matters in the presence of persons who are not within the privilege.[353] Two governmental bodies waived this privilege by meeting together for discussions intended to avoid litigation between them, each party consulting with its attorney in the presence of the other, "the party from whom it would normally conceal its intentions and strategy."[354] An executive session under section 551.071 is not allowed for such discussions. A governmental body may, however, admit to a session closed under this exception its agents or representatives, where those persons' interest in litigation is aligned with that of the governmental body and their presence is necessary for full communication between the governmental body and its attorney.[355]

This exception is an affirmative defense on which the governmental body bears the burden of proof.[356]

2. Section 551.072. Deliberations about Real Property

Section 551.072 authorizes a governmental body to deliberate in executive session on certain matters concerning real property. It provides as follows:

> A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.[357]

Section 551.072 permits an executive session only where public discussion of the subject would have a detrimental effect on the governmental body's negotiating position with respect to a third party.[358] Where a court found that open discussion would not be detrimental to a city's negotiations, a closed session under this provision was not permitted.[359] It does not allow a governmental body

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351 Tex. Att'y Gen. Op. No. JM-100 (1983) at 2; *see Finlan v. City of Dallas*, 888 F. Supp. 779, 782 n.9 (N.D. Tex. 1995); Tex. Att'y Gen. No. JC-0233 (2000) at 3.

352 *Olympic Waste Servs. v. City of Grand-Saline*, 204 S.W.3d 496, 503–04 (Tex. App.—Tyler 2006, no pet.) (citing Tex. Att'y Gen. Op. No. JC-0233 (2000) at 3).

353 *See* Tex. Att'y Gen. Op. Nos. JC-0506 (2002) at 6, JM-100 (1983) at 2.

354 Tex. Att'y Gen. Op. No. MW-417 (1981) at 2–3; *see also* Tex. Att'y Gen. Op. No. JM-1004 (1989) at 4 (concluding that school board member who has sued other board members may be excluded from executive session held to discuss litigation).

355 *See* Tex. Att'y Gen. Op. No. JC-0506 (2002) at 6; *see also* Tex. Att'y Gen. Op. No. JM-238 (1984) at 5.

356 *See Killam Ranch Props., Ltd. v. Webb Cnty.*, 376 S.W.3d 146, 157 (Tex. App.—San Antonio 2012, pet. denied); *City of Farmers Branch v. Ramos*, 235 S.W.3d 462, 466 (Tex. App.—Dallas 2007, no pet.); *Olympic Waste Servs.*, 204 S.W.3d at 504.

357 TEX. GOV'T CODE § 551.072.

358 Tex. Att'y Gen. Op. No. MW-417 (1981) at 2 (construing statutory predecessor to Government Code section 551.072).

359 *See City of Laredo v. Escamilla*, 219 S.W.3d 14, 21 (Tex. App.—San Antonio 2006, pet. denied).

to "cut a deal in private, devoid of public input or debate."[360] A governmental body's discussion of nonmonetary attributes of property to be purchased that relate to the property's value may fall within this exception if deliberating in open session would detrimentally affect subsequent negotiations.[361]

3. Section 551.0725. Deliberations by Certain Commissioners Courts about Contract Being Negotiated

Section 551.0725 provides as follows:

> (a) The commissioners court of a county may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:
>
> (1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and
>
> (2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.
>
> (b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

Section 551.103(a) provides that a governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for a private consultation with its attorney permitted by section 551.071.

4. Section 551.0726. Texas Facilities Commission: Deliberation Regarding Contract Being Negotiated

This section, which provides as follows, is very similar to section 551.0725:

> (a) The Texas Facilities Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:
>
> (1) the commission votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person; and

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360 *Finlan*, 888 F. Supp. at 787.

361 *Save Our Springs All., Inc. v. Austin Indep. Sch. Dist.*, 973 S.W.2d 378, 382 (Tex. App.—Austin 1998, no pet.).

(2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person and setting forth that finding therein.

(b) Notwithstanding Section 551.103(a), the commission must make a recording of the proceedings of a closed meeting held under this section.[362]

5. Section 551.073. Deliberation Regarding Prospective Gifts

Section 551.073 provides as follows:

> A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.[363]

Before the Act was codified as Government Code chapter 551 in 1993, a single provision encompassed the present sections 551.073 and 551.072.[364] The authorities construing the statutory predecessor to section 551.072 may be relevant to section 551.073.[365]

6. Section 551.074. Personnel Matters

Section 551.074 authorizes certain deliberations about officers and employees of the governmental body to be held in executive session:

(a) This chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or a charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.[366]

This section permits executive session deliberations concerning an individual officer or employee.[367] Deliberations about a *class* of employees, however, must be held in an open

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362 TEX. GOV'T CODE § 551.0726.

363 *Id.* § 551.073.

364 *See* Act of Mar. 28, 1973, 63d Leg., R.S., ch. 31, § 2, 1973 Tex. Gen. Laws 45, 46 (former article 6252-17, § 2(f), Revised Civil Statutes).

365 *See, e.g.*, *Dallas Cnty. Flood Control Dist. No. 1 v. Cross*, 815 S.W.2d 271, 282–83 (Tex. App.—Dallas 1991, writ denied).

366 TEX. GOV'T CODE § 551.074.

367 A federal court has said that this provision is not restricted "only to actions affecting a current employee." *Hispanic Educ. Comm. v. Houston Indep. Sch. Dist.*, 886 F. Supp. 606, 611 (S.D. Tex. 1994), *aff'd*, 68 F.3d 467

session.[368] For example, when a governmental body discusses salary scales without referring to a specific employee, it must meet in open session.[369] The closed meetings authorized by section 551.074 may deal only with officers and employees of a governmental body; closed deliberations about the selection of an independent contractor are not authorized.[370]

Section 551.074 authorizes the public officer or employee under consideration to request a public hearing.[371] In *Bowen v. Calallen Independent School District*,[372] a teacher requested a public hearing concerning nonrenewal of his contract but did not object when the school board moved to go into executive session. The court concluded that the school board did not violate the Act.[373] Similarly, in *James v. Hitchcock Independent School District*,[374] a school librarian requested an open meeting on the school district's unilateral modification of her contract. The court stated that refusal of the request for a hearing before the school board "is permissible only where the teacher does not object to its denial."[375] However, silence may not be deemed a waiver if the employee has no opportunity to object.[376] When a board heard the employee's complaint, moved onto other topics, and then convened an executive session to discuss the employee after he left, the court found that the employee had not had an opportunity to object.[377]

7. Section 551.0745. Deliberations by Commissioners Court about County Advisory Body

Attorney General Opinion DM-149 (1992) concluded that members of an advisory committee are not public officers or employees within section 551.074 of the Government Code, authorizing executive session deliberations about certain personnel matters. Section 551.0745 now provides that a commissioners court of a county is not required to deliberate in an open meeting about the "appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or . . . to hear a complaint or charge against a member of an advisory body."[378] However, this provision does not apply if the person who is the subject of the deliberation requests a public hearing.[379]

(5th Cir. 1995); *but see* Tex. Att'y Gen. LO-88-52 (1988) at 3 (stating that the exception "applies only to public employees and officers, not to applicants for public employment or office").

368 *Gardner*, 21 S.W.3d at 777; Tex. Att'y Gen. Op. No. H-496 (1975) (construing predecessor to Government Code section 551.074).

369 *See* Tex. Att'y Gen. Op. No. H-496 (1975).

370 *Swate v. Medina Cmty. Hosp.*, 966 S.W.2d 693, 699 (Tex. App.—San Antonio 1998, pet. denied); *Bd. of Trs. v. Cox Enters., Inc.*, 679 S.W.2d 86, 90 (Tex. App.—Texarkana 1984*), aff'd in part, rev'd in part on other grounds*, 706 S.W.2d 956 (Tex. 1986); Tex. Att'y Gen. Op. No. MW-129 (1980) at 1–2.

371 TEX. GOV'T CODE § 551.074(b); *see City of Dallas*, 737 S.W.2d at 848; *Corpus Christi Classroom Tchrs. Ass'n v. Corpus Christi Indep. Sch. Dist.*, 535 S.W.2d 429, 430 (Tex. App.—Corpus Christi 1976, no writ).

372 *Bowen v. Calallen Indep. Sch. Dist.*, 603 S.W.2d 229 (Tex. App.—Corpus Christi 1980, writ ref'd n.r.e.).

373 *Id.* at 236; *accord Thompson v. City of Austin*, 979 S.W.2d 676, 685 (Tex. App.—Austin 1998, no pet.).

374 *James v. Hitchcock Indep. Sch. Dist.*, 742 S.W.2d 701 (Tex. App.—Houston [1st Dist.] 1987, writ denied).

375 *Id.* at 707 (citing *Bowen*, 603 S.W.2d at 236).

376 *Gardner*, 21 S.W.3d at 775.

377 *Id.*.

378 TEX. GOV'T CODE § 551.0745.

379 *See id.*

8. Section 551.075. Conference Relating to Investments and Potential Investments Attended by Board of Trustees Growth Fund

Section 551.075 authorizes a closed meeting between the board of trustees of the Texas Growth Fund and an employee of the Fund or a third party in certain circumstances.[380]

9. Section 551.076. Deliberations Regarding Security Devices or Security Audits

Section 551.076 provides as follows:

> This chapter does not require a governmental body to conduct an open meeting to deliberate:
>
> (1) the deployment, or specific occasions for implementation, of security personnel or devices; or
>
> (2) a security audit.[381]

10. Section 551.077. Agency Financed by Federal Government

Section 551.077 provides that chapter 551 does not require an agency financed entirely by federal money to conduct an open meeting.[382]

11. Section 551.078, .0785. Deliberations Involving Individuals' Medical or Psychiatric Records

These two provisions permit specified governmental bodies to discuss an individual's medical or psychiatric records in closed session. Section 551.078 is the narrower provision, applying to a medical board or medical committee when discussing the records of an applicant for a disability benefit from a public retirement system.[383] Section 551.0785 is much broader, allowing a governmental body that administers a public insurance, health or retirement plan to hold a closed session when discussing the records or information from the records of an individual applicant for a benefit from the plan. The benefits appeals committee for a public self-funded health plan may also meet in executive session for this purpose.[384]

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380 *Id.* § 551.075.

381 *Id.* § 551.076; *see* Tex. Att'y Gen. LO-93-105 (1993) at 3 (indicating a belief that "the applicability of 551.076 rests upon the definition of 'security personnel'").

382 TEX. GOV'T CODE § 551.077.

383 *Id.* § 551.078; *see also* Tex. Att'y Gen. Op. No. DM-340 (1995) at 2 (concluding that section 551.078 authorizes board of trustees of a public retirement system to consider medical and psychiatric records in closed session).

384 TEX. GOV'T CODE § 551.0785.

12. Sections 551.079–.0811. Exceptions Applicable to Specific Entities

Sections 551.079 through 551.0811 are set out below. The judicial decisions and attorney general opinions construing the Act have had little to say about these provisions.

§ 551.079. Texas Department of Insurance

(a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28–C or 21.28–D, Insurance Code, in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.

(b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:

(1) staff of the Texas Department of Insurance;

(2) a regulated person;

(3) representatives of a regulated person; or

(4) members of the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28–C or 21.28–D, Insurance Code.

§ 551.080. Board of Pardons and Paroles

This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of the Texas Department of Criminal Justice.

§ 551.081. Credit Union Commission

This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.0811. The Finance Commission of Texas

This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

13. Sections 551.082, .0821, .083. Certain School Board Deliberations

Section 551.082 provides as follows:

> (a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:
>
> (1) involving discipline of a public school child; or
>
> (2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.
>
> (b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.[385]

A student who makes a written request for an open hearing on a disciplinary matter but does not object to an executive session when announced, waives his or her right to an open hearing.[386]

Section 551.0821 provides as follows:

> (a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.
>
> (b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, "directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.
>
> (c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

The Federal Family Educational Rights and Privacy Act provides for withholding federal funds from an educational agency or institution with a policy or practice of releasing education records

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385 *Id.* § 551.082.

386 *United Indep. Sch. Dist. v. Gonzalez*, 911 S.W.2d 118, 127 (Tex. App.—San Antonio 1995, writ denied).

or personally identifiable information.[387] Section 551.0821 enables school boards to deliberate in closed session to avoid revealing personally identifiable information about a student.

Section 551.083 provides as follows:

> This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code [repealed in 1993], to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.[388]

14. Section 551.085. Deliberation by Governing Board of Certain Providers of Health Care Services

Section 551.085 provides as follows:

> (a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, county hospital, county hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code,[389] to conduct an open meeting to deliberate:
>
> (1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or
>
> (2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.
>
> (b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code,[390] that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).[391]

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387 20 U.S.C.A. § 1232g; *see also Axtell v. Univ. of Tex.*, 69 S.W.3d 261, 267 (Tex. App.—Austin 2002, no pet.) (holding that student did not have cause of action under Tort Claims Act for release of his grades to radio station).

388 *See* Act of May 28, 1993, 73d Leg., R.S., ch. 347, § 8.33, 1993 Tex. Gen. Laws 1479, 1556. *See* Tex. Att'y Gen. Op. No. H-651 (1975) at 3 (construing predecessor of Government Code section 551.083).

389 Section 534.101 of the Health and Safety Code authorizes community mental health and mental retardation centers to create a limited purpose health maintenance organization. TEX. HEALTH & SAFETY CODE §§ 534.101–.124.

390 This provision authorizes certain hospital districts to establish HMOs.

391 TEX. GOV'T CODE § 551.085.

15. Section 551.086. Certain Public Power Utilities: Competitive Matters

This section was adopted as part of an act relating to electric utility restructuring and is only briefly summarized here.[392] Anyone wishing to know when and how it applies should read it in its entirety.[393] It provides that certain public power utilities are not required to conduct an open meeting to deliberate, vote or take final action on any competitive matter as defined by section 552.133 of the Government Code.[394] Section 552.133 defines "competitive matter" as "a utility-related matter that is related to the public power utility's competitive activity, including commercial information and would, if disclosed, give advantage to competitors or prospective competitors."[395] The definition of "competitive matter" further provides that the term is reasonably related to several categories of information specifically defined[396] and does not include other specified categories of information.[397] "Public power utility" is defined as "an entity providing electric or gas utility services" that is subject to the provisions of the Act.[398] Finally, this executive session provision includes the following provision on notice:

> For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.[399]

16. Section 551.087. Deliberation Regarding Economic Development Negotiations

The provision reads as follows:

> This chapter does not require a governmental body to conduct an open meeting:
>
> (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or
>
> (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).[400]

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392 *See* Act of May 27, 1999, 76th Leg., R.S., ch. 405, 1999 Tex. Gen. Laws 2543, 2543–2625.
393 TEX. GOV'T CODE § 551.086.
394 *Id.* § 551.086(c).
395 *Id.* § 552.133(a-1).
396 *Id.* § 552.133(a-1)(1)(A)–(F).
397 *Id.* § 552.133(a-1)(2)(A)–(O).
398 *Id.* § 551.086(b)(1).
399 *Id.* § 551.086(d).
400 *Id.* § 551.087.

17. Section 551.088. Deliberation Regarding Test Item

This provision states as follows:

> This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity. [401]

An executive session may be held only when expressly authorized by law. Thus, before section 551.088 was adopted, the Act did not permit a governmental body to meet in executive session to discuss the contents of a licensing examination.[402]

18. Section 551.089. Deliberation Regarding Security Devices or Security Audits; Closed Meeting

Section 551.089 provides as follows:

> This chapter does not require a governmental body to conduct an open meeting to deliberate:
>
> (1) security assessments or deployments relating to information resources technology;
>
> (2) network security information as described by Section 2059.055(b); or
>
> (3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.[403]

19. Section 551.090. Enforcement Committee Appointed by Texas State Board of Public Accountancy

Section 551.090 provides that an enforcement committee appointed by the State Board of Public Accountancy is not required to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.[404]

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401 *Id.* § 551.088.

402 *See* Tex. Att'y Gen. LO-96-058 (1996) at 2.

403 TEX. GOV'T CODE § 551.089. Chapter 2059 of the Government Code relates to the "Texas Computer Network Security System." *Id.* §§ 2059.001–.153.

404 *Id.* § 551.090; *see also* TEX. OCC. CODE §§ 901.501–.511 (subchapter K entitled "Prohibited Practices and Disciplinary Procedures").

20. Section 551.091. Commissioners Courts: Deliberation Regarding Disaster or Emergency

Section 551.091 provides that a commissioners court in a county "for which the governor has issued an executive order or proclamation declaring a state of disaster or a state of emergency" and "in which transportation to the meeting location is dangerous or difficult as a result of the disaster or emergency" may hold a closed meeting to deliberate about disaster or emergency conditions "without complying" with the Act, including the requirement to first convene the meeting in an open meeting.[405]

C. Closed Meetings Authorized by Other Statutes

Some state agencies are authorized by their governing law to hold closed meetings in addition to those authorized by the Act.[406] Chapter 418 of the Government Code, the Texas Disaster Act, which relates to managing emergencies and disasters, including those caused by terroristic acts, provides in section 418.183(f):

> A governmental body subject to Chapter 551 is not required to conduct an open meeting to deliberate information to which this section applies. Notwithstanding Section 551.103(a), the governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information.[407]

Section 418.183 states that "[t]his section applies only to information that is confidential under" specific sections of chapter 418.[408]

Similarly, the Texas Oyster Council is subject to the Act but is "not required to conduct an open meeting to deliberate confidential communications and records . . . relating to the investigation of a food-borne illness that is suspected of being related to molluscan shellfish."[409] And though an appraisal review board is generally required to conduct protest hearings in the open, it is authorized to conduct a closed hearing if the hearing involves disclosure or proprietary or confidential information.[410]

D. No Implied Authority for Closed Meetings

Older attorney general opinions have stated that a governmental body could deliberate in a closed session about confidential information, even though no provision of the Act authorizing a closed

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405 TEX. GOV'T CODE § 551.091(a)–(b). Section 551.091 expires on September 1, 2027. *See id.* § 551.091(e).

406 *See, e.g.*, TEX. FAM. CODE § 264.005(g) (County Child Welfare Boards); TEX. LAB. CODE § 401.021(3) (certain proceedings of Workers' Compensation Commission); TEX. OCC. CODE § 152.009(c) (Board of Medical Examiners; deliberation about license applications and disciplinary actions).

407 TEX. GOV'T CODE § 418.183(f).

408 *Id.* § 418.183(a).

409 TEX. HEALTH & SAFETY CODE § 436.108(f); *see also* TEX. LOC. GOV'T CODE § 161.172(b) (excluding county ethics commissions in certain counties from operation of parts of chapter 551).

410 TEX. TAX CODE § 41.66(d-1).

session applied to the deliberations.[411] These opinions reasoned that information made confidential by statute was not within the Act's prohibition against privately discussing "public business or public policy," or that the board members could deliberate on information in a closed session if an open meeting would result in violation of a confidentiality provision.[412]

However, Attorney General Opinion MW-578 (1982) held that the Texas Employment Commission had no authority to review unemployment benefit cases in closed session, even though in some of the cases very personal information was disclosed about claimants and employers. Reasoning that the Act states that closed meetings may be held only where specifically authorized, the opinion concluded that there was no basis to read into it implied authority for closed meetings.[413] It disapproved the language in earlier opinions that suggests otherwise, but stated that the commission could protect privacy rights by avoiding discussion of private information.[414] Thus, the disapproved opinions should no longer be relied on as a source of authority for a closed session.

E. Who May Attend a Closed Meeting

Only the members of a governmental body have a right to attend an executive session,[415] except that the governmental body's attorney must be present when it meets under section 551.071. A governmental body has discretion to include in an executive session any of its officers and employees whose participation is necessary to the matter under consideration.[416] Thus, a school board could require its superintendent of schools to attend all executive sessions of the board without violating the Act.[417] Given the board's responsibility to oversee the district's management and the superintendent's administrative responsibility and leadership of the district, the board could reasonably conclude that the superintendent's presence was necessary at executive sessions.[418]

A commissioners court may include the county auditor in a meeting closed under section 551.071 to consult with its attorney if the court determines that (1) the auditor's interests are not adverse to the county's; (2) the auditor's presence is necessary for the court to communicate with its attorney;

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411 Tex. Att'y Gen. Op. Nos. H-1154 (1978) at 3 (concluding that county child welfare board may meet in executive session to discuss case files made confidential by statute), H-780 (1976) at 3 (concluding that Medical Advisory Board must meet in closed session to consider confidential reports about medical condition of applicants for a driver's license), H-484 (1974) at 3 (concluding that licensing board may discuss confidential information from applicant's file and may prepare examination questions in closed session), H-223 (1974) at 5 (concluding that administrative hearings in comptroller's office concerning confidential tax information may be closed).

412 Tex. Att'y Gen. Op. No. H-484 (1974) at 2.

413 *See* Tex. Att'y Gen. Op. No. MW-578 (1982) at 4.

414 *Id.*

415 *See* Tex. Att'y Gen. Op. Nos. JM-6 (1983) at 1–2 (stating that only members of the governmental body have the right to convene in executive session), KP-0006 (2015) at 2.

416 Tex. Att'y Gen. Op. No. JC-0375 (2001) at 2; *see also* Tex. Att'y Gen. Op. No. GA-0277 (2004) at 3 (concluding that commissioners court may allow the county clerk to attend its executive sessions), KP-0006 (2015) at 2 (concluding that a representative of a municipality may attend an executive session of a housing authority if the governing body of the housing authority determines the municipal representative's participation is necessary to the matter to be discussed).

417 Tex. Att'y Gen. Op. No. JC-0375 (2001) at 2.

418 *Id.*

and (3) the county auditor's presence will not waive the attorney-client privilege.[419] If the meeting is closed under an executive session provision other than section 551.071, the commissioners court may include the county auditor if the auditor's interests are not adverse to the county and his or her participation is necessary to the discussion.[420]

A governmental body must not admit to an executive session a person whose presence is contrary to the governmental interest protected by the provision authorizing the session. A person who wishes to sell real estate to a city may not attend an executive session under section 551.072, a provision designed to protect the city's bargaining position in negotiations with a third party.[421] Nor may a governmental body admit the opposing party in litigation to an executive session under section 551.071.[422] A governmental body has no authority to admit members of the public to a meeting closed under section 551.074 to give input about the public officer or employee being considered at the meeting.[423]

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419 Tex. Att'y Gen. Op. No. JC-0506 (2002) at 6; *see* Tex. Att'y Gen. Op. No. JM-238 (1984) at 5 (concluding that county officers and employees may attend closed session of county commissioners court to discuss litigation against sheriff and commissioners court about county jail conditions).

420 *See* Tex. Att'y Gen. Op. No. JC-0506 (2002) at 6.

421 *Finlan v. City of Dallas*, 888 F. Supp. 779, 787 (N.D. Tex. 1995).

422 *See* Tex. Att'y Gen. Op. Nos. JM-1004 (1989) at 4 (concluding that school board member who has sued other board members may be excluded from executive session held to discuss litigation), MW-417 (1981) at 2–3 (concluding that provision authorizing governmental body to consult with attorney in executive session about contemplated litigation does not apply to joint meeting between the governmental bodies to avoid lawsuit between them).

423 *See* Tex. Att'y Gen. Op. No. GA-0511 (2007) at 6.

X. Records of Meetings

A. Minutes or Recordings of Open Meeting

Section 551.021 of the Government Code provides as follows:

> (a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.
>
> (b) The minutes must:
>
> (1) state the subject of each deliberation; and
>
> (2) indicate each vote, order, decision, or other action taken.[424]

Section 551.022 of the Government Code provides:

> The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.[425]

If minutes are kept instead of a recording, the minutes should record every action taken by the governmental body.[426] If open sessions of a commissioners court meeting are recorded, the recordings are available to the public under the Public Information Act.[427] (For a discussion of record retention laws, refer to Part XII.F of this *Handbook*).

B. Special Recording Requirements

Section 551.1283 requires special purpose districts subject to chapters 51, 53, 54, or 55 of the Water Code with populations of 500 or more to post the minutes of a meeting held to consider the adoption of an ad valorem tax rate on the district's internet website if it has one.[428] Such districts are also required to make an audio recording of the public hearing on written request of a resident

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424 TEX. GOV'T CODE § 551.021; *see also* Tex. Att'y Gen. Op. No. GA-0727 (2009) at 2 (opining that Texas State Library and Archives Commission rule requiring written minutes of every open meeting of a state agency is likely invalid as inconsistent with section 551.021(a), which authorizes a governmental body to make a recording of an open meeting).

425 TEX. GOV'T CODE § 551.022; *see York v. Tex. Guaranteed Student Loan Corp.*, 408 S.W.3d 677, 688 (Tex. App.—Austin 2013, no pet.) (concluding that exceptions in the Public Information Act do not operate to prevent public disclosure of minutes requested under section 551.022).

426 *See York*, 408 S.W.3d at 687 (defining "minutes" to refer "to the record or notes of a meeting or proceeding, whatever they may contain").

427 Tex. Att'y Gen. Op. No. JM-1143 (1990) at 2–3 (concluding that tape recording of open session of commissioners court meeting is subject to Open Records Act); *see* Tex. Att'y Gen. ORD-225 (1979) at 3 (concluding that handwritten notes of open meetings made by secretary of governmental body are subject to disclosure under Open Records Act); ORD-32 (1974) at 2 (concluding that audio tape recording of open meeting of state licensing agency used as aid in preparation of accurate minutes is subject to disclosure under Open Records Act).

428 *See* TEX. GOV'T CODE § 551.1283(a)–(b).

and to provide the recording to the resident no later than five days after the hearing.[429] These special districts must also post "links to any other Internet website or websites the district uses to comply with Section 2051.202 of this code and Section 26.18, Tax Code."[430]

Section 551.091, which authorizes county commissioners courts in limited disaster circumstances to hold an open or closed meeting without complying with the requirements of chapter 551, still requires the commissioners court prepare and keep minutes or a recording of the meeting and make the minutes or recording available to the public as soon as practicable.[431]

C. Certified Agenda or Recording of Closed Meeting

A governmental body must make and keep either a certified agenda or a recording of each executive session, except for an executive session held by the governmental body to consult with its attorney in accordance with section 551.071 of the Government Code.[432] If a certified agenda is kept, the presiding officer must certify that the agenda is a true and correct record of the executive session.[433] The certified agenda must include "(1) a statement of the subject matter of each deliberation, (2) a record of any further action taken, and (3) an announcement by the presiding officer at the beginning and the end of the closed meeting indicating the date and time."[434] While the agenda does not have to be a verbatim transcript of the meeting, it must at least provide a brief summary of each deliberation.[435] Whether a particular agenda satisfies the Act is a question of fact that must be addressed by the courts. Attorney General Opinion JM-840 (1988) cautioned governmental bodies to consider providing greater detail in the agenda with regard to topics not authorized for consideration in executive session or to avoid the uncertainty concerning the requisite detail required in an agenda by recording executive sessions.[436] Any member of a governmental body participating in a closed session knowing that an agenda or recording is not being made commits a Class C misdemeanor.[437]

The certified agenda or recording of an executive session must be kept a minimum of two years after the date of the session.[438] If during that time a lawsuit that concerns the meeting is brought,

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429 *See id.* § 551.1283(b).

430 *Id.* § 551.1283(d). Section 2051.202 of the Government Code requires a district to post on its website, among other things, the location and schedule of meetings, as well as meeting notices, minutes, and instructions for requesting certain meeting locations. *See* TEX. GOV'T CODE § 2051.202(d)(11), (13), (14). Generally, section 26.18 of the Tax Code requires taxing units to post information relating to their tax rate and budget information on a website. *See* TEX. TAX CODE § 26.18.

431 TEX. GOV'T CODE § 551.091(d)(2).

432 *Id.* § 551.103(a); *see* Tex. Att'y Gen. Op. No. JM-840 (1988) at 3 (discussing meaning of "certified agenda"); *but see* TEX. GOV'T CODE §§ 551.0725(b) (providing that notwithstanding section 551.103(a), the commissioners court must make a recording of the proceedings of a closed meeting under this section), 551.0726(b) ("[N]otwithstanding Section 551.103(a), the [Texas Facilities] Commission must make a recording of the proceedings of a closed meeting held under this section.").

433 TEX. GOV'T CODE § 551.103(b).

434 *Id.* § 551.103(c).

435 Tex. Att'y Gen. Op. No. JM-840 (1988) at 4–7.

436 *Id.* at 5–6 (referring to legislative history of section indicating that its primary purpose is to document fact that governmental body did not discuss unauthorized topics in closed session).

437 TEX. GOV'T CODE § 551.145.

438 *Id.* § 551.104(a).

the agenda or recording of that meeting must be kept pending resolution of the lawsuit.[439] The commissioners court, not the county clerk, is the proper custodian for the certified agenda or recording of a closed meeting, but it may delegate that duty to the county clerk.[440]

A certified agenda or recording of an executive session is confidential. A person who knowingly and without lawful authority makes these records public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorney fees and exemplary or punitive damages.[441] Section 551.104 provides for court-ordered access to the certified agenda or recording under specific circumstances:

> (b) In litigation in a district court involving an alleged violation of this chapter, the court:
>
> (1) is entitled to make an in camera inspection of the certified agenda or recording;
>
> (2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and
>
> (3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.
>
> (c) the certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).[442]

Section 551.104 authorizes a district court to admit all or part of the certified agenda or recording of a closed session as evidence in an action alleging a violation of the Act, thus providing the only means under state law whereby a certified agenda or recording of a closed session may be released to the public.[443] The Office of the Attorney General has recognized that it lacks authority under the Public Information Act[444] to review certified agendas or recordings of closed sessions for compliance with the Open Meetings Act.[445] However, the confidentiality provision may be preempted by federal law.[446] When the Equal Employment Opportunity Commission served a

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439 *Id.*

440 Tex. Att'y Gen. Op. No. GA-0277 (2004) at 3–4.

441 TEX. GOV'T CODE § 551.146.

442 *Id.* § 551.104.

443 Tex. Att'y Gen. Op. No. JM-995 (1988) at 5; *In re Smith Cnty.*, 521 S.W.3d 447, 454 (Tex. App.—Tyler 2017, no pet.) (stating that "it is clear that [section 551.104] applies to litigation before the recording of a closed meeting is made available to the public[;] . . . . once the recordings of the closed meetings become readily available to the public, section 551.104 no longer applies").

444 TEX. GOV'T CODE §§ 552.001–.376.

445 *See* Tex. Att'y Gen. ORD-495 (1988) at 2, 4.

446 *Equal Emp. Opportunity Comm'n v. City of Orange, Tex.*, 905 F. Supp. 381, 382 (E.D. Tex. 1995).

Texas city with an administrative subpoena for tapes of closed city council meetings, the Open Meetings Act did not excuse compliance.[447]

A member of the governmental body has a right to inspect the certified agenda or recording of a closed meeting, even if he or she did not participate in the meeting.[448] This is not a release to the public in violation of the confidentiality provisions of the Act, because a board member is not a member of the public within that prohibition. The governmental body may adopt a procedure permitting review of the certified agenda or recording but may not entirely prohibit a board member from reviewing the record. The board member may not copy the recording or certified agenda of a closed meeting, nor may a former member of a governmental body inspect these records once he or she leaves office.[449]

D. Additional Recording Requirements for Certain Districts

Section 551.1283 requires a special purpose district subject to chapter 51, 53, 54, or 55 of the Water Code with a population of 500 or more to "make an audio recording of reasonable quality" of a "public hearing to consider the adoption of an ad valorem tax rate" upon timely request of a resident of the district.[450] The district must make the recording available to the resident not later than the fifth business day after the date of the hearing and also maintain a copy of the recording for at least one year.[451]

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447 *Id.*

448 Tex. Att'y Gen. Op. No. JC-0120 (1999) at 4, 5, 7 (overruling Tex. Att'y Gen. Op. No. DM-227 (1993), in part).

449 Tex. Att'y Gen. LO-98-033 (1998) at 2–3; *cf.* Tex. Att'y Gen. Op. No. DM-227 (1993) at (2) (concluding that the Act does not preclude a member of a governmental body from reviewing the certified agenda or tape recording of a closed meeting in which the member had participated).

450 TEX. GOV'T CODE § 551.1283(b).

451 *Id.*

XI. Penalties and Remedies

A. Introduction

The Act provides civil remedies and criminal penalties for violations of its provisions. District courts have original jurisdiction over criminal violations of the Act as misdemeanors involving official misconduct.[452] As a general matter, the Act does not authorize the attorney general to enforce its provisions.[453] However, a district attorney, criminal district attorney or county attorney may request the attorney general's assistance in prosecuting a criminal case, including one under the Act.[454]

B. Mandamus or Injunction

Section 551.142 of the Act provides as follows:

> (a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.
>
> (b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.[455]

Texas courts examining this provision have said that "[t]he Open Meetings Act expressly waives sovereign immunity for violations of the [A]ct."[456] The four-year limitations period in section 16.051 of the Civil Practices and Remedies Code applies to an action under this provision.[457]

Generally, a writ of mandamus would be issued by a court to require a public official or other person to perform duties imposed on him or her by law. A mandamus ordinarily commands a person or entity to act, while an injunction restrains action.[458] The Act does not automatically confer jurisdiction on the county court, but where the plaintiff's money demand brings the amount

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452 *See State v. Williams*, 780 S.W.2d 891, 892–93 (Tex. App.—San Antonio 1989, no writ).

453 *See State ex rel. Durden v. Shahan*, 658 S.W.3d 300, 304 (Tex. 2022) (acknowledging the Legislature's 2019 amendment to section 551.142 authorizing the attorney general to bring certain actions to enforce "*one* of [the Act's] provisions").

454 *See* TEX. GOV'T CODE § 402.028(a).

455 *Id.* § 551.142; *see also Burleson v. Collin Cnty. Cmty. Coll. Dist.*, No. 05-21-00088-CV, 2022 WL 17817965 (Tex. App.—Dallas Dec. 20, 2022) (noting the majority view of the Texas appellate courts is that the Act "broadly confers standing on any person who shares an injury in common with the general public"); *State ex rel. Durden*, 658 S.W.3d at 304 (concluding that "interested person" did not authorize a county attorney to file suit for a violation of the Act suit on behalf of the state).

456 *Hays Cnty. v. Hays Cnty. Water Plan. P'ship*, 69 S.W.3d 253, 257 (Tex. App.—Austin 2002, no pet.); *see Riley v. Comm'rs Court*, 413 S.W.3d 774, 776–77 (Tex. App.—Austin 2013, pet. denied).

457 *Rivera v. City of Laredo*, 948 S.W.2d 787, 793 (Tex. App.—San Antonio 1997, writ denied).

458 *Boston v. Garrison*, 256 S.W.2d 67, 69 (Tex. 1953).

in controversy within the court's monetary limits, the county court has authority to issue injunctive and mandamus relief.[459] Absent such a pleading, jurisdiction in original mandamus and original injunction proceedings lies in the district court.[460]

Section 551.142(a) authorizes any interested person, including a member of the news media, to bring a civil action seeking either a writ of mandamus or an injunction.[461] In keeping with the purpose of the Act, standing under the Act is interpreted broadly.[462] Standing conferred by the Act is broader than taxpayer standing, and a citizen does not need to prove an interest different from the general public, "because 'the interest protected by the Open Meetings Act is the interest of the general public.'"[463] The phrase "any interested person" includes a government league,[464] an environmental group,[465] the president of a local homeowners group,[466] a city challenging the closure of a hospital by the county hospital district,[467] a town challenging annexation ordinances,[468] and a city manager regarding a meeting he attended.[469] A suspended police officer and a police officers' association were "interested persons" who could bring a suit alleging that the city council had violated the Act in selecting a police chief.[470]

Despite previous court opinions recognizing that an individual may bring a declaratory judgment action pursuant to the Uniform Declaratory Judgments Act, chapter 37 of the Texas Civil Practice and Remedies Code,[471] the Texas Supreme Court recently concluded that section 551.421's waiver of sovereign immunity includes only a mandamus or injunction.[472] Thus, a "declaration" that an action is void is no longer a vehicle by which to challenge a governmental body's action taken in violation of the Act.

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459 *Martin v. Victoria Indep. Sch. Dist.*, 972 S.W.2d 815, 818 (Tex. App.—Corpus Christi 1998, pet. denied).

460 *Id.*

461 TEX. GOV'T CODE § 551.142(a); *see Cameron Cnty. Good Gov't League v. Ramon*, 619 S.W.2d 224, 230–31 (Tex. App.—Beaumont 1981, writ ref'd n.r.e.).

462 *See Burks v. Yarbrough*, 157 S.W.3d 876, 880 (Tex. App.—Houston [14th Dist.] 2005, no pet.); *Hays Cnty. Water Plan. P'ship v. Hays Cnty.*, 41 S.W.3d 174, 177 (Tex. App.—Austin 2003, no pet.).

463 *See Hays Cnty. Plan. P'ship*, 41 S.W.3d at 177–78 (quoting *Save Our Springs All., Inc. v. Lowry*, 934 S.W.2d 161, 163 (Tex. App.—Austin 1996, orig. proceeding [leave denied]).

464 *See Cameron Cnty.*, 619 S.W.2d at 230.

465 *See Save Our Springs All., Inc.*, 934 S.W.2d at 162–64.

466 *Id.*

467 *Matagorda Cnty. Hosp. Dist. v. City of Palacios*, 47 S.W.3d 96, 102 (Tex. App.—Corpus Christi 2001, no pet.).

468 *City of Port Isabel v. Pinnell*, 161 S.W.3d 233, 241 (Tex. App.—Corpus Christi 2005, no pet.).

469 *City of Donna v. Ramirez*, 548 S.W.3d 26, 34–35 (Tex. App.—Corpus Christi 2017, pet. denied).

470 *Rivera v. City of Laredo*, 948 S.W.2d 787, 792 (Tex. App.—San Antonio 1997, writ denied).

471 *Bd. of Trs. v. Cox Enters., Inc.*, 679 S.W.2d 86, 88 (Tex. App.—Texarkana 1984), *aff'd in part, rev'd in part on other grounds*, 706 S.W.2d 956 (Tex. 1986) (recognizing news media's right to bring declaratory judgment action to determine if board violated the Act); *see also City of Fort Worth v. Groves*, 746 S.W.2d 907, 913 (Tex. App.—Fort Worth 1988, no writ) (concluding that resident and taxpayer of city had standing to bring suit for declaratory judgment and injunction against city for violation of the Act).

472 *Town of Shady Shores v. Swanson*, 590 S.W.3d 544, 554 (Tex. 2019) (holding that section 551.142 set the boundaries of a governmental body's immunity waiver to the express relief provided therein—to that of an injunction or mandamus).

Section 551.142(b) authorizes a court to award reasonable attorney fees and litigation costs to the party who substantially prevails in an action brought under the Act.[473] This relief, however, is discretionary.

In one instance, the Act gives the attorney general specific enforcement authority. Section 551.142(c) authorizes the attorney general, in a district court in Travis County, to seek mandamus or an injunction to stop, prevent, or reverse a violation or threatened violation of section 551.142(a-1), a provision which limits a governmental body's actions in an emergency meeting or one for which an emergency supplemental notice is posted.[474]

Depending on the nature of the violation, additional monetary damages may be assessed against a governmental body that violated the Act. In *Ferris v. Texas Board of Chiropractic Examiners*,[475] the appellate court awarded back pay and reinstatement to an executive director whom the board had attempted to fire at two meetings convened in violation of the Act. Finally, at the third meeting held to discuss the matter, the board lawfully fired the executive director. Back pay was awarded for the period between the initial unlawful firing and the third meeting at which the director's employment was lawfully terminated.[476]

Court costs or attorney fees as well as certain other monetary damages can also be assessed under section 551.146, which relates to the confidentiality of the certified agenda. It provides that an individual, corporation or partnership that knowingly and without lawful authority makes public the certified agenda or recording of an executive session shall be liable for:

(1) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(2) reasonable attorney fees and court costs; and

(3) at the discretion of the trier of fact, exemplary damages.[477]

C. Voidability of a Governmental Body's Action in Violation of the Act; Ratification of Actions

Section 551.141 provides that "[a]n action taken by a governmental body in violation of this chapter is voidable."[478] Before this section was adopted, Texas courts held as a matter of common law that a governmental body's actions that are in violation of the Act are subject to judicial

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473 TEX. GOV'T CODE § 551.142(b); *see Austin Transp. Study Pol'y Advisory Comm. v. Sierra Club*, 843 S.W.2d 683, 690 (Tex. App.—Austin 1992, writ denied) (upholding award of attorney fees).

474 TEX. GOV'T CODE § 551.142(c).

475 *Ferris v. Tex. Bd. of Chiropractic Exam'rs*, 808 S.W.2d 514, 518–19 (Tex. App.—Austin 1991, writ denied).

476 *Id.* at 519 (awarding executive director attorney fees of $7,500).

477 TEX. GOV'T CODE § 551.146(a)(2).

478 *Id.* § 551.141.

invalidation.[479] Section 551.141 does not require a court to invalidate an action taken in violation of the Act, and it may choose not to do so, given the facts of a specific case.[480]

In *Point Isabel Independent School District v. Hinojosa*,[481] the Corpus Christi Court of Appeals construed this provision to permit the judicial invalidation of only the specific action or actions found to violate the Act. Prior to doing so, the court addressed the sufficiency of the notice for the school board's July 12, 1988, meeting. With regard to that issue, the court determined that the description "personnel" in the notice was insufficient notice of the selection of three principals at the meeting, a matter of special interest to the public, but was sufficient notice of the selection of a librarian, an English teacher, an elementary school teacher, a band director and a part-time counselor.[482] (For further discussion of required content of notice under the Act, *see supra* Part VII.A of this *Handbook*.) The court in *Point Isabel Independent School District* then turned to the question of whether the board's invalid selection of the three principals tainted all hiring decisions made at the meeting. The court felt that, given the reference in the statutory predecessor to section 551.141 to "an action taken" and not to "all actions taken," this provision meant only that a specific action or specific actions violating the Act were subject to judicial invalidation. Consequently, the court refused the plaintiff's request to invalidate all hiring decisions made at the meeting and held void only the board's selection of the three principals.[483]

In *City of Brownsville v. Brownsville GMS*, the Corpus Christi Court of Appeals interpreted sections 551.141 and 551.142 of the Act to address what remedies are permissible under the Act.[484] Brownsville GMS was a commercial and industrial waste service provider, which served the City of Brownsville on a month-to-month basis.[485] Alleging that the City rejected a fully negotiated long-term agreement with Brownsville GMS as a result of a discussion that violated the Act, Brownsville GMS sought a temporary injunction from the trial court.[486] The injunction prevented the City of Brownsville from terminating its contract with Brownsville GMS or executing or performing a new contract with a third party for the same services.[487] But the City never actually

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479 *See Lower Colorado River Auth. v. City of San Marcos*, 523 S.W.2d 641, 646 (Tex. 1975); *Toyah Indep. Sch. Dist. v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377, 380 (Tex. App.—San Antonio 1971, no writ); *see also Ferris*, 808 S.W.2d at 517; Tex. Att'y Gen. Op. No. H-594 (1975) at 2 (noting that governmental body cannot independently assert its prior action that governmental body failed to ratify is invalid when it is to governmental body's advantage to do so).

480 *See Collin Cnty., Tex. v. Homeowners Ass'n for Values Essential to Neighborhoods*, 716 F. Supp. 953, 960 n.12 (N.D. Tex. 1989) (declining to dismiss lawsuit that county authorized in violation of Act's notice requirements if county within thirty days of court's opinion and order authorized lawsuit at meeting in compliance with the Act); *but see City of Bells v. Greater Texoma Util. Auth.*, 744 S.W.2d 636, 640 (Tex. App.—Dallas 1987, no writ) (dismissing authority's lawsuit initiated at meeting in violation of the Act's notice requirements).

481 *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied).

482 *Id.* at 182.

483 *Id.* at 182–83; *see also Hill v. Palestine Indep. Sch. Dist.*, 113 S.W.3d 14, 17 (Tex. App.—Tyler 2000, pet. denied) (holding a deliberation that violated the Open Meetings Act did not render voidable a subsequent vote held in compliance with the Act).

484 *City of Brownsville v. Brownsville GMS, Ltd.*, No. 13-19-00311-CV, 2021 WL 1804388, at *8 (Tex. App.—Corpus Christi-Edinburg May 6, 2021, no pet.).

485 *Id.* at *1.

486 *Id.*

487 *Id.* at *8.

did any of these things.[488] The Court of Appeals determined that the Act permits courts to void only actions which were approved in violation of the Act.[489] Thus, the court could not restrain an entity from engaging in an action which had not actually been approved in violation of the Act.[490]

A governmental body cannot give retroactive effect to a prior action taken in violation of the Act but may ratify the invalid act in a meeting held in compliance with the Act.[491] The ratification will be effective only from the date of the meeting at which the valid action is taken.[492]

In *Ferris v. Texas Board of Chiropractic Examiners*, the Austin Court of Appeals refused to give retroactive effect to a decision to fire the executive director reached at a meeting of the board that was held in compliance with the Act.[493] The board had attempted to fire the director at two previous meetings that did not comply with the Act. The subsequent lawful termination did not cure the two previous unlawful firings retroactively, and the court awarded back pay to the director for the period between the initial unlawful firing and the final lawful termination.[494]

Ratification of an action previously taken in violation of the Act must comply with all applicable provisions of the Act.[495] In *Porth v. Morgan*, the Houston County Hospital Authority Board attempted to reauthorize the appointment of an individual to the board but did not comply fully with the Act.[496] The board had originally appointed the individual during a closed meeting, violating the requirement that final action take place in an open meeting. The original appointment also violated the notice requirement, because the posted notice did not include appointing a board member as an item of business. At a subsequent open meeting, the board chose the individual as its vice-chairman and, as such, a member of the board, but the notice did not say that the board might appoint a new member or ratify its prior invalid appointment. Accordingly, the board's subsequent selection of the individual as vice-chairman did not ratify the board's prior invalid appointment.

D. Criminal Provisions

Certain violations of the Act's requirements concerning certified agendas or recordings of executive sessions are punishable as Class C or Class B misdemeanors. Section 551.145 provides as follows:

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488 *Id.*

489 *Id.*

490 *Id.*

491 *Lower Colo River Auth.*, 523 S.W.2d at 646–47 (recognizing effectiveness of increase in electric rates only from date reauthorized at lawful meeting); *City of San Antonio v. River City Cabaret, Ltd.*, 32 S.W.3d 291, 293 (Tex. App.—San Antonio 2000, pet. denied). *Cf. Dallas Cnty. Flood Control v. Cross*, 815 S.W.2d 271, 284 (Tex. App.—Dallas 1991, writ denied) (holding ineffective district's reauthorization at lawful meeting of easement transaction initially authorized at unlawful meeting, because to do so, given the facts in that case, would give retroactive effect to transaction).

492 *River City Cabaret, Ltd.*, 32 S.W.3d at 293.

493 *Ferris*, 808 S.W.2d at 518–19.

494 *Id.*

495 *See id.* at 518 ("A governmental entity may ratify only what it could have lawfully authorized initially.").

496 *Porth v. Morgan*, 622 S.W.2d 470, 473, 475–76 (Tex. App.—Tyler 1981, writ ref'd n.r.e.).

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.[497]

Section 551.146 provides:

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or recording.[498]

In order to find that a person has violated one of these provisions, the person must be determined to have acted "knowingly." Subsection 6.03(b) of the Penal Code, defines that state of mind as follows:

> A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with

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497 TEX. GOV'T CODE § 551.145.

498 *Id.* § 551.146; *but see Pete v. Dunn*, No. 1:21-CV-546, 2022 WL 2032306 (E.D. Tex. May 11, 2022) (considering pleading generally alleging a violation of the Act and concluding that the Act does not provide for monetary relief).

> knowledge, with respect to his conduct when he is aware that his conduct is reasonably certain to cause the result.[499]

A 2012 court of appeals case enumerated the elements of this criminal offense to be: (1) a lawfully closed meeting; (2) a knowing disclosure of the agenda or tape recording of the lawfully closed meeting to a member of the public; and (3) a disclosure made without lawful authority.[500] In *Cooksey v. State*, Cooksey attached a copy of the tape recording of a closed meeting to his petition in his suit to remove the county judge.[501] He was later charged with a violation of section 551.146.[502] The court of appeals determined that the posted notice for the emergency meeting did not clearly identify the emergency and thus the meeting was not sufficient as a "lawfully closed meeting" to uphold Cooksey's conviction.[503]

Section 551.146 does not prohibit members of the governmental body or other persons who attend an executive session from making public statements about the subject matter of the executive session.[504] Other statutes or duties, however, may limit what a member of the governmental body may say publicly.

Sections 551.143 and 551.144 of the Government Code establish criminal sanctions for certain conduct that violates openness requirements. A member of a governmental body must be found to have acted "knowingly" to be found guilty of either of these offenses. Section 551.143 provides:

> (a) A member of a governmental body commits an offense if the member:
>
> (1) knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
>
> (2) knew at the time the member engaged in the communication that the series of communications:
>
> (A) involved or would involve a quorum; and
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> (B) would constitute a deliberation once a quorum of members engaged in the series of communications.[505]

Section 551.144 provides as follows:

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499 TEX. PENAL CODE § 6.03(b).

500 *Cooksey v. State*, 377 S.W.3d 901, 905 (Tex. App.—Eastland 2012, no pet.).

501 *Id.* at 903–04.

502 *Id.* at 904.

503 *Id.* at 907.

504 Tex. Att'y Gen. Op. No. JM-1071 (1989) at 2–3; *see also Hardy v. Carthage Indep. Sch. Dist.*, No. 2:19-CV-00277, 2022 WL 609151, at *2 (E.D. Tex. Mar. 1, 2022) (acknowledging that Opinion JM-1071 corroborated support for the proposition that section 551.146 is limited to disclosure of the certified agenda or recording).

505 TEX. GOV'T CODE § 551.143.

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.[506]

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.[507]

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.[508]

In 1998, the Texas Court of Criminal Appeals determined in *Tovar v. State*[509] that a government official who knowingly participated in an impermissible closed meeting may be found guilty of violating the Act even though he did not know that the meeting was prohibited under the Act. Subsection 551.144(c) now provides an affirmative defense to prosecution under subsection (a) if the member of the governmental body acted in reasonable reliance on a court order or a legal opinion as set out in subsection (c).[510]

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506 *See Asgeirsson v. Abbott*, 773 F. Supp. 2d 684, 690 (W.D. Tex. 2011), *aff'd*, 696 F. 3d 454 (5th Cir. 2012), *cert. denied*, 568 U.S. 1249 (2013) (upholding constitutionality of section 551.144).

507 *See Martinez v. State*, 879 S.W.2d 54, 55–56 (Tex. Crim. App. 1994) (upholding validity of information which charged county commissioners with violating Act by failing to comply with procedural prerequisites for holding closed session).

508 TEX. GOV'T CODE § 551.144.

509 *Tovar v. State*, 978 S.W.2d 584 (Tex. Crim. App. 1998).

510 TEX. GOV'T CODE § 551.144(c).

XII. Open Meetings Act and Other Statutes

A. Other Statutes May Apply to a Public Meeting

The Act is not the only provision of law relevant to a public meeting of a particular governmental entity. For example, section 551.004 of the Government Code expressly provides:

> This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:
>
> (1) prohibits from being closed; or
>
> (2) requires to be open.[511]

In *Shackelford v. City of Abilene*,[512] the Texas Supreme Court held that an Abilene resident had a right to require public meetings under the Abilene city charter, which included the following provision:

> All meetings of the Council and all Boards or Commissions appointed by the Council shall be open to the public.[513]

Members of a particular governmental body should consult any applicable statutes, charter provisions, ordinances and rules for provisions affecting the entity's public meetings. Laws other than the Act govern preparing the agenda for a meeting[514] but the procedures for agenda preparation must be consistent with the openness requirements of the Act.[515]

Even though a particular entity is not a "governmental body" as defined by the Act, another statute may require it to comply with the Act's provisions.[516] Some exercises of governmental power, for example, a city's adoption of zoning regulations, require the city to hold a public hearing at which parties in interest and citizens have an opportunity to be heard.[517] Certain governmental actions may be subject to statutory notice provisions[518] in addition to notice required by the Act.

The Act does not answer all questions about conducting a public meeting. Thus, persons responsible for a particular governmental body's meetings must know about other laws applicable to these meetings. While this *Handbook* cannot identify all provisions relevant to meetings of

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511 *Id.* § 551.004.

512 *Shackelford v. City of Abilene*, 585 S.W.2d 665, 667 (Tex. 1979).

513 *Id.* at 667 (emphasis omitted).

514 Tex. Att'y Gen. Op. Nos. DM-473 (1998) at 3, DM-228 (1993) at 2–3, JM-63 (1983) at 3, MW-32 (1979) at 1.

515 Tex. Att'y Gen. Op. Nos. DM-473 (1998) at 3, DM-228 (1993) at 3.

516 *See* TEX. EDUC. CODE § 12.1051 (applying open meetings and public information laws to open-enrollment charter schools); *see also* TEX. ELEC. CODE §§ 31.033(d), .155(d) (applying the Act to county election commissions and joint election commission); TEX. WATER CODE § 16.053(h)(12) (providing that regional water planning groups are subject to the Open Meetings Act).

517 *See* TEX. LOC. GOV'T CODE § 211.006.

518 *See id.* § 152.013(b); *see also* TEX. ELEC. CODE §§ 31.033(d), .155(d).

Texas governmental bodies, we will point out statutes that are of special importance to governmental bodies.

B. Administrative Procedure Act

The Administrative Procedure Act (the "APA") establishes "minimum standards of uniform practice and procedure for state agencies" in the rulemaking process and in hearing and resolving contested cases.[519] The state agencies subject to the APA are as a rule also subject to the Act.[520] The decision-making process under the APA is not excepted from the requirements of the Act.[521]

However, this office has concluded that the APA creates an exception to the requirements of the Act with regard to contested cases.[522] A governmental body may consider a claim of privilege in a closed meeting when (1) the claim is made during a contested case proceeding under the APA, and (2) the resolution of the claim requires the examination and discussion of the allegedly privileged information.[523] Although the Act does not authorize a closed meeting for this purpose, the APA incorporates certain rules of evidence and civil procedure, including the requirement that claims of privilege or confidentiality be determined in a nonpublic forum.[524]

The APA does not, on the other hand, create exceptions to the requirements of the Act when the two statutes can be harmonized. In *Acker v. Texas Water Commission*, the Texas Supreme Court concluded that the statutory predecessor to section 2001.061 of the Government Code did not authorize a quorum of the members of a governmental body to confer in private regarding a contested case.[525] Section 2001.061(b) provides in pertinent part: "A state agency member may communicate ex parte with another member of the agency unless prohibited by other law."[526] The court concluded that, when harmonized with the provisions of the Act, this section permits a state agency's members to confer ex parte, but only when less than a quorum is present.[527]

C. The Americans with Disabilities Act

Title II of the Americans with Disabilities Act of 1990 (the "ADA") prohibits discrimination against disabled individuals in the activities, services and programs of public entities.[528] All the activities of state and local governmental bodies are covered by the ADA, including meetings. Governmental bodies subject to the Act must also ensure that their meetings comply with the ADA.[529] For purposes of the ADA, an individual is an individual with a disability if he or she meets one of the following three tests: the individual must have a physical or mental impairment

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519 TEX. GOV'T CODE § 2001.001(1); *see also id.* § 2001.003(1), (6).
520 *See id.* § 2001.003(7) (defining "state agency").
521 Tex. Att'y Gen. Op. No. H-1269 (1978) at 1 (considering statutory predecessor to APA).
522 Tex. Att'y Gen. Op. No. JM-645 (1987) at 5–6.
523 *Id.*
524 *Id.* at 4–5; *see* TEX. GOV'T CODE § 2001.083.
525 *Acker v. Tex. Water Comm'n*, 790 S.W.2d 299, 301 (Tex. 1990).
526 TEX. GOV'T CODE § 2001.061.
527 *Acker*, 790 S.W.2d at 301.
528 42 U.S.C.A. §§ 12131–12165.
529 *See id.* § 12132; 28 C.F.R. §§ 35.130, .149, .160; *see generally Tyler v. City of Manhattan*, 849 F. Supp. 1429, 1434–35 (D. Kan. 1994).

that substantially limits one or more of the individual's major life activities; he or she has a record of having this type of physical or mental impairment; or he or she is regarded by others as having this type of impairment.[530]

A governmental body may not exclude a disabled individual from participation in the activities of the governmental body because the facilities are physically inaccessible.[531] The room in which a public meeting is held must be physically accessible to a disabled individual.[532] A governmental body must also ensure that communications with disabled individuals are as effective as communications with others.[533] Thus, a governmental body must take steps to ensure that disabled individuals have access to and can understand the contents of the meeting notice and to ensure that they can understand what is happening at the meeting. This duty includes furnishing appropriate auxiliary aids and services when necessary.[534]

The following statement about meeting accessibility is included on the Secretary of State's internet site where state and regional agencies submit notice of their meetings:

> Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining the type of auxiliary aid or services, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.[535]

D. The Open Meetings Act and the Whistleblower Act

In *City of Elsa v. Gonzalez*, a former city manager complained to the city council that it had violated the Open Meetings Act in the meeting at which he was fired.[536] His court challenge included a Whistleblower claim based on his report to the city council of the violation of the Open Meetings Act.[537] The Texas Supreme Court determined that the former city manager had not established, under the Whistleblower Act, an appropriate law enforcement agency to which to report a violation.[538]

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530 42 U.S.C.A. § 12102(1); 28 C.F.R. § 35.104.

531 *See* 28 C.F.R. § 35.149–.150.

532 *See Dees v. Austin Travis Cnty. Mental Health & Mental Retardation*, 860 F. Supp. 1186, 1190 (W.D. Tex. 1994); *see generally Tyler*, 849 F. Supp. at 1442.

533 28 C.F.R. § 35.160.

534 *Id.* § 35.160(b)(1).

535 *Available at* http://www.sos.state.tx.us/open/access.shtml.

536 *City of Elsa v. Gonzalez*, 325 S.W.3d 622 (Tex. 2010).

537 *See id.* at 626–28.

538 *See id.* at 628.

E. The Open Meetings Act Distinguished from the Public Information Act

Although the Open Meetings Act and the Public Information Act[539] both serve the purpose of making government accessible to the people, they work differently to accomplish this goal.[540] The definitions of "governmental body" in the two statutes are generally similar, but the Public Information Act also applies to entities supported by public funds,[541] while the Open Meetings Act does not.[542] Each statute contains a different set of exceptions.[543] The Public Information Act authorizes the attorney general to determine whether records requested by a member of the public may be withheld and to enforce his rulings by writ of mandamus.[544] The Open Meetings Act has no comparable provisions. Chapter 402, subchapter C of the Government Code authorizes the attorney general to issue legal opinions at the request of certain officers. Pursuant to this authority, the attorney general has addressed and resolved numerous questions of law arising under the Open Meetings Act.[545] Because questions of fact cannot be resolved in the opinion process, an attorney general opinion will not determine whether particular conduct of a governmental body violated the Open Meetings Act.[546]

In addition, the exceptions in one statute are not necessarily incorporated into the other statute. The mere fact that a document was discussed in an executive session does not make it confidential under the Public Information Act.[547] Nor does the Public Information Act authorize a governmental body to hold an executive session to discuss records merely because the records are within one of the exceptions to the Public Information Act.[548] While some early attorney general opinions treated the exceptions to one statute as incorporated into the other, these decisions have been expressly or implicitly overruled.[549]

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539 TEX. GOV'T CODE ch. 552.

540 *See York v. Tex. Guaranteed Student Loan Corp.*, 408 S.W.3d. 677, 684–87 (Tex. App.—Austin 2013, no pet.) (discussing interplay between the Open Meetings Act and the Public Information Act).

541 TEX. GOV'T CODE § 552.003(1)(A)(xiv).

542 *See* Tex. Att'y Gen. LO-98-040 (1998) at 2.

543 *See* Tex. Att'y Gen. ORD-491 (1988) at 4.

544 *See* TEX. GOV'T CODE §§ 552.301–.309, .321–.327.

545 *Id.* §§ 402.041–.045.

546 *See* Tex. Att'y Gen. Op. Nos. GA-0326 (2005) at 4, JC-0307 (2000) at 1, DM-95 (1992) at 1, JM-840 (1988) at 6, H-772 (1976) at 6; *see also Bexar Medina Atascosa Water Dist. v. Bexar Medina Atascosa Landowners' Ass'n*, 2 S.W.3d 459, 461 (Tex. App.—San Antonio 1999, pet. denied) (stating that whether specific conduct violates the Act is generally a question of fact).

547 *See City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 366–67 (Tex. 2000) (stating "[t]hat a matter can be discussed in closed meetings does not mean that all documents involving the same matter are exempt from public access"); Tex. Att'y Gen. ORD-605 (1992) at 3 (names of applicants); ORD-485 (1987) at 4–5 (investigative report); *see also* Tex. Att'y Gen. ORD-491 (1988) at 7 (noting the fact that meeting was not subject to the Act does not make minutes of meeting confidential under Open Records Act).

548 Tex. Att'y Gen. Op. Nos. JM-595 (1986) at 4–5 (concluding that Open Records Act does not authorize executive session discussion of written evaluations on selection of consultants and bidders), MW-578 (1982) at 4 (concluding there is no implied authority under the Act to hold closed session to review private information in unemployment benefit case files).

549 *See, e.g.*, Tex. Att'y Gen. Op. No. H-1154 (1978) at 3 (closed meeting for discussion of confidential child welfare case files); Tex. Att'y Gen. ORD-461 (1987) (tape recording of closed session is not public under Open Records Act); ORD-259 (1980) (value of donation pledged to city is confidential under statutory predecessor to section 551.072 of the Government Code).

F. Records Retention

The Open Meetings Act requires a governmental body to prepare and keep minutes or make a recording of each open meeting.[550] It also requires a governmental body to keep a certified agenda or make a recording of each closed meeting, except for a closed meeting held under the attorney consultation exception, and to preserve the certified agenda or recording for a period of two years.[551] Other than these provisions, the Open Meetings Act does not speak to a governmental body's record-keeping obligations. Similarly, the Public Information Act, in its provisions governing access to a governmental body's public information, does not specifically address a governmental body's responsibility to retain its records.[552]

Instead, other provisions require a local governmental body or state agency to retain and manage its governmental records.[553] These provisions require local governments and state agencies to establish a records management program that complies with record retention schedules adopted by the Texas State Library and Archives Commission ("TSLAC").[554] A local government record means

> [a]ny document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.[555]

A state record is "any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state business or use of public resources."[556] Under either of these definitions, a governmental body's meeting minutes, notices, agenda and agenda packets, recordings of meetings, and any other record associated with an open or closed meeting are going

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550 TEX. GOV'T CODE § 551.021(a).

551 *Id.* §§ 551.103, .104.

552 *See id.* §§ 552.001–.376 ("Public Information Act"); *see also id.* § 552.004 (providing that governmental bodies, and elected public officials, may determine the time its information not currently in use will be preserved, "subject to . . . any applicable rule or law governing the destruction and other disposition of state and local government records or public information").

553 *See* TEX. LOC. GOV'T CODE §§ 201.001–205.009 (the "Local Government Records Act"); TEX. GOV'T CODE §§ 441.180–.205 (subchapter L entitled: "Preservation and Management of State Records and Other Historical Resources").

554 *See* TEX. LOC. GOV'T CODE §§ 203.002, .005 (elected county officer shall provide for the administration of an "active and continuing records management program"), 203.021 (governing body of a local government shall provide for an "active and continuing program for the efficient and economical management of all local government records"); TEX. GOV'T CODE § 441.183 (head of each state agency "shall establish and maintain a records management program on a continuing and active basis"); *see also* TEX. LOC. GOV'T CODE § 203.042(b)(2) (retention period may not be less than a retention period for the record established by the TSLAC); TEX. GOV'T CODE § 441.185(a) (agency records management officer shall submit a records retention schedule to the state records administrator).

555 TEX. LOC. GOV'T CODE § 201.003(8).

556 TEX. GOV'T CODE § 441.180(11).

to be local or state records. As such, they must be retained and managed by the local government or state agency as required by the respective retention schedule and may be destroyed only as permitted under the retention schedule.[557]

[557] *See* TEX. LOC. GOV'T CODE §§ 202.001–.009 ("Destruction and Alienation of Records"); TEX. GOV'T CODE § 441.187 (governing destruction of state records).

Appendix A: Text of the Open Meetings Act

SUBCHAPTER A. GENERAL PROVISIONS

§ 551.001. Definitions

In this chapter:

(1) "Closed meeting" means a meeting to which the public does not have access.

(2) "Deliberation" means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body.

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking authority or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section 2308.253;

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(L) a joint board created under Section 22.074, Transportation Code; and

(M) a board of directors of a reinvestment zone created under Chapter 311, Tax Code.

(4) "Meeting" means:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which

public business or public policy over which the body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate.

The term includes a session of a governmental body.

(5) "Open" means open to the public.

(6) "Quorum" means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

(7) "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

(8) "Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

§ 551.0015. Certain Property Owners' Associations Subject to Law

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.

§ 551.002. Open Meetings Requirement

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

§ 551.003. Legislature

In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.

§ 551.0035. Attendance by Governmental Body at Legislative Committee or Agency Meeting

(a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.

(b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.

§ 551.004. Open Meetings Required by Charter

This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:

(1) prohibits from being closed; or

(2) requires to be open.

§ 551.005. Open Meetings Training

(a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member:

(1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the governmental body; or

(2) otherwise assumes responsibilities as a member of the governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

(b) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice, and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(c) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

(d) Completing the required training as a member of the governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the governmental body and the member's ex officio service on any other governmental body.

(e) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(f) The failure of one or more members of a governmental body to complete the training required by this section does not affect the validity of an action taken by the governmental body.

(g) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

§ 551.006. Written Electronic Communications Accessible to Public

(a) A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:

(1) the communication is in writing;

(2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and

(3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

(b) A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described in Subsection

(a). The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

(c) The online message board or similar Internet application described in Subsection (a) may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

(d) If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Chapter 552.

(e) The governmental body may not vote or take any action that is required to be taken at a meeting under this chapter of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body.

§ 551.007. Public Testimony

(a) This section applies only to a governmental body described by Sections 551.001(3)(B)–(L).

(b) A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting before or during the body's consideration of the item.

(c) A governmental body may adopt reasonable rules regarding the public's right to address the body under this section, including rules that limit the total amount of time that a member of the public may address the body on a given item.

(d) This subsection applies only if a governmental body does not use simultaneous translation equipment in a manner that allows the body to hear the translated public testimony simultaneously. A rule adopted under Subsection (c) that limits the amount of time that a member of the public may address the governmental body must provide that a member of the public who addresses the body through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in

order to ensure that non-English speakers receive the same opportunity to address the body.

(e) A governmental body may not prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service. This subjection does not apply to public criticism that is otherwise prohibited by law.

SUBCHAPTER B. RECORD OF OPEN MEETING

§ 551.021. Minutes or Recording of Open Meeting Required

(a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and

(2) indicate each vote, order, decision, or other action taken.

§ 551.022. Minutes and Recordings of Open Meeting: Public Record

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

§ 551.023. Recording of Meeting by Person in Attendance

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

SUBCHAPTER C. NOTICE OF MEETINGS

§ 551.041. Notice of Meeting Required

A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

§ 551.0411. Meeting Notice Requirements in Certain Circumstances

(a) Section 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

(b) A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Section 551.045 if the action is taken in good faith and not to circumvent this chapter. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.

(c) In this section, "catastrophe" means a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting, including:

(1) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(2) power failure, transportation failure, or interruption of communication facilities;

(3) epidemic; or

(4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

§ 551.0415. Governing Body of Municipality or County: Reports About Items of Community Interest Regarding Which No Action Will be Taken

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change

in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(4) a reminder about an upcoming event organized or sponsored by the governing body;

(5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and

(6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

§ 551.042. Inquiry Made at Meeting

(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

(1) a statement of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

§ 551.043. Time and Accessibility of Notice; General Rule

(a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044–551.046.

(b) If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:

(1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;

(2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and

(3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice

physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.

§ 551.044. Exception to General Rule: Governmental Body With Statewide Jurisdiction

(a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.

(b) Subsection (a) does not apply to:

(1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(2) the governing board of an institution of higher education.

§ 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda

(a) In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

(a-1) A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Subsection (a) other than:

(1) a matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Subsection (c); or

(2) an agenda item listed on a notice of the meeting before the supplemental notice was posted.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

(1) an imminent threat to public health and safety, including a threat described by Subdivision (2) if imminent; or

(2) a reasonably unforeseeable situation, including:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(B) power failure, transportation failure, or interruption of communication facilities;

(C) epidemic; or

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

§ 551.046. Exception to General Rule: Committee of Legislature

The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.

§ 551.047. Special Notice to News Media of Emergency Meeting or Emergency Addition to Agenda

(a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.

(b) The presiding officer or member is required to notify only those members of the news media that have previously;

(1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(2) agreed to reimburse the governmental body for the cost of providing the special notice.

(c) The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened.

§ 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice

(a) A state governmental body shall provide notice of each meeting to the secretary of state.

(b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

§ 551.049. County Governmental Body: Place of Posting Notice

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.050. Municipal Governmental Body: Place of Posting Notice

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in city hall.

§ 551.0501. Joint Board: Place of Posting Notice

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A joint board created under Section 22.074, Transportation Code, shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the board's administrative offices.

§ 551.051. School District: Place of Posting Notice

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

§ 551.052. School District: Special Notice to News Media

(a) A school district shall provide special notice of each meeting to any news media that has:

(1) requested special notice; and

(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone, facsimile transmission, or electronic mail.

§ 551.053. District or Political Subdivision Extending Into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice

(a) The governing body of a water district or other district or other political subdivision that extends into four or more counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;

(2) provide notice of each meeting to the secretary of state; and

(3) either provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

(c) A county clerk shall post a notice provided to the clerk under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice

(a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) either provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) A county clerk shall post a notice provided to the clerk under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.055. Institution of Higher Education

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

§ 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, Development Corporations, Authorities, and Joint Boards

(a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).

(b) In addition to the other place at which notice or an agenda of a meeting is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting and the agenda for the meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code);

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code;

(7) a joint board created under Section 22.074, Transportation Code, and

(8) a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(c) Repealed by Acts 2023, 88th Leg., R.S., ch. 855 (HB 3440), § 2, eff. Sept. 1, 2023.

(d) The validity of a posted notice of a meeting or an agenda by a governmental body or economic development corporation subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body or economic development corporation.

SUBCHAPTER D. EXCEPTIONS TO REQUIREMENT THAT MEETINGS BE OPEN

§ 551.071. Consultation with Attorney; Closed Meeting

A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

§ 551.072. Deliberation Regarding Real Property; Closed Meeting

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.0725. Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting

(a) The commissioners court of a county may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and

(2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

(b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

§ 551.0726. Texas Facilities Commission: Deliberation Regarding Contract Being Negotiated; Closed Meeting

(a) The Texas Facilities Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commission votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person; and

(2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person and setting forth that finding therein.

(b) Notwithstanding Section 551.103(a), the commission must make a recording of the proceedings of a closed meeting held under this section.

§ 551.073. Deliberation Regarding Prospective Gift; Closed Meeting

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.074. Personnel Matters; Closed Meeting

(a) This chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

§ 551.0745. Personnel Matters Affecting County Advisory Body; Closed Meeting

(a) This chapter does not require the commissioners court of a county to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or

(2) to hear a complaint or charge against a member of an advisory body.

(b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

§ 551.075. Conference Relating to Investments and Potential Investments Attended by Board of Trustees of Texas Growth Fund; Closed Meeting

(a) This chapter does not require the board of trustees of the Texas growth fund to confer with one or more employees of the Texas growth fund or with a third party in an open meeting if the only purpose of the conference is to:

(1) receive information from the employees of the Texas growth fund or the third party relating to an investment or a potential investment by the Texas growth fund in:

(A) a private business entity, if disclosure of the information would give advantage to a competitor; or

(B) a business entity whose securities are publicly traded, if the investment or potential investment is not required to be registered under the Securities and Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or

(2) question the employees of the Texas growth fund or the third party regarding an investment or potential investment described by Subdivision (1), if disclosure of the information contained in the question or answers would give advantage to a competitor.

(b) During a conference under Subsection (a), members of the board of trustees of the Texas growth fund may not deliberate public business or agency policy that affects public business.

(c) In this section, "Texas growth fund" means the fund created by Section 70, Article XVI, Texas Constitution.

§ 551.076. Deliberation Regarding Security Devices or Security Audits; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) the deployment, or specific occasions for implementation, of security personnel or devices; or

(2) a security audit.

§ 551.077. Agency Financed by Federal Government

This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

§ 551.078. Medical Board or Medical Committee

This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an individual applicant for a disability benefit from a public retirement system.

§ 551.0785. Deliberations Involving Medical or Psychiatric Records of Individuals

This chapter does not require a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan to conduct an open meeting to deliberate:

(1) the medical records or psychiatric records of an individual applicant for a benefit from the plan; or

(2) a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

§ 551.079. Texas Department of Insurance

(a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28–C or 21.28–D, Insurance Code,[558] in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.

(b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:

(1) staff of the Texas Department of Insurance;

(2) a regulated person;

(3) representatives of a regulated person; or

(4) members of the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28–C or 21.28–D, Insurance Code.

§ 551.080. Board of Pardons and Paroles

This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of the Texas Department of Criminal Justice.

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[558] Now, repealed.

§ 551.081. Credit Union Commission

This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.0811. The Finance Commission of Texas

This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.082. School Children; School District Employees; Disciplinary Matter or Complaint

(a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:

(1) involving discipline of a public school child; or

(2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

(b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

§ 551.0821. School Board: Personally Identifiable Information about Public School Student

(a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

(b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, "directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

(c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by the parent or guardian of the student or by the student if the student has attained 18 years of age.

§ 551.083. Certain School Boards; Closed Meeting Regarding Consultation With Representative of Employee Group

This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code,[559] to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with representative of an employee group.

§ 551.084. Investigation; Exclusion of Witness From Hearing

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

§ 551.085. Governing Board of Certain Providers of Health Care Services

(a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, county hospital, county hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code, to conduct an open meeting to deliberate:

(1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or

(2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.

(b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code, that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).

§ 551.086. Certain Public Power Utilities; Competitive Matters

(a) Notwithstanding anything in this chapter to the contrary, the rules provided by this section apply to competitive matters of a public power utility.

(b) In this section:

(1) "Public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

[559] Now, repealed.

(2) "Public power utility governing body" means the board of trustees or other applicable governing body, including a city council, of a public power utility.

(c) This chapter does not require a public power utility governing body to conduct an open meeting to deliberate, vote, or take final action on any competitive matter, as that term is defined by Section 552.133. This section does not limit the right of a public power utility governing body to hold a closed session under any other exception provided for in this chapter.

(d) For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.

(e) With respect to municipally owned utilities subject to this section, this section shall apply whether or not the municipally owned utility has adopted customer choice or serves in a multiply certificated service area under the Utilities Code.

(f) Nothing in this section is intended to preclude the application of the enforcement and remedies provisions of Subchapter G.

§ 551.087. Deliberation Regarding Economic Development Negotiations; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting:

(1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) to deliberate the offer of a financial or other incentive to business prospect described by Subdivision (1).

§ 551.088. Deliberations Regarding Test Item

This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity.

§ 551.089. Deliberation Regarding Security Devices or Security Audits; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information as described by Section 2059.055(b); or

(3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

§ 551.090. Enforcement Committee Appointed by Texas State Board of Public Accountancy

This chapter does not require an enforcement committee appointed by the Texas State Board of Public Accountancy to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.

§ 551.091. Commissioners Courts: Deliberation Regarding Disaster or Emergency

(a) This section applies only to the commissioners court of a county:

(1) for which the governor has issued an executive order or proclamation declaring a state of disaster or a state of emergency; and

(2) in which transportation to the meeting location is dangerous or difficult as a result of the disaster or emergency.

(b) Notwithstanding any other provision of this chapter and subject to Subsection (c), a commissioners court to which this section applies may hold an open or closed meeting, including a telephone conference call, solely to deliberate about disaster or emergency conditions and related public safety matters that require an immediate response without complying with the requirements of this chapter, including the requirement to provide notice before the meeting or to first convene in an open meeting.

(c) To the extent practicable under the circumstances, the commissioners court shall provide reasonable public notice of a meeting under this section and if the meeting is an open meeting allow members of the public and the press to observe the meeting.

(d) The commissioners court:

(1) may not vote or take final action on a matter during a meeting under this section; and

(2) shall prepare and keep minutes or a recording of a meeting under this section and make the minutes or recording available to the public as soon as practicable.

(e) This section expires September 1, 2027.

SUBCHAPTER E. PROCEDURES RELATING TO CLOSED MEETING

§ 551.101. Requirement to First Convene in Open Meeting

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

(1) announces that a closed meeting will be held; and

(2) identifies the section or sections of this chapter under which the closed meeting is held.

§ 551.102. Requirement to Vote or Take Final Action in Open Meeting

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

§ 551.103. Certified Agenda or Recording Required

(a) A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

§ 551.104. Certified Agenda or Recording; Preservation; Disclosure

(a) A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording;

(2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

SUBCHAPTER F. MEETINGS USING TELEPHONE, VIDEOCONFERENCE, OR INTERNET

§ 551.121. Governing Board of Institution of Higher Education; Board for Lease of University Lands; Texas Higher Education Coordinating Board: Special Meeting for Immediate Action

(a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter does not prohibit the governing board of an institution of higher education, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board from holding an open or closed meeting by telephone conference call.

(c) A meeting held by telephone conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board, as applicable, is difficult or impossible.

(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(e) The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office. For a meeting of the Board for Lease of University Lands, the notice must specify as the location of the meeting a suitable conference or meeting room at The University of Texas System office. For a meeting of the Texas Higher Education Coordinating

Board, the notice must specify as the location of the meeting a suitable conference or meeting room at the offices of the Texas Higher Education Coordinating Board or at an institution of higher education.

(f) Each part of the telephone conference call meeting that is required to be open to the public must be:

(1) audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) broadcast over the Internet in the manner prescribed by Section 551.128; and

(3) recorded and made available to the public in an online archive located on the Internet website of the entity holding the meeting.

§ 551.122. Governing Board of Junior College District: Quorum Present at One Location

(a) This chapter does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present and shall be recorded. The recording shall be made available to the public.

(e) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks.

(f) The authority provided by this section is in addition to the authority provided by Section 551.121.

(g) A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Section 130.0845, Education Code.

§ 551.123. Texas Board of Criminal Justice

(a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.

(b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board.

§ 551.124. Board of Pardons and Paroles

At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

§ 551.125. Other Governmental Body

(a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference call shall be clearly stated prior to speaking.

§ 551.126. Higher Education Coordinating Board

(a) In this section, "board" means the Texas Higher Education Coordinating Board.

(b) The board may hold an open meeting by telephone conference call or video conference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either the house of representatives or the senate.

(c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.

(d) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

§ 551.127. Videoconference Call

(a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(a-1) A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section.

(a-2) A member of a governmental body who participates in a meeting as provided by Subsection (a-1) shall be counted as present at the meeting for all purposes.

(a-3) A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The governmental body may continue the meeting only if a quorum of the body remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Subsection (c).

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

(c) A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

(d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

(e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

(f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(h) The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting that is open to the public.

(i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(j) The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

§ 551.128. Internet Broadcast of Open Meeting

(a) In this section, "Internet" means the largest nonproprietary cooperative public computer network, popularly known as the Internet.

(b) Except as provided by Subsection (b-1) and subject to the requirements of this section, a governmental body may broadcast an open meeting over the Internet.

(b-1) A transit authority or department subject to Chapter 451, 452, 453, or 460, Transportation Code, an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more, an elected governing body of a home-rule municipality that has a population of 50,000 or more, or a county commissioners court for a county that has a population of 125,000 or more shall:

(1) make a video and audio recording of reasonable quality of each:

(A) regularly scheduled open meeting that is not a work session or a special called meeting; and

(B) open meeting that is a work session or special called meeting if:

(i) the governmental body is an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more; and

(ii) at the work session or special called meeting, the board of trustees votes on any matter or allows public comment or testimony; and

(2) make available an archived copy of the video and audio recording of each meeting described by Subsection (1) on the Internet.

(b-2) A governmental body described by Subsection (b-1) may make available the archived recording of a meeting required by Subsection (b-1) on an existing Internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

(b-3) A governmental body described by Subsection (b-1) that maintains an Internet site shall make available on that site, in a conspicuous manner:

(1) the archived recording of each meeting to which Subsection (b-1) applies; or

(2) an accessible link to the archived recording of each such meeting.

(b-4) A governmental body described by Subsection (b-1) shall:

(1) make the archived recording of each meeting to which Subsection (b-1) applies available on the Internet not later than seven days after the date the recording was made; and

(2) maintain the archived recording on the Internet for not less than two years after the date the recording was first made available.

(b-5) A governmental body described by Subsection (b-1) is exempt from the requirements of Subsections (b-2) and (b-4) if the governmental body's failure to make the required recording of a meeting available is the result of a

catastrophe, as defined by Section 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner.

(b-6) A governmental body described by Subsection (b-1) may broadcast a regularly scheduled open meeting of the body on television.

(c) Except as provided by Subsection (b-2), a governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Subchapter C.

§ 551.1281. Governing Board of General Academic Teaching Institution or University System: Internet Posting of Meeting Materials and Broadcast of Open Meeting

(a) In this section, "general academic teaching institution" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) The governing board of a general academic teaching institution or of a university system that includes one or more component general academic teaching institutions, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the institution or university system, as applicable, any written agenda and related supplemental written materials provided to the governing board members in advance of the meeting by the institution or system for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make the recording publicly available in an online archive located on the institution's or university system's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the institution or university system certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a general academic teaching institution or of a university system is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

§ 551.1282. Governing Board of Junior College District: Internet Posting of Meeting Materials and Broadcast of Open Meeting

(a) This section applies only to the governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year.

(b) A governing board to which this section applies, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

§ 551.1283. Governing Body of Certain Water Districts: Internet Posting of Meeting Materials; Recording of Certain Hearings

(a) This section only applies to a special purpose district subject to Chapter 51, 53, 54, or 55, Water Code, that has a population of 500 or more.

(b) On written request of a district resident made to the district not later than the third day before a public hearing to consider the adoption of an ad valorem tax rate, the district shall make an audio recording of reasonable quality of the hearing and provide the recording to the resident in an electronic format not later than the fifth business day after the date of the hearing. The district shall maintain a copy of the recording for at least one year after the date of the hearing.

(c) A district shall post the minutes of the meeting of the governing body to the district's Internet website if the district maintains an Internet website.

(d) A district that maintains an Internet website shall post on that website links to any other Internet website or websites the district uses to comply with Section 2051.202 of this code and Section 26.18, Tax Code.

(e) Nothing in this chapter shall prohibit a district from allowing a person to watch or listen to a board meeting by video or telephone conference call.

§ 551.129. Consultations Between Governmental Body and Its Attorney

(a) A governmental body may use a telephone conference call, video conference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body.

(b) Each part of the public consultation by a governmental body with its attorney in an open meeting of the governmental body under Subsection (a) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

(c) Subsection (a) does not:

(1) authorize the members of a governmental body to conduct a meeting of the governmental body by telephone conference call, video conference call, or communications over the Internet; or

(2) create an exception to the application of this subchapter.

(d) Subsection (a) does not apply to a consultation with an attorney who is an employee of the governmental body.

(e) For purposes of Subsection (d), an attorney who receives compensation for legal services performed, from which employment taxes are deducted by the governmental body, is an employee of the governmental body.

(f) Subsection (d) does not apply to:

(1) the governing board of an institution of higher education as defined by Section 61.003, Education Code; or

(2) the Texas Higher Education Coordinating Board.

§ 551.130. Board of Trustees of Teacher Retirement System of Texas: Quorum Present at One Location

(a) In this section, "board" means the board of trustees of the Teacher Retirement System of Texas.

(b) This chapter does not prohibit the board or a board committee from holding an open or closed meeting by telephone conference call.

(c) The board or a board committee may hold a meeting by telephone conference call only if a quorum of the applicable board or board committee is physically present at one location of the meeting,

(d) A telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must also specify:

(1) the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present; and

(2) the intent to have a quorum present at that location.

(e) The location where a quorum is physically present must be open to the public during the open portions of a telephone conference call meeting. The open portions of the meeting must be audible to the public at the location where the quorum is present and be recorded at that location. The recording shall be made available to the public.

(f) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference call must be clearly stated before the party speaks.

(g) The authority provided by this section is in addition to the authority provided by Section 551.125.

(h) A member of the board who participates in a board or board committee meeting by telephone conference call but is not physically present at the location of the meeting is not considered to be absent from the meeting for any purpose. The vote of a member of the board who participates in a board or board committee meeting by telephone conference call is counted for the purpose of determining the number of votes cast on a motion or other proposition before the board or board committee.

(i) A member of the board may participate remotely by telephone conference call instead of by being physically present at the location of a board meeting for not more than one board meeting per calendar year. A board member who participates remotely in any portion of a board meeting by telephone conference call is considered to have participated in the entire board meeting by telephone conference call. For purposes of the limit provided by this subsection, remote participation by telephone conference call in a meeting of a board committee does not count as remote participation by telephone conference call in a meeting of the board, even if:

(1) a quorum of the full board attends the board committee meeting; or

(2) notice of the board committee meeting is also posted as notice of a board meeting.

(j) A person who is not a member of the board may speak at the meeting from a remote location by telephone conference call.

§ 551.131. Water Districts

(a) In this section, "water district" means a river authority, groundwater conservation district, water control and improvement district, or other district

created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) This section applies only to a water district whose territory includes land in three or more counties.

(c) A meeting held by telephone conference call or video conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing body of the applicable water district is difficult or impossible.

(d) A meeting held by telephone conference call must otherwise comply with the procedures under Sections 551.125(c), (d), (e), and (f).

(e) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

SUBCHAPTER G. ENFORCEMENT AND REMEDIES; CRIMINAL VIOLATIONS

§ 551.141. Action Voidable

An action taken by a governmental body in violation of this chapter is voidable.

§ 551.142. Mandamus; Injunction

(a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

(b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

(c) The attorney general may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of Section 551.045(a-1) by members of a governmental body.

(d) A suit filed by the attorney general under Subsection (c) must be filed in a district court of Travis County.

§ 551.143. Prohibited Series of Communications; Offense; Penalty

(a) A member of a governmental body commits an offense if the member:

(1) knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of the members; and

(2) knew at the time the member engaged in the communication that the series of communications:

(A) involved or would involve a quorum; and

(B) would constitute a deliberation once a quorum of members engaged in the series of communications.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

§ 551.144. Closed Meeting; Offense; Penalty

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.

§ 551.145. Closed Meeting Without Certified Agenda or Recording; Offense; Penalty

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§ 551.146. Disclosure of Certified Agenda or Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or recording.

Appendix B: Table of Authorities

Cases

Open Meetings Act Provisions

Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds

Policy Clarification Notice (PCN) #16-02 (Revised 10/22/18)
Replaces Policy #10-02

Scope of Coverage: Health Resources and Services Administration (HRSA) Ryan White HIV/AIDS Program (RWHAP) Parts A, B, C, and D, and Part F where funding supports direct care and treatment services.

Purpose of PCN

This policy clarification notice (PCN) replaces the HRSA HIV/AIDS Bureau (HAB) PCN 10-02: Eligible Individuals & Allowable Uses of Funds. This PCN defines and provides program guidance for each of the Core Medical and Support Services named in statute and defines individuals who are eligible to receive these HRSA RWHAP services.

Background

The Office of Management and Budget (OMB) has consolidated, in 2 CFR Part 200, the uniform grants administrative requirements, cost principles, and audit requirements for all organization types (state and local governments, non-profit and educational institutions, and hospitals) receiving federal awards. These requirements, known as the "Uniform Guidance," are applicable to recipients and subrecipients of federal funds. The OMB Uniform Guidance has been codified by the Department of Health and Human Services (HHS) in 45 CFR Part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards. HRSA RWHAP grant and cooperative agreement recipients and subrecipients should be thoroughly familiar with 45 CFR Part 75. Recipients are required to monitor the activities of its subrecipient to ensure the subaward is used for authorized purposes in compliance with applicable statute, regulations, policies, program requirements and the terms and conditions of the award (see 45 CFR §§ 75.351-352).

45 CFR Part 75, Subpart E—Cost Principles must be used in determining allowable costs that may be charged to a HRSA RWHAP award. Costs must be necessary and reasonable to carry out approved project activities, allocable to the funded project, and allowable under the Cost Principles, or otherwise authorized by the RWHAP statute. The treatment of costs must be consistent with recipient or subrecipient policies and procedures that apply uniformly to both federally-financed and other non-federally funded activities.

HRSA HAB has developed program policies that incorporate both HHS regulations

and program specific requirements set forth in the RWHAP statute. Recipients, planning bodies, and others are advised that independent auditors, auditors from the HHS' Office of the Inspector General, and auditors from the U.S. Government Accountability Office may assess and publicly report the extent to which an HRSA RWHAP award is being administered in a manner consistent with statute, regulation and program policies, such as these, and compliant with legislative and programmatic policies. Recipients can expect fiscal and programmatic oversight through HRSA monitoring and review of budgets, work plans, and subrecipient agreements. HRSA HAB is able to provide technical assistance to recipients and planning bodies, where assistance with compliance is needed.

Recipients are reminded that it is their responsibility to be fully cognizant of limitations on uses of funds as outlined in statute, 45 CFR Part 75, the HHS Grants Policy Statement, and applicable HRSA HAB PCNs. In the case of services being supported in violation of statute, regulation or programmatic policy, the use of RWHAP funds for such costs must be ceased immediately and recipients may be required to return already-spent funds to the Federal Government. Recipients who unknowingly continue such support are also liable for such expenditures.

Further Guidance on Eligible Individuals and Allowable Uses of Ryan White HIV/AIDS Program Funds

The RWHAP statute, codified at title XXVI of the Public Health Service Act, stipulates that "funds received...will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made under...an insurance policy, or under any Federal or State health benefits program" and other specified payment sources.[1] At the individual client-level, this means recipients must assure that funded subrecipients make reasonable efforts to secure non-RWHAP funds whenever possible for services to eligible clients. In support of this intent, it is an appropriate use of HRSA RWHAP funds to provide case management (medical or non-medical) or other services that, as a central function, ensure that eligibility for other funding sources is vigorously and consistently pursued (e.g., Medicaid, Children's Health Insurance Program (CHIP), Medicare, or State-funded HIV programs, and/or private sector funding, including private insurance).

In every instance, HRSA HAB expects that services supported with HRSA RWHAP funds will (1) fall within the legislatively-defined range of services, (2) as appropriate, within Part A, have been identified as a local priority by the HIV Health Services Planning Council/Body, and (3) in the case of allocation decisions made by a Part B State/Territory or by a local or regional consortium, meet documented needs and contribute to the establishment of a continuum of care.

HRSA RWHAP funds are intended to support only the HIV-related needs of

[1] *See* sections 2605(a)(6), 2617(b)(7)(F), 2664(f)(1), and 2671(i) of the Public Health Service Act.

eligible individuals. Recipients and subrecipients must be able to make an explicit connection between any service supported with HRSA RWHAP funds and the intended client's HIV care and treatment, or care-giving relationship to a person living with HIV (PLWH).

Eligible Individuals:

The principal intent of the RWHAP statute is to provide services to PLWH, including those whose illness has progressed to the point of clinically defined AIDS. When setting and implementing priorities for the allocation of funds, recipients, Part A Planning Councils, community planning bodies, and Part B funded consortia may optionally define eligibility for certain services more precisely, but they may NOT broaden the definition of who is eligible for services. HRSA HAB expects all HRSA RWHAP recipients to establish and monitor procedures to ensure that all funded providers verify and document client eligibility.

Affected individuals (people not identified with HIV) may be eligible for HRSA RWHAP services in limited situations, but these services for affected individuals must always benefit PLWH. Funds awarded under the HRSA RWHAP may be used for services to individuals affected by HIV only in the circumstances described below:

a. The primary purpose of the service is to enable the affected individual to participate in the care of a PLWH. Examples include caregiver training for in-home medical or support service; psychosocial support services, such as caregiver support groups; and/or respite care services that assist affected individuals with the stresses of providing daily care for a PLWH.

b. The service directly enables a PLWH to receive needed medical or support services by removing an identified barrier to care. Examples include payment of a HRSA RWHAP client's portion of a family health insurance policy premium to ensure continuity of insurance coverage that client, or childcare for the client's children while they receive HIV-related medical care or support services.

c. The service promotes family stability for coping with the unique challenges posed by HIV. Examples include psychosocial support services, including mental health services funded by RWHAP Part D only, that focus on equipping affected family members, and caregivers to manage the stress and loss associated with HIV.

d. Services to affected individuals that meet these criteria may not continue subsequent to the death of the family member who was living with HIV.

Unallowable Costs:
HRSA RWHAP funds may not be used to make cash payments to intended clients of HRSA RWHAP-funded services. This prohibition includes cash incentives and

cash intended as payment for HRSA RWHAP core medical and support services. Where direct provision of the service is not possible or effective, store gift cards,[2] vouchers, coupons, or tickets that can be exchanged for a specific service or commodity (e.g., food or transportation) must be used.

HRSA RWHAP recipients are advised to administer voucher and store gift card programs in a manner which assures that vouchers and store gift cards cannot be exchanged for cash or used for anything other than the allowable goods or services, and that systems are in place to account for disbursed vouchers and store gift cards.[3]

Other unallowable costs include:

- Clothing
- Employment and Employment-Readiness Services, except in limited, specified instances (e.g., Non-Medical Case Management Services or Rehabilitation Services)
- Funeral and Burial Expenses
- Property Taxes
- Pre-Exposure Prophylaxis (PrEP)
- non-occupational Post-Exposure Prophylaxis (nPEP)
- Materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual
- International travel
- The purchase or improvement of land
- The purchase, construction, or permanent improvement of any building or other facility

Allowable Costs:
The following service categories are allowable uses of HRSA RWHAP funds. The HRSA RWHAP recipient, along with respective planning bodies, will make the final decision regarding the specific services to be funded under their grant or cooperative agreement. As with all other allowable costs, HRSA RWHAP recipients are responsible for applicable accounting and reporting on the use of HRSA RWHAP funds.

Service Category Descriptions and Program Guidance

The following provides both a description of covered service categories and program guidance for HRSA RWHAP Part recipient implementation. These service category descriptions apply to the entire HRSA RWHAP. However, for some services, the

[2] Store gift cards that can be redeemed at one merchant or an affiliated group of merchants for specific goods or services that further the goals and objectives of the HRSA RWHAP are allowable as incentives for eligible program participants.
[3] General-use prepaid cards are considered “cash equivalent” and are therefore unallowable. Such cards generally bear the logo of a payment network, such as Visa, MasterCard, or American Express, and are accepted by any merchant that accepts those credit or debit cards as payment. Gift cards that are cobranded with the logo of a payment network and the logo of a merchant or affiliated group of merchants are general-use prepaid cards, not store gift cards, and therefore are unallowable.

HRSA RWHAP Parts (i.e., A, B, C, and D) must determine what is feasible and justifiable with limited resources. There is no expectation that a HRSA RWHAP Part recipient would provide all services, but recipients and planning bodies are expected to coordinate service delivery across Parts to ensure that the entire jurisdiction/service area has access to services based on needs assessment.

The following core medical and support service categories are important to assist in the diagnosis of HIV infection, linkage to and entry into care for PLWH, retention in care, and the provision of HIV care and treatment. HRSA RWHAP recipients are encouraged to consider all methods or means by which they can provide services, including use of technology (e.g., telehealth). To be an allowable cost under the HRSA RWHAP, all services must:

- Relate to HIV diagnosis, care and support,
- Adhere to established HIV clinical practice standards consistent with U.S. Department of Health and Human Services' Clinical Guidelines for the Treatment of HIV[4] and other related or pertinent clinical guidelines, and
- Comply with state and local regulations, and provided by licensed or authorized providers, as applicable.

Recipients are required to work toward the development and adoption of service standards for all HRSA RWHAP-funded services to ensure consistent quality care is provided to all HRSA RWHAP-eligible clients. Service standards establish the minimal level of service or care that a HRSA RWHAP funded agency or provider may offer within a state, territory or jurisdiction. Service standards related to HRSA RWHAP Core Medical Services must be consistent with U.S. Department of Health and Human Services' Clinical Guidelines for the Treatment of HIV, as well as other pertinent clinical and professional standards. Service standards related to HRSA RWHAP Support Services may be developed using evidence-based or evidence-informed best practices, the most recent HRSA RWHAP Parts A and B National Monitoring Standards, and guidelines developed by the state and local government.

HRSA RWHAP recipients should also be familiar with implementation guidance HRSA HAB provides in program manuals, monitoring standards, and other recipient resources.

HRSA RWHAP clients must meet income and other eligibility criteria as established by HRSA RWHAP Part A, B, C, or D recipients.

RWHAP Core Medical Services

AIDS Drug Assistance Program Treatments

[4] https://aidsinfo.nih.gov/guidelines

AIDS Pharmaceutical Assistance

Early Intervention Services (EIS)

Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals

Home and Community-Based Health Services

Home Health Care

Hospice

Medical Case Management, including Treatment Adherence Services

Medical Nutrition Therapy

Mental Health Services

Oral Health Care

Outpatient/Ambulatory Health Services

Substance Abuse Outpatient Care

RWHAP Support Services

Child Care Services

Emergency Financial Assistance

Food Bank/Home Delivered Meals

Health Education/Risk Reduction

Housing

Legal Services

Linguistic Services

Medical Transportation

Non-Medical Case Management Services

Other Professional Services

Outreach Services

Permanency Planning

Psychosocial Support Services

Referral for Health Care and Support Services

Rehabilitation Services

Respite Care

Substance Abuse Services (residential)

Effective Date
This PCN is effective for HRSA RWHAP Parts A, B, C, D, and F awards issued on or after October 1, 2016. This includes competing continuations, new awards, and non- competing continuations.

Summary of Changes
August 18, 2016 –Updated *Housing Service* category by removing the prohibition on HRSA RWHAP Part C recipients to use HRSA RWHAP funds for this service.

December 12, 2016 – 1) Updated *Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals* service category by including standalone dental insurance as an allowable cost; 2) Updated *Substance Abuse Services (residential)* service category by removing the prohibition on HRSA RWHAP Parts C and D recipients to use HRSA RWHAP funds for this service; 3) Updated *Medical Transportation* service category by providing clarification on provider transportation; 4) Updated *AIDS Drug Assistance Program Treatments* service category by adding additional program guidance; and 5) Reorganized the service categories alphabetically and provided hyperlinks in the Appendix.

October, 22, 2018 – updated to provide additional clarifications in the following service categories:

Core Medical Services: *AIDS Drug Assistance Program Treatments; AIDS Pharmaceutical Assistance; Health Insurance Premium and Cost Sharing Assistance for Low-income People Living with HIV; and Outpatient/Ambulatory Health Services*
Support Services: *Emergency Financial Assistance; Housing; Non-Medical Case Management; Outreach; and Rehabilitation Services*.

Appendix

RWHAP Legislation: Core Medical Services

AIDS Drug Assistance Program Treatments

Description:
The AIDS Drug Assistance Program (ADAP) is a state-administered program authorized under RWHAP Part B to provide U.S. Food and Drug Administration (FDA)-approved medications to low-income clients living with HIV who have no coverage or limited health care coverage. HRSA RWHAP ADAP formularies must include at least one FDA-approved medicine in each drug class of core antiretroviral medicines from the U.S. Department of Health and Human Services' Clinical Guidelines for the Treatment of HIV.[5] HRSA RWHAP ADAPs can also provide access to medications by using program funds to purchase health care coverage and through medication cost sharing for eligible clients. HRSA RWHAP ADAPs must assess and compare the aggregate cost of paying for the health care coverage versus paying for the full cost of medications to ensure that purchasing health care coverage is cost effective in the aggregate. HRSA RWHAP ADAPs may use a limited amount of program funds for activities that enhance access to, adherence to, and monitoring of antiretroviral therapy with prior approval.

Program Guidance:
HRSA RWHAP Parts A, C and D recipients may contribute RWHAP funds to the RWHAP Part B ADAP for the purchase of medication and/or health care coverage and medication cost sharing for ADAP-eligible clients.

See PCN 07-03: The Use of Ryan White HIV/AIDS Program, Part B AIDS Drug Assistance Program (ADAP) Funds for Access, Adherence, and Monitoring Services

See PCN 18-01: Clarifications Regarding the use of Ryan White HIV/AIDS Program Funds for Health Care Coverage Premium and Cost Sharing Assistance

See also AIDS Pharmaceutical Assistance and Emergency Financial Assistance

AIDS Pharmaceutical Assistance

Description:
AIDS Pharmaceutical Assistance may be provided through one of two programs, based on HRSA RWHAP Part funding.

1. A Local Pharmaceutical Assistance Program (LPAP) is operated by a HRSA RWHAP Part A or B (non-ADAP) recipient or subrecipient as a supplemental means of providing ongoing medication assistance when an HRSA RWHAP ADAP

[5] https://aidsinfo.nih.gov/guidelines

has a restricted formulary, waiting list and/or restricted financial eligibility criteria.

HRSA RWHAP Parts A or B recipients using the LPAP to provide AIDS Pharmaceutical Assistance must establish the following:

- Uniform benefits for all enrolled clients throughout the service area
- A recordkeeping system for distributed medications
- An LPAP advisory board
- A drug formulary that is
    - Approved by the local advisory committee/board, and
    - Consists of HIV-related medications not otherwise available to the clients due to the elements mentioned above
- A drug distribution system
- A client enrollment and eligibility determination process that includes screening for HRSA RWHAP ADAP and LPAP eligibility with rescreening at minimum of every six months
- Coordination with the state's HRSA RWHAP Part B ADAP
    - A statement of need should specify restrictions of the state HRSA RWHAP ADAP and the need for the LPAP
- Implementation in accordance with requirements of the HRSA 340B Drug Pricing Program (including the Prime Vendor Program)

2. A Community Pharmaceutical Assistance Program (CPAP) is provided by a HRSA RWHAP Part C or D recipient for the provision of ongoing medication assistance to eligible clients <u>in the absence of any other resources</u>.

HRSA RWHAP Parts C or D recipients using CPAP to provide AIDS Pharmaceutical Assistance must establish the following:

- A financial eligibility criteria and determination process for this specific service category
- A drug formulary consisting of HIV-related medications not otherwise available to the clients
- Implementation in accordance with the requirements of the HRSA 340B Drug Pricing Program (including the Prime Vendor Program)

Program Guidance:
For LPAPs: HRSA RWHAP Part A or Part B (non-ADAP) funds may be used to support an LPAP. HRSA RWHAP ADAP funds may not be used for LPAP support. LPAP funds are not to be used for emergency or short-term financial assistance. The Emergency Financial Assistance service category may assist with short-term assistance for medications.

For CPAPs: HRSA RWHAP Part C or D funds may be used to support a CPAP to routinely refill medications. HRSA RWHAP Part C or D recipients should use the Outpatient/Ambulatory Health Services or Emergency Financial Assistance service

categories for non-routine, short-term medication assistance.

See also AIDS Drug Assistance Program Treatments, Emergency Financial Assistance, and Outpatient/Ambulatory Health Services

Early Intervention Services (EIS)

Description:
The RWHAP legislation defines EIS for Parts A, B, and C. See § 2651(e) of the Public Health Service Act.

Program Guidance:
The elements of EIS often overlap with other service category descriptions; however, EIS is the combination of such services rather than a stand-alone service. HRSA RWHAP Part recipients should be aware of programmatic expectations that stipulate the allocation of funds into specific service categories.

- HRSA RWHAP Parts A and B EIS services must include the following four components:
    - Targeted HIV testing to help the unaware learn of their HIV status and receive referral to HIV care and treatment services if found to be living with HIV
        - Recipients must coordinate these testing services with other HIV prevention and testing programs to avoid duplication of efforts
        - HIV testing paid for by EIS cannot supplant testing efforts paid for by other sources
    - Referral services to improve HIV care and treatment services at key points of entry
    - Access and linkage to HIV care and treatment services such as HIV Outpatient/Ambulatory Health Services, Medical Case Management, and Substance Abuse Care
    - Outreach Services and Health Education/Risk Reduction related to HIV diagnosis

- HRSA RWHAP Part C EIS services must include the following four components:
    - Counseling individuals with respect to HIV
    - High risk targeted HIV testing (confirmation and diagnosis of the extent of immune deficiency)
        - Recipients must coordinate these testing services under HRSA RWHAP Part C EIS with other HIV prevention and testing programs to avoid duplication of efforts
        - The HIV testing services supported by HRSA RWHAP Part C EIS funds cannot supplant testing efforts covered by other sources
    - Referral and linkage to care of PLWH to Outpatient/Ambulatory Health

Services, Medical Case Management, Substance Abuse Care, and other services as part of a comprehensive care system including a system for tracking and monitoring referrals
- Other clinical and diagnostic services related to HIV diagnosis

Health Insurance Premium and Cost Sharing Assistance for Low-Income Individuals

Description:

Health Insurance Premium and Cost Sharing Assistance provides financial assistance for eligible clients living with HIV to maintain continuity of health insurance or to receive medical and pharmacy benefits under a health care coverage program. For purposes of this service category, health insurance also includes standalone dental insurance. The service provision consists of the following:

- Paying health insurance premiums to provide comprehensive HIV Outpatient/Ambulatory Health Services, and pharmacy benefits that provide a full range of HIV medications for eligible clients; and/or
- Paying standalone dental insurance premiums to provide comprehensive oral health care services for eligible clients; and/or
- Paying cost sharing on behalf of the client.

To use HRSA RWHAP funds for health insurance premium assistance (not standalone dental insurance assistance), an HRSA RWHAP Part recipient must implement a methodology that incorporates the following requirements:

- Clients obtain health care coverage that at a minimum, includes at least one U.S. Food and Drug Administration (FDA) approved medicine in each drug class of core antiretroviral medicines outlined in the U.S. Department of Health and Human Services' Clinical Guidelines for the Treatment of HIV, as well as appropriate HIV outpatient/ambulatory health services; and
- The cost of paying for the health care coverage (including all other sources of premium and cost sharing assistance) is cost-effective in the aggregate versus paying for the full cost for medications and other appropriate HIV outpatient/ambulatory health services (HRSA RWHAP Part A, HRSA RWHAP Part B, HRSA RWHAP Part C, and HRSA RWHAP Part D).

To use HRSA RWHAP funds for standalone dental insurance premium assistance, an HRSA RWHAP Part recipient must implement a methodology that incorporates the following requirement:

- HRSA RWHAP Part recipients must assess and compare the aggregate cost of paying for the standalone dental insurance option versus paying for the full cost of HIV oral health care services to ensure that purchasing standalone dental insurance is cost effective in the aggregate, and allocate funding to Health Insurance Premium and Cost Sharing Assistance only

when determined to be cost effective.

Program Guidance:
Traditionally, HRSA RWHAP Parts A and B recipients have supported paying for health insurance premiums and cost sharing assistance. If a HRSA RWHAP Part C or Part D recipient has the resources to provide this service, an equitable enrollment policy must be in place and it must be cost-effective.

HRSA RWHAP Parts A, B, C, and D recipients may consider providing their health insurance premiums and cost sharing resource allocation to their state HRSA RWHAP ADAP, particularly where the ADAP has the infrastructure to verify health care coverage status and process payments for public or private health care coverage premiums and medication cost sharing.

See PCN 14-01: Clarifications Regarding the Ryan White HIV/AIDS Program and Reconciliation of Premium Tax Credits under the Affordable Care Act

See PCN 18-01: Clarifications Regarding the use of Ryan White HIV/AIDS Program Funds for Health Care Coverage Premium and Cost Sharing Assistance

Home and Community-Based Health Services
Description:
Home and Community-Based Health Services are provided to an eligible client in an integrated setting appropriate to that client's needs, based on a written plan of care established by a medical care team under the direction of a licensed clinical provider. Services include:

- Appropriate mental health, developmental, and rehabilitation services
- Day treatment or other partial hospitalization services
- Durable medical equipment
- Home health aide services and personal care services in the home

Program Guidance:
Inpatient hospitals, nursing homes, and other long-term care facilities are not considered an integrated setting for the purposes of providing home and community-based health services.

Home Health Care
Description:
Home Health Care is the provision of services in the home that are appropriate to an eligible client's needs and are performed by licensed professionals. Activities provided under Home Health Care must relate to the client's HIV disease and may include:

- Administration of prescribed therapeutics (e.g. intravenous and aerosolized treatment, and parenteral feeding)
- Preventive and specialty care
- Wound care

- Routine diagnostics testing administered in the home
- Other medical therapies

Program Guidance:
The provision of Home Health Care is limited to clients that are homebound. Home settings do not include nursing facilities or inpatient mental health/substance abuse treatment facilities.

Hospice Services
Description:
Hospice Services are end-of-life care services provided to clients in the terminal stage of an HIV-related illness. Allowable services are:

- Mental health counseling
- Nursing care
- Palliative therapeutics
- Physician services
- Room and board

Program Guidance:
Hospice Services may be provided in a home or other residential setting, including a non-acute care section of a hospital that has been designated and staffed to provide hospice services. This service category does not extend to skilled nursing facilities or nursing homes.

To meet the need for Hospice Services, a physician must certify that a patient is terminally ill and has a defined life expectancy as established by the recipient. Counseling services provided in the context of hospice care must be consistent with the definition of mental health counseling. Palliative therapies must be consistent with those covered under respective state Medicaid programs.

Medical Case Management, including Treatment Adherence Services
Description:
Medical Case Management is the provision of a range of client-centered activities focused on improving health outcomes in support of the HIV care continuum.

Activities provided under this service category may be provided by an interdisciplinary team that includes other specialty care providers. Medical Case Management includes all types of case management encounters (e.g., face-to-face, phone contact, and any other forms of communication).

Key activities include:

- Initial assessment of service needs
- Development of a comprehensive, individualized care plan
- Timely and coordinated access to medically appropriate levels of health and support services and continuity of care
- Continuous client monitoring to assess the efficacy of the care plan

- Re-evaluation of the care plan at least every 6 months with adaptations as necessary
- Ongoing assessment of the client's and other key family members' needs and personal support systems
- Treatment adherence counseling to ensure readiness for and adherence to complex HIV treatments
- Client-specific advocacy and/or review of utilization of services

In addition to providing the medically oriented activities above, Medical Case Management may also provide benefits counseling by assisting eligible clients in obtaining access to other public and private programs for which they may be eligible (e.g., Medicaid, Medicare Part D, State Pharmacy Assistance Programs, Pharmaceutical Manufacturer's Patient Assistance Programs, other state or local health care and supportive services, and insurance plans through the health insurance Marketplaces/Exchanges).

Program Guidance:
Activities provided under the Medical Case Management service category have as their objective improving health care outcomes whereas those provided under the Non-Medical Case Management service category have as their objective providing guidance and assistance in improving access to needed services.

Visits to ensure readiness for, and adherence to, complex HIV treatments shall be considered Medical Case Management or Outpatient/Ambulatory Health Services. Treatment Adherence services provided during a Medical Case Management visit should be reported in the Medical Case Management service category whereas Treatment Adherence services provided during an Outpatient/Ambulatory Health Service visit should be reported under the Outpatient/Ambulatory Health Services category.

Medical Nutrition Therapy
Description:
Medical Nutrition Therapy includes:
- Nutrition assessment and screening
- Dietary/nutritional evaluation
- Food and/or nutritional supplements per medical provider's recommendation
- Nutrition education and/or counseling

These activities can be provided in individual and/or group settings and outside of HIV Outpatient/Ambulatory Health Services.

Program Guidance:
All activities performed under this service category must be pursuant to a medical provider's referral and based on a nutritional plan developed by the registered dietitian or other licensed nutrition professional. Activities not provided by a

registered/licensed dietician should be considered Psychosocial Support Services under the HRSA RWHAP.

See also Food-Bank/Home Delivered Meals

Mental Health Services
Description:
Mental Health Services are the provision of outpatient psychological and psychiatric screening, assessment, diagnosis, treatment, and counseling services offered to clients living with HIV. Services are based on a treatment plan, conducted in an outpatient group or individual session, and provided by a mental health professional licensed or authorized within the state to render such services. Such professionals typically include psychiatrists, psychologists, and licensed clinical social workers.

Program Guidance:
Mental Health Services are allowable only for PLWH who are eligible to receive HRSA RWHAP services.

See also Psychosocial Support Services

Oral Health Care
Description:
Oral Health Care activities include outpatient diagnosis, prevention, and therapy provided by dental health care professionals, including general dental practitioners, dental specialists, dental hygienists, and licensed dental assistants.

Program Guidance:
None at this time.

Outpatient/Ambulatory Health Services
Description:
Outpatient/Ambulatory Health Services provide diagnostic and therapeutic-related activities directly to a client by a licensed healthcare provider in an outpatient medical setting. Outpatient medical settings may include: clinics, medical offices, mobile vans, using telehealth technology, and urgent care facilities for HIV-related visits.

Allowable activities include:
- Medical history taking
- Physical examination
- Diagnostic testing (including HIV confirmatory and viral load testing), as well as laboratory testing
- Treatment and management of physical and behavioral health conditions
- Behavioral risk assessment, subsequent counseling, and referral
- Preventive care and screening
- Pediatric developmental assessment
- Prescription and management of medication therapy

- Treatment adherence
- Education and counseling on health and prevention issues
- Referral to and provision of specialty care related to HIV diagnosis, including audiology and ophthalmology

Program Guidance:
Treatment adherence activities provided during an Outpatient/Ambulatory Health Service visit are considered Outpatient/Ambulatory Health Services, whereas treatment adherence activities provided during a Medical Case Management visit are considered Medical Case Management services.

Non-HIV related visits to urgent care facilities are not allowable costs within the Outpatient/Ambulatory Health Services Category.

Emergency room visits are not allowable costs within the Outpatient/Ambulatory Health Services Category.

See PCN 13-04: Clarifications Regarding Clients Eligible for Private Insurance and Coverage of Services by Ryan White HIV/AIDS Program

See also Early Intervention Services

Substance Abuse Outpatient Care
Description:
Substance Abuse Outpatient Care is the provision of outpatient services for the treatment of drug or alcohol use disorders. Activities under Substance Abuse Outpatient Care service category include:

- Screening
- Assessment
- Diagnosis, and/or
- Treatment of substance use disorder, including:
    - Pretreatment/recovery readiness programs
    - Harm reduction
    - Behavioral health counseling associated with substance use disorder
    - Outpatient drug-free treatment and counseling
    - Medication assisted therapy
    - Neuro-psychiatric pharmaceuticals
    - Relapse prevention

Program Guidance:
Acupuncture therapy may be allowable under this service category only when, as part of a substance use disorder treatment program funded under the HRSA RWHAP, it is included in a documented plan.

Syringe access services are allowable, to the extent that they comport with current appropriations law and applicable HHS guidance, including HRSA- or HAB-specific

guidance.

See also Substance Abuse Services (residential)

RWHAP Legislation: Support Services

Child Care Services
Description:
The HRSA RWHAP supports intermittent Child Care Services for the children living in the household of PLWH who are HRSA RWHAP-eligible clients for the purpose of enabling those clients to attend medical visits, related appointments, and/or HRSA RWHAP-related meetings, groups, or training sessions.

Allowable use of funds include:

- A licensed or registered child care provider to deliver intermittent care
- Informal child care provided by a neighbor, family member, or other person (with the understanding that existing federal restrictions prohibit giving cash to clients or primary caregivers to pay for these services)

Program Guidance:
The use of funds under this service category should be limited and carefully monitored. Direct cash payments to clients are not permitted.

Such arrangements may also raise liability issues for the funding source which should be carefully weighed in the decision process.

Emergency Financial Assistance
Description:
Emergency Financial Assistance provides limited one-time or short-term payments to assist an HRSA RWHAP client with an urgent need for essential items or services necessary to improve health outcomes, including: utilities, housing, food (including groceries and food vouchers), transportation, medication not covered by an AIDS Drug Assistance Program or AIDS Pharmaceutical Assistance, or another HRSA RWHAP-allowable cost needed to improve health outcomes. Emergency Financial Assistance must occur as a direct payment to an agency or through a voucher program.

Program Guidance:
Emergency Financial Assistance funds used to pay for otherwise allowable HRSA RWHAP services must be accounted for under the Emergency Financial Assistance category. Direct cash payments to clients are not permitted.

Continuous provision of an allowable service to a client must not be funded through Emergency Financial Assistance.

Food Bank/Home Delivered Meals
Description:

Food Bank/Home Delivered Meals refers to the provision of actual food items, hot meals, or a voucher program to purchase food. This also includes the provision of essential non-food items that are limited to the following:

- Personal hygiene products
- Household cleaning supplies
- Water filtration/purification systems in communities where issues of water safety exist

Program Guidance:
Unallowable costs include household appliances, pet foods, and other non-essential products.

See Medical Nutrition Therapy. Nutritional services and nutritional supplements provided by a registered dietitian are considered a core medical service under the HRSA RWHAP.

Health Education/Risk Reduction
Description:
Health Education/Risk Reduction is the provision of education to clients living with HIV about HIV transmission and how to reduce the risk of HIV transmission. It includes sharing information about medical and psychosocial support services and counseling with clients to improve their health status. Topics covered may include:

- Education on risk reduction strategies to reduce transmission such as pre-exposure prophylaxis (PrEP) for clients' partners and treatment as prevention
- Education on health care coverage options (e.g., qualified health plans through the Marketplace, Medicaid coverage, Medicare coverage)
- Health literacy
- Treatment adherence education

Program Guidance:
Health Education/Risk Reduction services cannot be delivered anonymously.

See also Early Intervention Services

Housing
Description:
Housing provides transitional, short-term, or emergency housing assistance to enable a client or family to gain or maintain outpatient/ambulatory health services and treatment, including temporary assistance necessary to prevent homelessness and to gain or maintain access to medical care. Activities within the Housing category must also include the development of an individualized housing plan, updated annually, to guide the client's linkage to permanent housing. Housing may provide some type of core medical (e.g., mental health services) or support services (e.g., residential substance use disorder services).

Housing activities also include housing referral services, including assessment, search,

placement, and housing advocacy services on behalf of the eligible client, as well as fees associated with these activities.

Program Guidance:
HRSA RWHAP recipients and subrecipients that use funds to provide Housing must have mechanisms in place to assess and document the housing status and housing service needs of new clients, and at least annually for existing clients.

HRSA RWHAP recipients and subrecipients, along with local decision-making planning bodies, are strongly encouraged to institute duration limits to housing activities. HRSA HAB recommends recipients and subrecipients align duration limits with those definitions used by other housing programs, such as those administered by the Department of Housing and Urban Development, which currently uses 24 months for transitional housing.

Housing activities cannot be in the form of direct cash payments to clients and cannot be used for mortgage payments or rental deposits,[6] although these may be allowable costs under the HUD Housing Opportunities for Persons with AIDS grant awards.

Housing, as described here, replaces PCN 11-01.

Legal Services
See Other Professional Services

Linguistic Services
Description:
Linguistic Services include interpretation and translation activities, both oral and written, to eligible clients. These activities must be provided by qualified linguistic services providers as a component of HIV service delivery between the healthcare provider and the client. These services are to be provided when such services are necessary to facilitate communication between the provider and client and/or support delivery of HRSA RWHAP-eligible services.

Program Guidance:
Linguistic Services provided must comply with the National Standards for Culturally and Linguistically Appropriate Services (CLAS).

Medical Transportation
Description:
Medical Transportation is the provision of nonemergency transportation that enables an eligible client to access or be retained in core medical and support services.

Program Guidance:
Medical transportation may be provided through:

[6] See sections 2604(i), 2612(f), 2651(b), and 2671(a) of the Public Health Service Act.

- Contracts with providers of transportation services
- Mileage reimbursement (through a non-cash system) that enables clients to travel to needed medical or other support services, but should not in any case exceed the established rates for federal Programs (Federal Joint Travel Regulations provide further guidance on this subject)
- Purchase or lease of organizational vehicles for client transportation programs, provided the recipient receives prior approval for the purchase of a vehicle
- Organization and use of volunteer drivers (through programs with insurance and other liability issues specifically addressed)
- Voucher or token systems

Costs for transportation for medical providers to provide care should be categorized under the service category for the service being provided.

Unallowable costs include:

- Direct cash payments or cash reimbursements to clients
- Direct maintenance expenses (tires, repairs, etc.) of a privately-owned vehicle
- Any other costs associated with a privately-owned vehicle such as lease, loan payments, insurance, license, or registration fees.

Non-Medical Case Management Services

Description:

Non-Medical Case Management Services (NMCM) is the provision of a range of client-centered activities focused on improving access to and retention in needed core medical and support services. NMCM provides coordination, guidance, and assistance in accessing medical, social, community, legal, financial, employment, vocational, and/or other needed services. NMCM Services may also include assisting eligible clients to obtain access to other public and private programs for which they may be eligible, such as Medicaid, Children's Health Insurance Program, Medicare Part D, State Pharmacy Assistance Programs, Pharmaceutical Manufacturer's Patient Assistance Programs, Department of Labor or Education-funded services, other state or local health care and supportive services, or private health care coverage plans. NMCM Services includes all types of case management encounters (e.g., face-to-face, telehealth, phone contact, and any other forms of communication). Key activities include:

- Initial assessment of service needs
- Development of a comprehensive, individualized care plan
- Timely and coordinated access to medically appropriate levels of health and support services and continuity of care
- Client-specific advocacy and/or review of utilization of services
- Continuous client monitoring to assess the efficacy of the care plan

- Re-evaluation of the care plan at least every 6 months with adaptations as necessary
- Ongoing assessment of the client's and other key family members' needs and personal support systems

Program Guidance:
NMCM Services have as their objective providing coordination, guidance and assistance in improving access to and retention in needed medical and support services to mitigate and eliminate barriers to HIV care services, whereas Medical Case Management Services have as their objective improving health care outcomes.

Other Professional Services
Description:
Other Professional Services allow for the provision of professional and consultant services rendered by members of particular professions licensed and/or qualified to offer such services by local governing authorities. Such services may include:

- Legal services provided to and/or on behalf of the HRSA RWHAP-eligible PLWH and involving legal matters related to or arising from their HIV disease, including:
    - Assistance with public benefits such as Social Security Disability Insurance (SSDI)
    - Interventions necessary to ensure access to eligible benefits, including discrimination or breach of confidentiality litigation as it relates to services eligible for funding under the HRSA RWHAP
    - Preparation of:
        - Healthcare power of attorney
        - Durable powers of attorney
        - Living wills
- Permanency planning to help clients/families make decisions about the placement and care of minor children after their parents/caregivers are deceased or are no longer able to care for them, including:
    - Social service counseling or legal counsel regarding the drafting of wills or delegating powers of attorney
    - Preparation for custody options for legal dependents including standby guardianship, joint custody, or adoption
- Income tax preparation services to assist clients in filing Federal tax returns that are required by the Affordable Care Act for all individuals receiving premium tax credits.

Program Guidance:
Legal services exclude criminal defense and class-action suits unless related to access to services eligible for funding under the RWHAP.

See 45 CFR § 75.459

Outreach Services

Description:

The Outreach Services category has as its principal purpose identifying PLWH who either do not know their HIV status, or who know their status but are not currently in care. As such, Outreach Services provide the following activities: 1) identification of people who do not know their HIV status and/or 2) linkage or re-engagement of PLWH who know their status into HRSA RWHAP services, including provision of information about health care coverage options.

Because Outreach Services are often provided to people who do not know their HIV status, some activities within this service category will likely reach people who are HIV negative. When these activities identify someone living with HIV, eligible clients should be linked to HRSA RWHAP services.

Outreach Services must:

1) use data to target populations and places that have a high probability of reaching PLWH who
    a. have never been tested and are undiagnosed,
    b. have been tested, diagnosed as HIV positive, but have not received their test results, or
    c. have been tested, know their HIV positive status, but are not in medical care;
2) be conducted at times and in places where there is a high probability that PLWH will be identified; and
3) be delivered in coordination with local and state HIV prevention outreach programs to avoid duplication of effort.

Outreach Services may be provided through community and public awareness activities (e.g., posters, flyers, billboards, social media, TV or radio announcements) that meet the requirements above and include explicit and clear links to and information about available HRSA RWHAP services. Ultimately, HIV-negative people may receive Outreach Services and should be referred to risk reduction activities. When these activities identify someone living with HIV, eligible clients should be linked to HRSA RWHAP services.

Program Guidance:

Outreach Services provided to an individual or in small group settings cannot be delivered anonymously, as some information is needed to facilitate any necessary follow-up and care.

Outreach Services must not include outreach activities that exclusively promote HIV prevention education. Recipients and subrecipients may use Outreach Services funds for HIV testing when HRSA RWHAP resources are available and where the testing would not supplant other existing funding.

Outreach Services, as described here, replaces PCN 12-01.

See also Early Intervention Services

Permanency Planning
See Other Professional Services

Psychosocial Support Services
Description:
Psychosocial Support Services provide group or individual support and counseling services to assist HRSA RWHAP-eligible PLWH to address behavioral and physical health concerns. Activities provided under the Psychosocial Support Services may include:

- Bereavement counseling
- Caregiver/respite support (HRSA RWHAP Part D)
- Child abuse and neglect counseling
- HIV support groups
- Nutrition counseling provided by a non-registered dietitian (*see* Medical Nutrition Therapy Services)
- Pastoral care/counseling services

Program Guidance:
Funds under this service category may not be used to provide nutritional supplements (*See* Food Bank/Home Delivered Meals).

HRSA RWHAP-funded pastoral counseling must be available to all eligible clients regardless of their religious denominational affiliation.

HRSA RWHAP Funds may not be used for social/recreational activities or to pay for a client's gym membership.

For HRSA RWHAP Part D recipients, outpatient mental health services provided to affected clients (people not identified with HIV) should be reported as Psychosocial Support Services; this is generally only a permissible expense under HRSA RWHAP Part D.

See also Respite Care Services

Rehabilitation Services
Description:
Rehabilitation Services provide HIV-related therapies intended to improve or maintain a client's quality of life and optimal capacity for self-care on an outpatient basis, and in accordance with an individualized plan of HIV care.

Program Guidance:

Allowable activities under this category include physical, occupational, speech, and

vocational therapy.

Rehabilitation services provided as part of inpatient hospital services, nursing homes, and other long-term care facilities are not allowable.

Referral for Health Care and Support Services
Description:
Referral for Health Care and Support Services directs a client to needed core medical or support services in person or through telephone, written, or other type of communication. Activities provided under this service category may include referrals to assist HRSA RWHAP-eligible clients to obtain access to other public and private programs for which they may be eligible (e.g., Medicaid, Medicare Part D, State Pharmacy Assistance Programs, Pharmaceutical Manufacturer's Patient Assistance Programs, and other state or local health care and supportive services, or health insurance Marketplace plans).

Program Guidance:
Referrals for Health Care and Support Services provided by outpatient/ambulatory health care providers should be reported under the Outpatient/Ambulatory Health Services category.

Referrals for health care and support services provided by case managers (medical and non-medical) should be reported in the appropriate case management service category (i.e., Medical Case Management or Non-Medical Case Management).

See also Early Intervention Services

Respite Care
Description:

Respite Care is the provision of periodic respite care in community or home-based settings that includes non-medical assistance designed to provide care for an HRSA RWHAP-eligible client to relieve the primary caregiver responsible for their day-to-day care.

Program Guidance:
Recreational and social activities are allowable program activities as part of a Respite Care provided in a licensed or certified provider setting including drop-in centers within HIV Outpatient/Ambulatory Health Services or satellite facilities.

Funds may be used to support informal, home-based Respite Care, but liability issues should be included in the consideration of this expenditure. Direct cash payments to clients are not permitted.

Funds may not be used for off premise social/recreational activities or to pay for a client's gym membership.

See also Psychosocial Support Services

Substance Abuse Services (residential)
Description:
Substance Abuse Services (residential) activities are those provided for the treatment of drug or alcohol use disorders in a residential setting to include screening, assessment, diagnosis, and treatment of substance use disorder. Activities provided under the Substance Abuse Services (residential) service category include:

- Pretreatment/recovery readiness programs
- Harm reduction
- Behavioral health counseling associated with substance use disorder
- Medication assisted therapy
- Neuro-psychiatric pharmaceuticals
- Relapse prevention
- Detoxification, if offered in a separate licensed residential setting (including a separately-licensed detoxification facility within the walls of an inpatient medical or psychiatric hospital)

Program Guidance:
Substance Abuse Services (residential) is permitted only when the client has received a written referral from the clinical provider as part of a substance use disorder treatment program funded under the HRSA RWHAP.

Acupuncture therapy may be an allowable cost under this service category only when it is included in a documented plan as part of a substance use disorder treatment program funded under the HRSA RWHAP.

HRSA RWHAP funds may not be used for inpatient detoxification in a hospital setting, unless the detoxification facility has a separate license.

Quick Reference for Planning Council Support (PCS) Staff: Legislative Requirements for Planning Councils/Bodies, with HRSA/HAB Definitions, Clarifications, and Expectations[1]

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
Establishment of a Planning Council or Body		
Establishment of a Planning Council	CEO "shall establish an HIV health services planning council" [Section 2602(b)(2)(A)(ii)]	All EMAs must have planning councils that meet legislative requirements.
Exception to Planning Council Requirement for TGAs	"The chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) [establishment of a planning council] if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant" [Section 2609(d)(1)(A)]	▪ "All TGAs that have operating PCs are strongly encouraged by DMHAP to maintain that current structure"— "in conformity with PC legislative requirements." [Letter to RWHAP Part A Grantees on TGA Planning Councils Moving Forward, December 4, 2013] ▪ All jurisdictions are expected to have planning bodies. [Integrated HIV Prevention and Care Plan Guidance, p 4] ▪ DMHAP encourages TGAs with planning bodies to make them similar to PCs in terms of member representation and reflectiveness as well as roles. [EGMC discussion with DMHAP Project Officers, January 23, 2017]
Planning Council/Body Membership		
Representation: Membership Categories	Section 2602(b)(2): "REPRESENTATION.—The HIV health services planning council shall include representatives of— (A) health care providers, including federally qualified health centers; (B) community-based organizations serving affected populations and AIDS service organizations; (C) social service providers, including providers of housing	▪ "Representation is the extent to which the planning council includes individuals from the legislatively defined categories of membership." [p 110] ▪ The category of grantees under Category L, other Federal HIV programs "is to include, at a minimum, a representative from each of the following:" - Federally-funded HIV prevention services. - A grantee funded under Part F's SPNS, AETC, and/or Ryan

[1] Prepared in March 2017 for DMHAP based on Ryan White HIV/AIDS Treatment Extension Act of 2009. Prepared under Task Order TA003111 through MSCG/Ryan White Technical Assistance Contract.

From: Compendium of Materials for Planning Council Support Staff. EGM Consulting, LLC. 2018.
Available at: www.targetHIV.org/planning-chatt/pcs-compendium

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
	and homeless services; (D) mental health and substance abuse providers; (E) local public health agencies; (F) hospital planning agencies or health care planning agencies; (G) affected communities, including people with HIV/AIDS, members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C and historically underserved groups and subpopulations; (H) nonelected community leaders; (I) State government (including the State medicaid agency and the agency administering the program under part B); (J) grantees under subpart II of part C; (K) grantees under section 2671 [Part D], or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area; (L) grantees under other Federal HIV programs, including but not limited to providers of HIV prevention services; and (M) representatives of individuals who formerly were Federal, State, or local prisoners, were released from the custody of the penal system during the preceding 3 years, and had HIV/AIDS as of the date on which the individuals were so released."	White Dental Programs. - Housing Opportunities for Persons With AIDS (HOPWA). - Other Federal programs that provide HIV/AIDS treatment such as the Veterans Health Administration. [p 110] ▪ "The planning council must include at least one member to separately represent each of the designated membership categories (unless no entity from that category exists in the EMA/TGA)….*Separate representation means that each planning council member can fill only one legislatively required membership category at any given time, even if qualified to fill more than one."* [p 110] ▪ There are 3 exceptions, in which a single person can represent multiple categories: - Both substance abuse and mental health provider categories "if his/her agency provides both types of services and the person is familiar with both programs." - "Both the Ryan White Part B program and the State Medicaid agency if that person is in a position of responsibility for both programs." - Any combination of Ryan White Part F grantees (SPNS, AETCs, and Dental Programs) and HOPWA, if the agency represented by the member receives grants from some combination of those four funding streams…and the individual is familiar with all these programs." [p 110]

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
Consumer Members	▪ "Not less than 33 percent of the council shall be individuals who are receiving HIV-related services [under RWHAP Part A], are not officers, employees, or consultants to any entity that receives amounts from such a grant, and do not represent any such entity, and reflect the demographics of the population of individuals with HIV/AIDS" ▪ Includes parents or caregivers of children with HIV [Section 2602(b)(5)(C)(i)]	"DMHAP and its predecessor, the Division Service Systems (DSS), have consistently emphasized that planning councils can be truly effective in meeting their legislated responsibilities only if they have well-supported consumer participation and membership reflective of the local demographics of the HIV/AIDS epidemic." [p 109]
Reflectiveness	PC "shall reflect in its composition the demographics of the population of individuals with HIV/AIDS in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations" [Section 2602(b)(1)]	▪ **"Reflectiveness** is the extent to which the demographics of the planning council's membership look like the epidemic of HIV/AIDS in the EMA/TGA." ▪ Must include "at least the following: race/ethnicity, gender, and age at diagnosis." ▪ Reflectiveness required for both the whole planning council membership and the consumer membership. ▪ PLWH should be selected "without regard to the individual's stage of disease." ▪ **"**Reflectiveness does not mean that membership must identically mirror local HIV/AIDS demographics." [p 111] ▪ "The composition of the PC or planning body must reflect the demographics of the HIV/AIDS epidemic in the EMA/TGA." [FOA HRSA-17-030, RWHAP Part A Continuing Continuation for FY 2017, p 22] ▪ The required PC/B letter that accompanies the RWHAP Part A application must indicate "that representation is reflective of the epidemic in the EMA/TGA" or, if it is not, "Note variations between the demographics of the non-aligned consumers and the HIV disease prevalence of the EMA/TGA and "provide a plan and timetable for addressing each vacancy." [FOA HRSA-17-030, RWHAP Part A Continuing Continuation for FY 2017, p 24]

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
Open Nominations	"Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria." [Section 2602(b)(1)]	HAB/DMHAP expects that: ▪ The open nominations process will be "described and announced before the nominations process begins," will "specify clear criteria on the planning council composition being sought," will be publicized, allow people to "apply for membership or be nominated by others," and use a "standardized, plain-language application form." ▪ "The CEO will approve and/or appoint as planning council members only individuals who have gone through the open nominations process." [p 118]
Roles and Responsibilities		
Duties	"(4) DUTIES — The planning council) shall— (A) determine the size and demographics of the population of individuals with HIV/AIDS; (B) determine the needs of such population…; (C) establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant…; (D) develop a comprehensive plan for the organization and delivery of health and support services…; (E) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area, and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs; (F) participate in the development of the statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under part B;	▪ *Extensive guidance on key duties in RWHAP Part A Manual, with separate chapters on Needs Assessment, Comprehensive Planning, Priority Setting and Resource Allocations, and the Statewide Coordinated Statement of Need RWHAP Part A Manual, Section XI. Planning and Planning Bodies, Chapters 3-6]* ▪ Legislatively required tasks include: - "Conduct an assessment of local community needs. - Develop a comprehensive service plan, compatible with existing State and local plans. - Allocate funds according to service priorities set by the planning council. - Participate along with other Ryan White partners in the development a Statewide Coordinated Statement of Need (SCSN) to enhance coordination among Ryan White HIV/AIDS programs in addressing key HIV/AIDS care issues. - Coordinate with Federal, State, and locally funded grantees providing HIV-related services. - Assess the efficient administration of funds." [p 80]

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
	(G) establish methods for obtaining input on community needs and priorities which may include public meetings…, conducting focus groups, and convening ad-hoc panels; and (H) coordinate with Federal grantees that provide HIV-related services within the eligible area." [Section 2602(b)(4)]	
Conflict of Interest and Grievance Procedures		
Conflict of Interest: Planning Council	A planning council: ▪ **"**May not be directly involved in the administration of a grant" under RWHAP Part A. ▪ "May not designate (or otherwise be involved in the selection of) particular entities as recipients" of RWHAP Part A funds. [Section 2602(b)(5)(A)]	▪ "Planning councils are strictly prohibited from involvement in the selection of particular entities to receive [RWHAP] Part A funding." [p 191] ▪ "As part of their responsibility to determine how best to meet stated priorities, planning councils may stipulate what provider characteristics the grantee should look for in its procurement process (e.g., community-based AIDS service providers, multi-service organizations or public agencies that provide a specific service or target a specific population). They may also specify that providers should be sought in specific parts of the Eligible Metropolitan Area (EMA) or Transitional Grant Area (TGA)." [p 191] ▪ "While the legislation prohibits planning councils from participating or otherwise being involved in selecting particular entities for funding, they may be involved in selecting particular entities and individuals to carry out activities directly related to planning council functions and responsibilities" such as general planning council administrative duties, needs assessments, planning activities such as writing the comprehensive plan, assessment of the administrative mechanism, technical assistance, and program evaluation. [p 145]

Topic	Legislation: Ryan White HIV/AIDS Treatment Extension Act	Brief Summary of HRSA/HAB Definitions/Clarifications/Expectations *[Page references are from Ryan White HIV/AIDS Program (RWHAP) Part A Manual unless otherwise indicated]*
Conflict of Interest: Individual Members	An individual planning council member who has a financial interest, is an employee, or is a member of an entity that is seeking RWHAP Part A funds: ▪ will not "participate (directly or in an advisory capacity) in the process of selecting entities" for RWHAP Part A funding. [Section 2602(b)(5)(B)]	▪ **"**Conflict of interest can be defined as an actual or perceived interest in an action that will result—or has the appearance of resulting—in personal, organizational, or professional gain. To illustrate, conflict of interest occurs when a planning council member has a monetary, personal, or professional interest in a planning council decision or vote. Any group making funding decisions for a Ryan White program should be free from conflicts of interest." [p 143] ▪ "As appropriate, the definition may cover both the member and a close relative, such as a spouse, domestic partner, sibling, parent, or child." [p 147] ▪ "HAB/DMHAP expects planning councils to employ a variety of strategies to minimize conflict of interest and its potential adverse effects, such as keeping members self-aware of the potential for conflict of interest and using procedures that can minimize or address conflicts." Of particular importance are adoption of COI policies and procedures "and their routine and consistent application in planning council deliberations and decision making." [p 150] ▪ "Because of an individual member's relationship to the planning council, sound practice is not to have them serve on external review panels for the selection of [RWHAP] Part A providers." [p 144]
Grievance Procedures	▪ A planning council "(1) shall develop procedures for addressing grievances with respect to funding under this subpart, including procedures for submitting grievances that cannot be resolved to binding arbitration. ▪ "Such procedures shall be described in the by-laws of the planning council and be consistent with the requirements of subsection (c)" *[which call for model grievance procedure to be provided by the Secretary of HHS and planning council grievance procedures to be*	▪ "The Ryan White HIV/AIDS Program requires [RWHAP]Part A planning councils to establish procedures to address grievances related to funding. At local discretion, grievance procedures can also address other types of disputes faced by planning councils." [p 134] ▪ "HAB/DMHAP has developed model grievance procedures to guide local efforts in adequately addressing potential grievances….There should be periodic local review of grievance procedures and their implementation to ensure that legislative

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	reviewed by the Secretary]. [Section 3602(b)(6)]	requirements are being met and grievances are being resolved in a timely and appropriate manner. Any revisions in these grievances should be sent to the HAB/DMHAP project officer to be approved and kept on file." [p 134]
Planning Council Support and Operations		
Support/Funding	Among the allowable uses of administrative funds, which are capped at 10% of the total grant, are "all activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council…" [Section 2604(h)(3)(B)]	▪ "The planning council needs funding to carry out its responsibilities. HAB/ DMHAP refers to these funds as 'planning council support.' Planning Council Support funds are part of the 10 percent administrative funds available to the grantee for managing the [RWHAP] Part A program." [p 104] ▪ "The grantee must also ensure adequate funding for PC mandated functions within the administrative line item." [p 31] ▪ "The planning council must negotiate the size of the planning council support budget with the grantee and is then responsible for developing and managing that budget within the grantee's grants management structure." [p 104] ▪ "Planning council support funds may be used for such purposes as hiring staff, developing and carrying out needs assessments and estimating unmet need, sometimes with the help of consultants, conducting planning activities, holding meetings, and assuring PLWHA participation." [p 104]
Officers	"The council may not be chaired solely by an employee of the grantee" [Section 2602(b)(7)(A)]	"The planning council needs a chair or co-chairs. The legislation does not permit an employee of the [RWHAP]Part A grantee to serve as the chair of a planning council. An employee of the grantee may serve as a co-chair, provided the bylaws of the planning council permit or specify that arrangement. Bylaws should specify whether there is to be a chair or co-chairs and how they are selected. They may specify that the chair is to be appointed by the CEO or elected by the Planning Council. Often, if the chair is appointed by the CEO or is an employee of the

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		grantee, bylaws require that the planning council elect the co-chair. Sometimes bylaws require that one co-chair be a PLWHA." [p 100]
Member Training and Materials	"The Secretary shall provide to each chief elected official receiving a grant under [RWHAP Part A] guidelines and materials for training members of the planning council…regarding the duties of the council." [Section 2602(e)]	▪ "Members must be trained to enable them to fulfill their responsibilities, in accordance with guidance from" DMHAP. [p 80] ▪ "PC or planning body members must be trained regarding their legislatively mandated responsibilities and other competencies necessary for full participation in collaborative decision making." [FOA HRSA-17-030, RWHAP Part A Continuing Continuation for FY 2017, p 22] ▪ Letter from PC/B included in the RWHAP Part A application must address "that ongoing, and at least annual membership training took place, including the date(s)." [FOA HRSA-17-030, RWHAP Part A Continuing Continuation for FY 2017, p 24]
Public Deliberations/ Open Meetings	"(i) The meetings of the council shall be open to the public and shall be held only after adequate notice to the public. (ii) The records, reports, transcripts, minutes, agenda, or other documents which were made available to or prepared for or by the council shall be available for public inspection and copying at a single location. (iii) Detailed minutes of each meeting of the council shall be kept…." [Section 2602(b)(7)]	"To comply with legislative requirements around open meetings and public access to minutes and other planning council documents, planning councils must: ▪ Ensure that meetings are open to all members of the general public and maintain a system that provides for public written notice of all council meetings. This includes publication of the meeting notices in local print media and through other forums accessible to the disabled (*i.e.*, the hearing- or speech-impaired). Meeting times and locations should be announced on the planning council or health department website and on other appropriate online media. ▪ Have a summary of the minutes that has been approved by the planning council and certified by the chair of the planning council available for public inspection. Both the minutes and other documents or materials made available to or prepared for the planning council should be available to the public within six weeks after the meeting date.

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		▪ Have a publicly accessible location where minutes and other legislatively required information can be inspected and copied if requested. It is important that detailed minutes are required….Minutes need to be able to show how the Council arrived at their funding decisions, especially if there is a grievance." ▪ …"Make available for public inspection records of the recommendations made by committees or other subgroups to the planning council, as well as the subsequent actions taken by the planning council. A sound practice to implement this requirement is to post approved planning council and committee minutes on the planning council website. ▪ Where local, county, or State regulations, ordinances, or statutes are more stringent than Ryan White requirements, follow these more stringent requirements. For example, many States and municipalities have open meeting laws that have very specific public notice or other requirements. Planning councils must adhere to these requirements, and planning council members and support staff should receive information and training about these requirements." [pp 100-101]
Public Disclosure of Member Status	"The requirement for public deliberations "does not apply to any disclosure of information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy, including any disclosure of medical information or personnel matters." [Section 2602(b)(7)] *[Legislation does not address public disclosure of status by consumer members]*	▪ At least two of the unaligned consumer representatives must publicly disclose their HIV status. [p 109] ▪ The planning council must "take appropriate steps to guard against disclosure of personal information that would constitute an invasion of privacy. For example, minutes should not indicate the HIV status of planning council members unless they are publicly disclosed, and should never provide medical or health status information about a member." [p 101]

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Relationship between the Recipient and Planning Council/Body		
CEO Responsibility for Planning Council/Body	"To be eligible for assistance under *[RWHAP Part A],* the chief elected official…shall establish or designate an HIV health services planning council." [Section 2602(b)(1)]	"The CEO must establish a planning council and, once the planning council is established, appoint members through the planning council's nominations process. For the TGAs funded after 2006, the CEO has the option of establishing a planning council or a process for securing community input….CEOs must enable planning councils to carry out their legislatively mandated responsibilities…." [p 80]
Recipient Compliance with Priorities and Allocations Set by the Planning Council/Body	"The Secretary…may not make any grant…to an eligible area unless the application submitted by such area… demonstrates that the grants made…to the area for the preceding fiscal year (if any) were expended in accordance with the priorities…that were established…by the planning council serving the area." [Section 2603(d)]	▪ "The planning body must provide the grantee or administrative agent with the results of the priority setting and resource allocation process, both to include in the [RWHAP] Part A application and as a basis for the selection of providers (the procurement process)." [p 219] ▪ The letter of assurance provided by the planning council or the letter of concurrence provided by the planning body for submission with the RWHAP Part A application must indicate whether "Formula, Supplemental, and MAI funds awarded to the EMA/TGA are being expended according to the priorities established by the PC or planning body." [FOA HRSA-17-030, RWHAP Part A Continuing Continuation for FY 2017, p 23]

Model Priority Setting and Resource Allocations (PSRA) Process[1]

Introduction

Following are suggested processes and steps in priority setting and resource allocations (PSRA) for a Ryan White HIV/AIDS Program (RWHAP) Part A program. This model reflects guidance from the *RWHAP Part A Manual* as well as practical experience. It was originally developed for use by several new Transitional Grant Areas (TGAs) facing the challenges of getting their programs and planning councils up and running and at the same time planning for the following year. The model has also been used, with refinements, by experienced TGAs and Eligible Metropolitan Areas (EMAs) that wanted to transition from a committee-based PSRA process to a more inclusive process with the full planning council actively involved in decision making about priorities, allocations, and directives.

Preparations

1. **Agree on the priority-setting and resource-allocation process and its desired outcomes.** Decide on the procedures, and address such factors as the following:
   - **How decisions will be made –** by consensus? By voting individually or on a slate? In some way that provides a "secret ballot" (and requires time for aggregation)?
   - **How you will manage conflict of interest:** A suggested policy is that any funded RWHAP Part A provider must declare all funded service categories (e.g., areas of conflict of interest) at the beginning of the session, and neither initiate discussion nor vote on priorities or allocations for those service categories. S/he can answer questions directed by other members, and can vote on priorities and allocations when they are presented as a whole list.
   - **What groundrules you will need to keep order and accomplish the work.** You will need to develop an agenda, responsibilities for facilitation and presentations, as well as recording decisions, how to deal with questions about policy and process, etc.
   - **How you will keep the process data-based and avoid "impassioned pleas."** Ideally, "new" data should not be presented during the decision making – information should be presented as part of the data presentation, when there is time to discuss and assess it. This may be hard to accomplish if the data presentation is the same day as the PSRA process. However, members should avoid presenting anecdotal information or personal experiences during the decision making, focusing on needs assessment and cost/utilization data rather than a single person's experience. Someone (staff or facilitator or a member of the Planning Council) should be responsible for reminding people when this principle is being violated.

[1] Prepared by Emily Gantz McKay for Mosaica in 2007, for use by several newly established TGAs and later used with EMAs. Updated many times, most recently for EGM Consulting, LLC (EGMC) in December 2016.

From: Compendium of Materials for Planning Council Support Staff. EGM Consulting, LLC. 2018.
Available at: www.targetHIV.org/planning-chatt/pcs-compendium

2. **Agree on responsibilities for carrying out the decision-making process.** This first year, presumably it will be the partially formed initial Planning Council with input and assistance from the recipient staff.
3. **Be sure everyone is aware of the National HIV/AIDS Strategy goals, the HIV Care Continuum/Treatment Cascade definitions,** and the TGA's own goals and priorities from the most recent comprehensive/integrated plan.
4. **Review relevant legislative requirements and program guidances.** Be particularly clear on the 75% core services requirement. Become familiar with the new service definitions.[2] Arrange to have these materials available at the PSRA meeting, and to present them at the beginning of the meeting to ensure a common understanding of requirements, expectations, and allowable service categories.
5. **Determine and obtain available information "inputs," including needs assessment and cost and utilization data,** and prepare user-friendly summaries for use by the Planning Council. Ideally, summarize findings in a brief, user-friendly document. One approach is to develop two sheets that summarize information to be used in priority setting and resource allocations:
    a. **Service Categories Data Sheet—**The first data sheet will focus on service categories (listed in the first column in order of their current priority), including all 13 core services and those support services that were prioritized in the current program year, plus others that are of possible interest. There will be a column for each available data/information source – e.g., epi data, service utilization and cost data, PLWH survey, estimate and assessment of unmet need, focus groups, and provider profiles.
        - Data from each source will be summarized – major findings related to demands for and use of that category, whether PLWH indicated problems in access or quality, trends, etc.
        - A very small number of charts or tables or other data summaries can be presented along with the summary data sheet for each information source – for example, a utilization chart that indicates budgeted versus actual expenditures by service category for all of the past program year [might be services funded through the Emerging Communities Grant for a new TGA] and available information for the first few months of the current year, along with unit or per client costs.
        - This information will be valuable for priority setting and/or allocations. For example, the epi data and client interviews will be particularly helpful for priority setting, while utilization and unit costs data will be useful for allocations.
    b. **Populations Data Sheet -** The second data sheet will focus on populations (listed in the first column) and use the same data sets as the first data sheet in the remaining columns.

[2] See Policy Clarification Notice 16-02, at https://hab.hrsa.gov/sites/default/files/hab/program-grants-management/ServiceCategoryPCN_16-02Final.pdf

- This data sheet will include in the first column such population groups as women and men, various age groups, racial/ethnic groups, and populations by location (e.g., central city/county, outlying counties).
- The other columns will summarize types of information about these populations, from the various needs assessment sources and from client utilization data epi data versus client characteristics (to see which groups are over- or under-represented among clients), major barriers to care, service gaps, unmet need for HIV-related primary medical care, and client satisfaction with services.
- Information from this data sheet will be drawn from all data sources. Some desired information will not be available – but might be sought as part of needs assessment in future years.
- This information will be useful in priority setting and allocations, and will be particularly helpful in preparing directives for the recipient on how best to meet the priorities.

6. **Prepare a summary chart of the funding provided for major service categories through other funding streams** (sample provided). Be sure this is available for the PSRA process.
7. **Identify a list of service categories for consideration, including definitions, components, and how best to deliver each service.** Begin with those funded the current year, but consider all 13 core services and any support services that may possibly be of interest. Prepare a worksheet that lists all the service categories to be considered. Present them putting current prioritized services first, in their order of priority (sample attached).
8. **Agree on principles to be applied in decision making,** such as the following:
   - **Priorities and allocations are data-based.** This means that decisions are based on the data, not on personal preferences or individual experiences. Planning Council members are required to participate in the data presentation in order to participate in priority setting and resource allocations, and to be part of the full PSRA process (cannot come in for allocations but miss priority setting and review of requirements/expectations/procedures).
   - **Conflicts of interest are stated and managed.** Planning Council members state areas of actual or perceived conflict. They do not participate in discussions about service categories in which they have a conflict. Voting on priorities and allocations is done through completion of individual forms, to minimize the likelihood that any member feels pressured to take a particular position about priorities or allocations.
   - **Data from different sources are "weighted."** The more reliable the data source and the larger the number of PLWH perspectives involved, the greater weight given to that data in setting priorities and allocating resources. Anecdotal data and "impassioned pleas" may have been presented in discussions or in focus groups and surveys, and they become one of the data sources considered. But they should be given less weight than a survey of hundreds of people or other more formal needs assessment data sources.
   - **The priorities and allocations from the prior year serve as the base for decision making this year.** This means using the priorities and allocations form submitted to HRSA/HAB in

last year's application. The group may well make major changes based on experience gained, and on additional information about service needs/gaps and availability. The full-year experience from the prior year [for new TGAs, when part of the TGA was an Emerging Community] should also be considered – including priorities, allocations, and any unmet demand for services such as waiting lists.

- **Needs of specific populations and geographic areas are an integral part of the discussion,** in the data presentations and the decision making. They also lead to directives to the recipient on how best to meet the priorities.
- **Decisions should help to ensure parity in access to care,** for all Ryan White-eligible HIV/AIDS population groups and for PLWH/A regardless of where they live in the TGA.
- **There will be a major focus on improving performance on the HIV Care Continuum/Treatment Cascade,** focusing on areas of concern – such as linkage to care or retention in care. Reducing unmet need (the number of people who know they are HIV-positive but are not in care) requires deciding how many "new" or "lost to care" clients should be identified, estimating the mix of services they will need from RWHAP Part A, and allocating funds sufficient to meet those needs. Where a choice needs to be made between providing a wider range of services to more individuals and getting additional people into care, the Planning Council will give priority to getting more people key services (among them primary care and medications).
- **The Planning Council will keep in mind current TGA goals, objectives, and priorities from its comprehensive integrated plan** to be sure they receive appropriate attention in decision making.

9. **Agree on the process for priority setting:** this includes the criteria for deciding whether to include a particular service category and determining its relative priority, and the decision-making/voting process. ***Priority setting means determining what service categories are most important for PLWH in the TGA. Priorities should not be influenced by availability of funding or by who provides the funding for these services.*** You cannot allocate funds to a service category unless you have prioritized it. At a minimum, this process should include:
   - Look at the full list of allowable service categories, and clarify service definitions. Clarify which are core services and which are support services.
   - Review the current list of priorities against the needs assessment data.
   - Identify any service categories not prioritized last year that appear important, given the data.
   - Identify and agree to include some service categories that may not be fundable next year due to resource limitations, but that appear to be needed – in other words, prioritize more service categories than you believe you can fund. That way, you can add them if you get more funding or need to reallocate.
   - Agree as a group on priorities if possible. If there is substantial disagreement, or if any members feel it is important to do priorities by "secret ballot," vote anonymously and individually. One approach: Each Planning Council member receives a Priority Setting Work Sheet or a set of index cards that each lists and defines one service category, and

puts them in desired priority order. Staff then averages the priority rankings to get a cumulative ranking.

- Review the aggregate rankings and adjust as needed.
- Review the priorities against the core services list and be sure there is a rationale if any are *not* prioritized (you are required in the RWHAP Part A application to give a rationale if you do not fund any core service – it is OK not to prioritize or fund them, but you should *consider* them all).
- Agree on a final list of priorities based on your chosen decision-making process and be sure everyone understands the list and its implications. Differentiate core and support services before you start making allocations.

10. **Agree on the process for resource allocations:** principles, criteria, decision-making process, and data to be available for allocating funds to service categories. ***Resource allocation is the process of deciding how much funding to allocate to each priority service category.*** In allocating resources, it is important to:
    - Decide whether to use multiple "scenarios." A typical approach is to allocate assuming flat funding, a 5% increase, and a 5% decrease. Develop worksheets with the totals already determined (samples provided).
    - Review the needs assessment data and cost and utilization data to learn whether there are any waiting lists for currently funded services or whether there is limited access to some services.
    - Keep in mind key legislative requirements that:
        - 75% of service dollars must be used for identified core medical services.
        - RWHAP Part A programs are required to include in their applications a rationale for *not* funding specific core services.
        - Support services must contribute to positive clinical outcomes for clients.
    - Review current allocations and available utilization data to see if there appears to be the expected level of demand and expenditure (data may be limited). [For new TGAs, review Emerging Communities data if available.]
    - If possible, determine the approximate cost per client per year for providing the service. This helps you decide how much to allocate based on how many clients you expect to serve in each service category.
    - Begin with the flat funding scenario.
    - Consider the total number of clients you expect to serve, and make rough estimates for the number of clients you will serve in each service category. First look at current clients. Then consider the number of new clients you expect to bring into care during the next fiscal year. Hopefully you will have information from staff about the mix of services they are likely to need and the proportion that are likely to need medical care funded by the program. Include them in your estimates of number of clients by service category.
    - Have available information on other funding streams (sample provided), since Ryan White is the payer of last resort. Review those data just before doing the allocations.

- Begin to allocate funds to each service category based on costs per client. Use a worksheet that calculates costs and totals for you (sample provided).
- If there are disagreements, vote as you go on key decisions like number of clients to be served.
- Review initial allocations to see the totals, and adjust as needed.
- Review to be sure you are meeting the requirement that 75% of service funding be allocated to core services. Adjust as needed.
- Complete the worksheet, and have a final vote or use a consensus process to be sure it has the support of the majority of the Planning Council members participating.
- Once you have completed the first scenario, go to the plus 5% and then the minus 5% scenarios. In doing these allocations, you may want to fund additional service categories for the plus 5% scenario, and fewer categories for the minus 5% scenarios. Do not simply add 5% to or subtract 5% from each service category, although you may want to see what that would provide. Consider the following:
  - It doesn't make sense to simply make percentage reductions to all categories. Core services may need their full funding, and because sometimes the amount left becomes so small that the contribution to care will be minimal and/or it is no longer a reasonable program for a provider.
  - It may make sense to fund additional service categories with the plus 5% scenario, to broaden the system of care. Or you may prefer to bring more people into care, and add funds to key service categories to support them. Decide based on your unmet need, other needs assessment, and cost and utilization data. Use a cost-per-client approach to determine final allocations.

  Be sure to vote or get final consensus.

11. **Agree on a process for developing directives.** ***Directives are guidance to the recipient on how best to meet the priorities and other factors to consider in procurement.*** They often specify use or non-use of a particular service *model*, or address *geographic access to services, language issues, or focus on specific populations.* They will arise as the group discusses issues of parity – how to ensure there are services in outlying counties – and obstacles to care – like the need for evening and weekend hours at primary care facilities. Where the Planning Council feels strongly that the recipient needs to take a particular action regarding a service model or access issue in order to implement the services as prioritized, it can prepare a directive. The Planning Council needs to be aware of cost implications of directives – evening or weekend hours are important, but will increase costs. The RWHAP Part A recipient must follow Council directives in procurement and contracting, but the directive must not limit the procurement process by making only one or two entities eligible to apply.

PSRA Implementation

1. **Provide a Data Presentation to the Planning Council, using the Data Sheets and supporting information.** This may happen at a meeting before PSRA is done (ideally) or be the first segment of the same meeting. A typical process:
   - Staff will present data from each source, with the involvement of Planning Council members (in future years, hopefully the Needs Assessment Committee will review different kinds of data and help with the presentations). Recipient staff will present data from their work (e.g., utilization, unit costs and costs per clients, quality management – whatever is currently available).
   - Greatest attention during the presentation will be on data that need the most interpretation or explanation to be understood and used by Planning Council members.
   - Ideally, the presentation should occur at a meeting prior to the priority setting and resource allocations process, so Planning Council members have time to discuss and absorb the information before using it in decision making.
   - Planning Council members will be instructed to give more weight in their decision making to data that is more reliable and represents information from larger number of PLWH.
2. **Introduce the PSRA process.** Begin the PSRA session (or the second segment of a combined data presentation-PSRA session) by reviewing the tasks to be accomplished and your own groundrules, principles, and procedures. Answer questions. Ensure clarity on the process and recognition of the need to work some things out as you go.
3. **Carry out priority setting.** This process should follow the principles already determined (see Preparations, #8). Be sure there is a clear presentation of the steps in priority setting and agreement on how decisions will be made *before* starting. Emphasize that the Planning Council will look at essential and core services and at other services that may be important based on needs assessment data. All priorities will be reviewed. All core services will be considered. Be sure there is an understanding of the service definitions for each service category. Generate a rank-ordered list of priorities that identifies core and support services.
4. **Allocate resources to the priority service categories.** Use the principles and process developed earlier (see Preparations, #9) to allocate resources. Be sure there is understanding about the principles and decision-making process and about the use of three scenarios.
5. **Provide directives to the recipient on how best to meet the priorities.** Usually there will be only a few directives. Perhaps the group will have general ideas for directives, or perhaps there will be concerns that need to be met – for example, make sure services are available and accessible in outlying counties, make sure there are providers with Spanish-speaking staff, deal with cultural competency issues within all providers. Don't worry about the precise language – focus on identifying issues that the recipient should consider, and the recipient can help figure out how to address them in the procurement or contracting process.

6. **Schedule a review of the process within a month after implementation,** and identify changes needed for next year. Many programs ask Planning Council members to assess the PSRA process at the end of the meeting, and use this information for process improvement.

Assessing the Efficiency of the Administrative Mechanism: An Introduction[1]

Legislative Requirement:

The Ryan White HIV/AIDS Treatment Extension Act requires each Ryan White HIV/AIDS Program (RWHAP) Part A program's planning council or body (PC/B) to "assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs."[Section 2602(b)(4)(E)]

Some PC/Bs become involved in assessing the effectiveness of services, usually in coordination with recipient activities related to CQM, performance measures, and clinical outcomes. This brief document focuses on the assessment of the efficiency of the administrative mechanism.

What is an "assessment of the efficiency of the administrative mechanism"? HRSA/HAB Expectations:

This assessment is a review of how quickly and well the RWHAP Part A recipient (and administrative agency, if one exists) carries out the processes to contract with and pay providers for delivering HIV-related services, so that that the needs of people living with HIV/AIDS (PLWH) throughout the RWHAP Part A service area are met – with emphasis on PLWH and communities with the greatest need for Ryan White services.

The *RWHAP Part A Manual says:*

"Its purpose is to assure that funds are being contracted for quickly and through an open process, and that providers are being paid in a timely manner….

Generally, assessments are based on time-framed observations of procurement, expenditure, and reimbursement processes. For example, the assessment could identify the percent of funds obligated within a certain time period (e.g., 90 days) from the date of grant award and the percent of providers that are reimbursed within a specified number of days following submission of a monthly invoice. Reimbursement processes can be tracked from date of service delivery through invoicing to payment, with documentation delayed payments and, where feasible, any adverse impact on clients or providers. This information is usually obtained from the grantee in aggregate form. Sometimes the planning council will arrange to obtain information directly from providers…." [p 101]

Each RWHAP Part A Planning Council/Body (PC/B) is expected to conduct such an assessment annually. This is the only PC/B task that involves looking at procurement and contracting, which are recipient responsibilities.

[1] Prepared in April 2017 for DMHAP under Task Order TA003111 through MSCG/Ryan White TAC

HRSA/HAB expects each PC/B to conduct an assessment of the efficiency of the administrative mechanism (AEAM) annually, provide a written report with conclusions and recommendations to the recipient, and receive a written response from the recipient. These reports are occasionally requested as an attachment to the annual competitive RWHAP Part A application, or the Notice of Funding Opportunity (NOFO) asks for a summary of findings and recommendations and the recipient's response.

Scope:

Topics covered in the AEAM typically include the following:

- **The procurement process** – including outreach to potential new service providers (officially known as "subrecipients"), dissemination of the Request for Proposal (RFP), number of applications received and funded, the review process including use of an external review panel (ERP) and the composition of that panel, and criteria used in selection of subrecipients as service providers.
- **Contracting** – including the length of time between Notice of Grant Award to the recipient and completion of fully executed subcontracts with providers.
- **Reimbursement of subrecipients** – including the monthly reporting and invoicing process and the length of time between recipient (or administrative agency) receipt of an accurate invoice with required documentation and issuance of a reimbursement check to the provider, as well as obstacles to timely reimbursement.
- **Use of funds** – whether contracting and expenditure of RWHAP Part A funds are consistent with allocations made by the planning council [planning bodies that are not planning councils offer only recommendations, so this requirement does not apply to them], and the proportion of formula and supplemental RWHAP Part A funds that are expended by the end of the program year. The PC/B needs this information for the Letter of Assurance it is expected to prepare each year for inclusion in the RWHAP Part A application.

In addition to these essential topics, the AEAM sometimes also addresses another topic important to the PC/B:

- **Engagement with the PC/B in the planning process** – how and how well the recipient and PC/B work together to carry out shared and coordinated planning tasks, to meet legislative requirements, the extent to which the PC/B receives the data needed for sound decision making, and evidence of success in maintaining and strengthening the system of HIV care, to desired performance and standards and clinical outcomes are reached. If there is an MOU between the PC/B and recipient, the assessment looks at the extent to which both parties met their commitments, with emphasis on the extent to which all agreed-upon data and reports from the recipient were received on schedule by the PC/B and its committees. PC/Bs and recipients often agree to include this information as a useful way to assess their relationship and compliance with mutual commitments.

Sometimes PC/Bs want to include monitoring or other aspects of recipient management in the AEAM – but HRSA/HAB does not support this: "The planning council should not be involved in how the administrative agency monitors providers" [*RWHAP Part A Manual,* p 102].

Methods:

PC/Bs use a variety of methods to carry out their AEAMs. The Most often information is collected through a combination of the following:

- **A survey of funded providers** (known as "subrecipients,") to learn about their experiences related to procurement, contracting, and reimbursement; this is often done using an online survey format and a combination of multiple-choice or rating-scale questions and a few open-ended questions. PCS staff or a consultant typically receive, aggregate, and summarize results for PC/B review. Some PC/Bs do a provider survey every year, others every other year.

  Tip: To obtain a reasonably high response rate (more than half the funded providers): keep the survey as short as possible, and use questions that just require a rating or checking a box; and be sure the survey is sent to the person with the information to complete it, and be prepared to nag.

- **Obtaining of summary information from the recipient** about each of the topics; for example, this is likely to include the percent of contracts fully executed within 30, 60, and 90 days after notice of grant award; the average time (and the range of days) required each month for the recipient to issue checks to funded providers following receipt of accurate invoices; and the amount and percent of RWHAP Part A funds allocated by the PC/B to each service category versus the amount and percent actually spent on each service category. Recipients sometimes report information annually, sometimes provide some data quarterly or twice annually.

  Tip: Agree with the recipient on data to be requested, and if possible on a chart format. Reach agreement at the *beginning* of the program year. This will make it easier for the recipient to collect information throughout the year and provide the needed information promptly.

- **Review of expenditure and related data,** usually provided to the PC/B monthly by the recipient, including expenditures by service category, under- and over-expenditures, and progress and concerns related to funding, contracting, and program management.

  Tip: As with the summary data provided annually, reach agreement with the recipient at the beginning of the year on the scope and format of monthly data reports, including a chart of financial data chart and a template for narrative updates. Maintain the same format year after year if it works well, but review content and format at least every two years, and agree on changes as needed.

- **A survey of PC/B members** to obtain their perspectives on PC/B-recipient engagement in the planning process, including such issues as whether promised data and reports were received by committees for use in decision making.

Tip: Use mostly multiple-choice and rating-scale questions, and focus on the agreed-upon scope of the survey. Give an online option, but also be prepared to provide hard copies of the survey to members during a PC/B or committee meetings, to get a high response rate.

Once all the information has been collected, and data from provider and PC/B members has been aggregated and summarized by question and topic, the responsible committee reviews the data, identifies findings for each question and topic area, and agrees on conclusions and recommendations. Often the committee outlines the content, and then either a subcommittee or the PCS staff (or consultant) prepares the report.

Challenges:

- **Reviewing data without provider names:** The assessment is usually carried out jointly by a PC/B committee and a Planning Council Support (PCS) staff member or consultant. PCS staff involvement is particularly important because of the expectation that, in all their work, PC/Bs receive and discuss data about providers only in the aggregate, overall or by service category, not by agency name. Assessing the efficiency of the administrative mechanism usually involves obtaining information from individual subrecipients. PCS staff (or a consultant) typically receives provider surveys and aggregates that information, so the PC/B committee receives combined data but members do not see information that identifies the subrecipients by name.

Scope and Methodology: Assessment of the Administrative Mechanism, Orlando EMA

Scope: "This report addresses the following areas: a) the extent to which the recipient's office follows the Planning Council's directives regarding the Ways to Best Meet Needs and their spending priorities; b) the renewal and contracting processes; c) the filing/ reimbursement process; d) survey findings based on responses from Providers and Planning Council members; e) interviews with Recipient, Fiscal and Procurement staff; and file reviews of invoices and contracts."

Methods: "Various methods were used to collect the information needed to address the assessment of the Administrative Mechanism. These methods included: a literature review, including a review of previous and other EMA's reports; Analysis of completed 2015 -16 Provider survey and Planning Council member surveys; interviews with the Recipient, Fiscal and Procurement departments; and file reviews. The Provider and Planning Council Member surveys were handled confidentially which enabled candid responses without repercussions."

- **"Mission creep":** As the *RWHAP Part A Manual* indicates, "This is the only situation in which the planning council considers issues related to procurement and contract management, which are the grantee's sole responsibility." Assessing the administrative mechanism is not meant to be an evaluation of the recipient or of individual subrecipients/service providers. There is sometimes a tendency to broaden the scope of the AEAM to include issues that are not

appropriate for PC/Bs to address. PCS staff should be familiar with HRSA/HAB guidance through the *RWHAP Part A Manual,* and help avoid this situation.

Examples of Methods and Tools:

Some Planning Councils post their assessment reports. The box on this page summarizes the methodology used for the Orlando EMA HIV Services Planning Council's FY 2015 assessment of the administrative mechanism; the report is available online.[2] The box that follows describes the methods and sources used by the Tampa/St. Petersburg EMA for its FY 2012 assessment; that assessment report, including tools, is also available online.[3] Both assessments follow *RWHAP Part A Manual* guidance on the scope of the assessment.

Methodology for the Assessment of the Efficiency of the Administrative Mechanism, West Central Florida Ryan White Care Council, FY 2012-2013

"The Assessment of the Administrative Mechanism examines the allocations determined by the Care Council, contracting of those services, and reimbursement for those services. Data was collected through the following means:

- Provider Survey
- Care Council Survey
- Review of Care Council Approvals of Allocations and Re-allocations
- Review of Provider Contracts and Contract Amendments
- Review of Provider Invoices and Reimbursement Records
- Review of Committee Meeting Minutes
- Interviews with Grantee staff, provider staff, and Care Council members

Both the Provider Survey and the Care Council Survey questions were reviewed by the Resource Prioritization and Allocation Recommendations Committee (RPARC). The Health Council of East Central Florida announced the surveys via email, which provided a link to the web-based survey tool."

Planning Councils often use rating scales as response categories for surveys of funded RWHAP Part A providers and Planning Council members. For example, the Memphis Area Ryan White Planning Council uses the following rating scale for all survey questions[4]:

[2] Center for Change, Inc., "Assessment of the Administrative Mechanism, Fiscal Year 2015/2016," Orlando EMA HIV Service Planning Council, available at: https://www.orangecountyfl.net/Portals/0/Resource%20Library/families%20-%20health%20-%20social%20svcs/Ryan%20White/Assessment%20of%20the%20Administrative%20Mechanism.pdf.

[3] Health Council of East Central, under contract by The Health Councils, Inc., "West Central Florida Ryan White Care Council Assessment of the Administrative Mechanism RWHAP Part A, 2012-2013." Available at: http://thecarecouncil.org/wp-content/themes/RyanWhite/files/AAM%20Part%20A%202012% 2013%20Report%20Final.pdf.

[4] See Memphis TGA Assessment of the Administrative Mechanism, September 2015. Available at http://hivmemphis.org/wp-content/uploads/2015/02/2015-Assessment-of-the-Administrative-Mechanism-dpy.pdf.

- Fully/always
- Partly/usually
- Slightly/rarely
- Not at all/never
- N/A - Don't Know

Orlando uses the following scale:

- Strongly agree
- Agree
- No opinion
- Disagree
- Strongly disagree
- Not applicable

Questions should be clear and direct. For example, here are several questions for providers regarding the procurement process and reimbursements:

- The recipient provides feedback to each bidder
- The recipient processes invoices within two weeks of submission
- The recipient issues payments within 45 days following submission of complete, accurate invoices
- The Grantee Office staff informed my agency of reallocation processes and the requirements of our spending plan in order to make necessary adjustments during the year

These questions are part of the Planning Council survey and address how the recipient works with the Planning Council and whether it follows allocations and directives established by the Council:

- The Planning Council receives regular monthly reports on service utilization and expenditures by service category
- The Planning Council receives a year-end summary of expenditures, utilization, unit costs, and client demographics by service category
- The recipient has a staff member at each committee meeting except when asked not to attend
- The recipient's contracting follows Planning Council service category priorities, allocations, and reallocations
- The recipient implements directives from the Planning Council on how best to meet priorities

PC/Bs are usually willing to share tools and reports. PCS staff should contact colleagues for advice and assistance when needed -- and post their own methods, tools, and reports on PC websites where feasible.

Typical Responsibilities for Committee and Planning Council/Body (PC/B) Meetings: PC/B Leaders and PC Support (PCS) Staff[1]

Area of Responsibility	Senior Leaders (Chair/Co- or Vice Chairs)	Committee Chairs/Co-Chairs	Planning Council Support (PCS) Staff
Preparation for Committee Meetings	• Communicate with Committee Chairs about any issues that need to be addressed and any action items committee needs to recommend at the next Executive Committee meeting (Each senior leader responsible for such communication with half the committees, based on agreed-upon assignments)	• Work with PCS staff on preparations at least one week before the meeting • Work with assigned PC support staff member to develop an agenda and agree on needed materials • Work with Staff as appropriate to prepare materials • Communicate with staff if unable to attend and chair the committee (should occur as soon as Chair is aware s/he cannot attend)	• If PC/B has multiple staff, have a person assigned to each committee; usually best to have the same person attend regularly for continuity and expertise • Handle logistics for committee meetings – send out notices at least one week before the meeting, post meeting schedule on website, arrange meeting locations, arrange food • Request and receive RSVPs from Committee members (should be received 48 hours before the meeting – or set local deadline for excused absence) • Work with Committee Chairs/Co-Chairs to prepare an agenda with action items (contact them at least one week before the meeting) • Work with Committee Chairs/Co-Chairs on preparation of materials for mail-out and identification of any supplemental resources PCS staff should bring to the meeting • E-mail materials to members 3-5 days before meeting (agenda, prior meeting minutes, content information needed for deliberations and decision making) – set local minimum time for review; arrange to send hard copies as necessary based on specific member needs, access to printer • Set up conference call if necessary, and send out call-in number • Check with Chair/Co-Chairs 24 hours ahead to review arrangements and RSVPs

[1] Prepared by Mosaica and updated by EGM Consulting, LLC; most recent update for DMHAP in March 2017

Area of Responsibility	Senior Leaders (Chair/Co- or Vice Chairs)	Committee Chairs/Co-Chairs	Planning Council Support (PCS) Staff
Committee Meetings	• Where possible, attend meetings of assigned committees, usually serving as an *ex officio,* non-voting member [unless Bylaws specify something different] • Offer advice and assistance as needed	• Chair meeting • Ensure that Committee follows agenda, and discusses and votes on action items that need to be recommended to the Executive Committee and full PC/B • If this is not doing by the PCS staff, prepare bullet points summarizing decisions and next steps, as well as any specific requests to the recipient	• Handle logistics at meetings: set up communications, food • Staff committee meeting • Take attendance, documenting excused and unexcused absences • Take minutes, including exact wording of resolutions and results of voting or consensus reached [*Note:* In a PC/B with limited staff resources, sometimes the Chair/Co-Chair or another committee member takes responsibility for minutes; in such situations, PCS staff must ensure that minutes are taken and prepared for review] • Record and summarize any data or information requests from the committee to the recipient
Committee Meeting Follow Up	• Where attendance at committee meeting was not possible, communicate with the Committee Chair/Co-Chairs to receive an update and identify issues that will be coming to the Executive Committee	• Review draft minutes • Identify issues and activities that will need to be addressed at the next Committee meeting and work to be done in preparation for the next meeting • Communicate with PCS staff about needed follow up such as data requests to the recipient	• Prepare minutes and provide to Committee Chair/Co-Chairs for review; revise based on their input [or if policy allows for this, assume permission is given to share the draft minutes if no changes are received within a specified period]
Preparation for Executive Committee Meetings	• Work with PCS staff on agenda and review action items from committees • Work with staff to ensure appropriate materials are available	• Work with PCS staff to ensure that Committee materials needed for the Executive Committee are prepared/revised • Prepare Committee report to PC (oral/written) • Inform staff if unable to attend Executive Committee	• Handle logistics – send out notices at least one week before the meeting; arrange food • Request and receive RSVPs from Executive Committee members (should be received at least 48 hours before the meeting) • Work with whoever chaired each Committee meeting to finalize committee materials needed for Executive Committee review and action • Work with Co-Chairs on meeting agenda and action

From: Compendium of Materials for Planning Council Support Staff. EGM Consulting, LLC. 2018.
Available at: www.targetHIV.org/planning-chatt/pcs-compendium

Area of Responsibility	Senior Leaders (Chair/Co- or Vice Chairs)	Committee Chairs/Co-Chairs	Planning Council Support (PCS) Staff
		meeting (as soon as this is known)	items • E-mail materials to members at least 48 hours before meeting (agenda, prior meeting minutes, committee reports/action items, and other content information needed for deliberations and decision making) • Set up conference call if necessary and send out dial-in number • Check with PC/B senior leadership 24 hours ahead to review arrangements and RSVPs • Provide Chair (or Secretary, if the PC/B has one) a list of excused absences for upcoming meeting
Executive Committee Meetings	• Chair meeting • Provide leadership and advice as needed	• Make Committee report, present action items, and request recommendation from the Executive Committee to the PC	• Handle logistics at meetings: set up communications and food • Staff meeting • Make staff report • Take minutes
Preparation for Planning Council/Body (PC/B) Meetings	• Work with PCS staff on agenda and review action items from Executive Committee • Communicate with staff about issues and possible concerns and make needed preparations to address them	• Revise/refine Committee report and action item presentation as needed, based on Executive Committee discussion/action • Work with staff on revisions as needed to written materials for PC review • If unable to attend the PC meeting, inform staff as soon as this is known and agree on who will present the report for the Committee	• Handle logistics – send out notices at least one week before PC meeting, arrange food • Prepare Executive Committee minutes and provide to senior leadership (or Secretary, if there is one) for review • Request and receive RSVPs from PC members (should be received at least 48 hours before the meeting) • Work with Committee Chairs/Co-Chairs to finalize committee materials needed for PC final review and action (based on Executive Committee direction) • Work with senior leaders on meeting agenda and action items • E-mail materials to members at least 2-3 days before meeting (agenda, prior meeting minutes, Executive Committee minutes, committee reports/ action items, and other content information needed for deliberations and decision making); provide

Area of Responsibility	Senior Leaders (Chair/Co- or Vice Chairs)	Committee Chairs/Co-Chairs	Planning Council Support (PCS) Staff
			printed materials to members based on need • Set up conference call if call-in is permitted, and send out call-in number with materials • Check with senior leaders 24 hours ahead to review arrangements and RSVPs • Provide senior leaders or Secretary list of excused absences for upcoming meeting
PC/B Meetings	• Chair and manage meeting • Provide leadership and advice as needed • Vote only when there is a tie	• Make committee report and presentation of action items brought forward from the Executive Committee	• Handle logistics at meetings: set up communications and food, provide sign-in sheets for members and public/guests • Make all needed arrangements for presenters • Staff meeting • Make staff report • Take minutes; includes recording votes and exact language of resolutions and other action items • Have copies of Bylaws, key policies and procedures for reference if needed • Obtain information from individuals making public comments if the PC/B indicates that any follow up is required • Unless the PC/B has a parliamentarian, be prepared to answer questions about procedures and about RWHAP legislation and PC/B guidance
Follow Up to PC/B Meetings	• Work with Staff to ensure appropriate follow up on actions taken or tasks referred to committees • Meet with people on behalf of the PC as needed	• If PC/B assigns any tasks to the Committee, ensure that work on these items is on the agenda for the next meeting	• Prepare minutes • Provide minutes to senior leaders (or first to Secretary if there is one) for review and make needed revisions • Follow up with Committee Chairs/Co-Chairs on any assignments made at the PC/B meeting • Follow up with the recipient on any requests made of the recipient during the PC/B meeting
New Members	• Where possible, attend and participate in new member orientation for those committees for which each	• Ensure that new committee members receive a personal orientation to the committee purposes and responsibilities,	• Work with Membership Committee to ensure prompt orientation of new members • Work with Committee Co-Chairs to ensure that new committee members receive a committee orientation

Area of Responsibility	Senior Leaders (Chair/Co- or Vice Chairs)	Committee Chairs/Co-Chairs	Planning Council Support (PCS) Staff
	senior leader is responsible	protocols for operations, annual plan and timeline, meeting schedule, relationship to other committees, any special processes and procedures, and how to read and analyze typical materials used by the committee • Play a lead role in this orientation	
Other	• Serve as spokespersons for the PC • Follow up with members who are not meeting attendance requirements	• Identify membership needs and communicate them to PC Staff and senior leaders • Recruit non-PC members for committee with help from Membership Committee • Ensure that committee prepares an annual written plan • Review progress towards plan • Arrange for any needed committee training, working with PCS staff	• Ensure that all communications related to committee leadership activities go by e-mail to both the senior leaders and to the Chair/Co-Chairs overseeing that committee • Maintain committee records • Provide advice and support to committee Chairs/Co-Chairs

Tip Sheet:
Effective Planning Council/Body (PC/B) Meetings[1]

1. **Be sure members and staff understand the importance of effective meetings to Planning Council/Body (PC/B) success.** A PC/B's ability to carry out its responsibilities for needs assessment, planning, and other decision-making roles, while ensuring broad-based community input, depends heavily on its ability to hold effective meetings.

   When meetings are effective, planning body and committee members are more likely to participate, feel involved, and choose to remain active. Effective meetings therefore contribute to member recruitment and retention as well as to the successful completion of planning body tasks.

2. **Recognize the symptoms of ineffective meetings so that changes can be made**. They include the following:
   - High levels of conflict
   - Divisions among members
   - Limited participation
   - Low attendance
   - Inability to complete scheduled tasks and decision making
   - A feeling that time is being wasted
   - A feeling that the PC/B is not making progress or making a difference

3. **Plan the meeting carefully:**
   - Establish meeting goals and use them to guide meeting planning and implementation
   - Plan the meeting location and ensure full access to all members, including individuals with limited mobility. Remember that the American with Disabilities Act (ADA) requires "reasonable accommodations" for individuals with disabilities including limited mobility[2] in federal programs – and a PC/B needs to ensure that accessibility is never a barrier to participation by PC/B members or the public.
   - Determine necessary attendance based on the agenda, and give as much advance notice as possible to needed individuals (anyone besides members and regularly attending PCS and recipient staff); this includes identifying whether a meeting would benefit greatly from community input, then actively urging the attendance of targeted groups

4. **Develop an agenda** that:
   - Starts with a core "standing" agenda that includes items that are almost always included
   - Includes items identified for action at the Executive Committee meeting before the PC/B meeting
   - States what must be accomplished by the end of the meeting
   - Lists in order every activity or topic of discussion planned for the meeting

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[1] Refined from information from the *Training Guide: Preparing Planning Body Members,* HIV/AIDS Bureau, 2002. Developed by Mosaica; updated by EGM Consulting, LLC.

[2] See "Introduction to the ADA" (undated), at https://www.ada.gov/ada_intro.htm.

- Schedules the most critical items relatively early in the agenda, when attendance is highest, to assure adequate time for discussion and full participant attention
- Includes time frames (starting and ending times) for the entire meeting and for each item
- Specifies who will present information for each section (such as a committee chair)
- Clarifies which items involve action items and which are for discussion only
- References relevant materials, preferably available in order and numbered by agenda item
- Is finalized by the Chair, working with PC Support staff
- Is sent out and posted online as required by open meeting/Sunshine laws and PC/B policies and procedures

5. **Be sure all needed materials are provided:**
   - Identify needed materials at the Executive Committee meeting
   - Distribute materials in advance, including minutes of the last meeting and a timed agenda
   - Be sure printed versions of materials are made available before and at meetings for those members who need them – do not assume that all members can print out materials or project them on a laptop or tablet during the meeting
   - Make materials as concise as possible, write them in plain language, and present them in user-friendly formats
   - Provide electronic or printed copies of PowerPoint presentations
   - Be sure PCS staff or an officer has available copies of the Bylaws, policies and procedures, ground rules, and other relevant documents (such as the current integrated plan, list of service priorities, and current allocations by service category) in case they are needed during discussion

6. **Be sure meetings are open and accessible to the public.** In addition to following all local or state open meeting/sunshine law requirements, comply with Ryan White legislative requirements for well publicized open meetings, public access to materials disseminated at meetings, and access to minutes. Establish and carefully follow policies and procedures for public comment; this might include providing a public comment period at the beginning and/or end of each meeting, and in some cases allowing the public to comment on proposed actions – often at committee meetings.

7. **Establish and consistently follow and enforce "groundrules"** that are understood and agreed upon by everyone – and apply to both members and the public. Here are some commonly used groundrules; establish your own, project them or post a copy in your meeting room:
   - Treat everyone with respect – as an intelligent person with a legitimate right to be a part of discussions and decision making
   - Let every member or recognized speak, without interruptions
   - Follow the direction of the Chair; for example, where necessary, observe limits set by the Chair on speaking time for individuals, and give each member an opportunity to speak before calling on members who have already spoken on the issue
   - If you believe a proposed action or process is inconsistent with the Bylaws or policies

and procedures, immediately but politely bring that to the attention of the Chair, either directly or through the PCS staff
- Participate in decision making that follows the process established in the Bylaws or established for a specific issue prior to discussion
- Do not attack people or criticize them personally – focus on issues, not individuals
- Know when to be an advocate and when to be a planner – recognize your responsibility to present and consider the concerns of specific communities or PLWH subpopulations, and to make decisions that consider the needs of all PLWH
- Make decisions based on the best available data; do not urge actions based on your own narrow self-interest
- Help new members, and non-members understand the discussion by using plain language, avoiding use of abbreviations and complex terminology, and not assuming a knowledge of past actions
- When information is shared in confidence, maintain that confidence; do not share information on anyone's HIV status, medical condition, or personal situation unless the individual indicates it can be shared publicly
- Accept and support decisions made by the PC/B in the agreed-upon manner, regardless of your personal position
- Speak positively about the PC/B and its members in public; address problems with the group, not outside it
- Take responsibility not only for following these groundrules, but also for speaking out to assure that other members follow them

8. **Provide informed meeting management and facilitation of the meeting,** by the Chair, with support as needed:
   - Follow simplified *Robert's Rules of Order* or other agreed-upon procedures
   - Start and end on time
   - Follow the established agenda unless the group approves an agenda revision (and meeting laws permit this)
   - Keep track of policy decisions and action items during the meeting
   - Use an agreed-upon decision-making process that is familiar to all participants
   - Encourage active participation by all members
   - Establish a balance between "doing business" and addressing other tasks, including maintaining a supportive relationship among members

9. **Assess and learn from experience,** by asking members and the public for advice and assistance in improving meetings.
   - Try going around the table and asking everyone to comment on the positive and negative aspects of the meeting, and to offer suggestions for improving future meetings
   - Periodically use a written assessment of meeting content, flow, management, use of member time, and productivity/results

10. **Complete minutes promptly,** and make them available for review by the Chair (and Secretary if there is one), approval at the next meeting, and posting on the PC/B website for use by the public within 6-8 weeks following the meeting.

Robert's Rules of Order – Simplified

https://blogs.cornell.edu/deanoffaculty/files/2016/01/RobertsRulesSimplified-1ybt2mk.pdf

Guiding Principle:

Everyone has the right to participate in discussion if they wish, before anyone may speak a second time.
Everyone has the right to know what is going on at all times.
Only urgent matters may interrupt a speaker.
Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., "I move that we add a coffee break to this meeting"). After being recognized by the president of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

How to do things:

You want to bring up a new idea before the group.

After recognition by the president of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

You want to change some of the wording in a motion under discussion.

After recognition by the president of the board, move to amend by

- adding words,
- striking words or
- striking and inserting words.

You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

You want more study and/or investigation given to the idea being discussed.

Move to refer to a committee. Try to be specific as to the charge to the committee.

You want more time personally to study the proposal being discussed.

Move to postpone to a definite time or date.

You are tired of the current discussion.

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3^{rds} vote.

You have heard enough discussion.

Move to close the debate. Requires a 2/3^{rds} vote. Or move to previous question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3^{rds} vote.

You want to postpone a motion until some later time.

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3^{rds} vote. A majority is required to table a motion without killing it.

You believe the discussion has drifted away from the agenda and want to bring it back.
Call for orders of the day.

You want to take a short break.
Move to recess for a set period of time.

You want to end the meeting.
Move to adjourn.

You are unsure that the president of the board has announced the results of a vote correctly.
Without being recognized, call for a “division of the house." At this point a roll call vote will be taken.

You are confused about a procedure being used and want clarification.
Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The president of the board will ask you to state your question and will attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.
Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.
Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3^{rds} vote is required.

You may INTERRUPT a speaker for these reasons only:

to get information about business – **point of information**
to get information about rules – **parliamentary inquiry**
if you can't hear, safety reasons, comfort, etc. – **question of privilege**
if you see a breach of the rules – **point of order**
if you disagree with the president of the board’s ruling – **appeal**

Quick Reference

	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Rescinded
Main Motion	√	√	√	Majority	√
Amend Motion	√	√		Majority	√
Kill a Motion	√			Majority	√
Limit Debate	√		√	2/3^{rds}	√
Close Discussion	√			2/3^{rds}	√
Recess	√		√	Majority	
Adjourn (End meeting)	√			Majority	
Refer to Committee	√	√	√	Majority	√
Postpone to a later time	√	√	√	Majority	√
Table	√			Majority	
Postpone Indefinitely	√	√	√	Majority	√

From: Compendium of Materials for Planning Council Support Staff. EGM Consulting, LLC. 2018.
Available at: www.targetHIV.org/planning-chatt/pcs-compendium

Dallas Regional Integrated HIV Prevention and Care Plan

CY 2022-2026

Prepared by Community Solutions, Inc.
December 2022

Table of Contents

Section I. Executive Summary

The Development of the CDC/HRSA Integrated HIV Prevention and Care Plan, CY 2022-2026 for the Dallas Regional areas was a collaborative process of the Ryan White Parts A and B Administrative Agency, Ryan White Planning Council, funded service providers, HIV Task Force, Fast Track Counties committee, consumers, and community stakeholders. A steering committee was convened comprised of members of each of these groups to guide the integrated planning process, and meetings were held monthly from August-December 2022. Goal-specific workgroups were convened in October 2022 to craft the goals, objectives, and strategies for the integrated plan, as well as provide feedback on how progress toward meeting them should be tracked, reviewed, and communicated to stakeholders. Finally, listening sessions with consumers were held to hear directly from them about what should be done to improve access to care and resources in the Dallas regional area.

Following the implementation of the Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan, CY 2017-2021 (Appendix A), several important changes have been enacted, despite the COVID-19 pandemic taking place during much of the last 2 years of the Plan's implementation. Many of the Ryan White-funded organizations now offer more flexible hours which makes it easier for consumers to access them. Several clinics have been relocated that have increased the capacity of clients served as well as the types of services offered. Providers have been able to make several changes in how they provide services, including updating their forms to be more inclusive, providing increased education on transgender issues, increasing cultural humility and awareness, and implementing of a Rapid Start Clinic. Finally, there has been an increase in funding resources available due to funds from the American Rescue Act. As a result, there are now more housing opportunities available for people living with HIV (PLWH).

Even still, consumers that participated in the Ryan White Planning Council of the Dallas Area 2019 Comprehensive HIV/AIDS Needs Assessment (Appendix B) and 2022 listening sessions identified several areas where improvement is still needed. While the American Rescue Act has made more housing opportunities for PLWH available, there is still a need for additional safe and affordable housing opportunities, particularly for middle to low-income individuals and families, including families with a history of incarceration and aging/elderly PLWH. Some providers have started offering the injectable, long-acting PrEP option, but it has not been made widely available, particularly to identified priority populations as noted later in this plan. PLWH continue to face barriers such as access, transportation, and financial challenges when trying to access treatment and care services and supports. Mental health and substance use needs have increased, especially during the COVID-19 pandemic, and there are gaps in services available services and support to help PLWH manage stress and anxiety. Finally, transportation continues to be a challenge for PLWH to access services and resources, particularly those in rural areas.

The goals to be addressed throughout this Plan include:

- Diagnose all Dallas Regional Residents as quickly as possible.
- Treat all HIV diagnoses quickly and effectively.
- Prevent new transmissions among Dallas Regional Residents using proven methods and strategies.
- Respond quickly to potential outbreaks by getting prevention and treatment services to Dallas Regional Residents who need them.

Within the goals, the objectives and strategies are meant to help address the needs highlighted from previous plans and consumer feedback.

The following documents were reviewed and/or referenced throughout this Plan to meet the requirements as outlined:

- Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan, CY 2017-2021.
- 2018 Achieving Together: A Community Plan to End the HIV Epidemic in Texas.
- Ryan White Council of the Dallas Area 2019 Comprehensive HIV/AID Needs Assessment.
- Ryan White Planning Council of the Dallas Area Interim Needs Assessment- August 2021.
- 2021-2022 Community Services Handbook: A Guide for North Texans Living with HIV.

Section II. Community Engagement and Planning Process

Jurisdiction Planning Process

Dallas County Health and Human Services (DCHHS) used multiple strategies to develop this collaborative, data-driven, results-oriented planning process creating the Dallas Regional HIV Prevention and Care Plan (Integrated Plan). The planning process provided community stakeholders with an opportunity to take stock of current priorities, goals, and plans, engage diverse perspectives from across the community – especially people living with HIV or AIDS (PLWHA) and others with meaningful and relevant lived experience – to develop strategies that will drive community-wide efforts to support the health and well-being of PLWH and reach the goal of a 90% reduction in new transmissions.

DCHHS engaged a community planning and development firm called Community Solutions, Inc. (Community Solutions) to facilitate the planning process. Based in Indianapolis, Indiana, Community Solutions has provided organizational strategic planning and community-wide planning support to dozens of groups who have a strong desire to make a meaningful impact in the community.

Entities Involved in the Planning Process

The planning process was guided by a Steering Committee (Appendix C) composed of key leaders in prevention and care settings throughout the service area and across agencies that convened monthly from August through December 2022 (Appendix D). Steering Committee members advised on the scope and framework of the Integrated Plan, helped to identify key partners and data sources, and co-designed the approach to gathering community input. Well over one hundred people who are members of the previously existing Ryan White Planning Council, HIV Task Force, Fast Track Counties committee, as well as representatives from Ryan White funded agencies, were invited to participate on the Steering Committee. Ultimately, forty-eight (48) people joined the Steering Committee, including five who identified as PLWH (Appendix C). Throughout the process, Steering Committee members were encouraged to reach out to additional community stakeholders, especially PLWH, to participate in Steering Committee and workgroup meetings to ensure the voice of consumers provided guidance throughout the process.

Collaborating with the Steering Committee, Community Solutions developed a framework for the Integrated Plan that is organized around the four pillars of the National Ending the HIV Epidemic (EHE) Plan - Diagnose, Treat, Prevent and Respond. Workgroups of experts and community members were organized around each of the four pillars, and they were able to provide additional detail to the goals and objectives, as well as outline specific strategies and timelines for accomplishing them. During the month of October, there were four (4) goal-specific workgroups convened where stakeholders, including PLWH, provided targeted guidance and feedback on the Plan's goals, objectives, and strategies. Each workgroup

meeting saw about 13 people in attendance, including at least one PLWH. Feedback on the plan's goals, objectives and strategies are captured in Section VI.

Role of the RWHAP Part A Planning Council/Planning Body

The Ryan White Planning Council (RWPC) is a community group appointed by the County Judge to plan the organization and delivery of HIV services funded by Part A, Part B, Minority AIDS Initiative (MAI) and State Services of the Ryan White HIV/AIDS Treatment Act. Council members are volunteers who have been carefully selected to reflect the diversity of the community; they represent the general public, people living with HIV, funded service providers, and other health and social service organizations. The mission of the Ryan White Planning Council of the Dallas Planning Area is to optimize the health and well-being of people living with HIV/AIDS through coordination, evaluation, and continuous planning to improve the North Texas regional system of medical, supportive, and preventative services. Currently there are 26 members of the RWPC, and 7 seats are vacant. The racial breakdown of the members is as follows: 14 Black, 8 white, 3 Latinx, 1 AAPI.

The RWPC has six (6) standing sub-committees, two (2) of which were integrally involved in the development of the integrated plan. The Planning & Priorities Committee oversees the projects of the RWPC (including implementation of the integrated plan) and is responsible for advising the Administrative Agency on how best to meet the need for prioritized services. The Consumer Council Committee is comprised of PLWH, and advocates on critical issues for the Dallas Regional HIV community, such as the service prioritization and setting process.

The Community Solutions team attended monthly full RWPC and Planning & Priorities meetings, from July through December. Although there were members of both groups who also served on the integrated planning steering committee, attending these meetings was an opportunity to connect with consumers and groups that were serving consumers in the Dallas Regional area and hear directly from them on what was going on in the communities.

Role of the Dallas HIV Task Force

The Dallas HIV Task Force is a local collaboration committed to a compassionate, inclusive, and comprehensive approach seeking to enhance the prevention, care, and treatment of HIV/AIDS in the Dallas Health Services Delivery Area and the communities served in the Ryan White Eligible Metropolitan Area. The HIV Task Force meets monthly and is comprised of consumers, community stakeholders, representatives from ASOs, members of the Ryan White Planning Council and Administrative Agency. Fifteen members of the Task Force participated on the integrated planning steering committee. In addition, a listening session was held in September with 11 consumers who are part of the HIV Task Force.

Role of the Fast Track Counties Committee

The Fast-Track Cities initiative is a global partnership between cities and municipalities around the world and four core partners – the International Association of Providers of AIDS Care (IAPAC), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations

Human Settlements Programme (UN-Habitat), and the City of Paris. Mayors and other city/municipal officials designate their cities as Fast-Track Cities by signing the Paris Declaration on Fast-Track Cities, which outlines a set of commitments to achieve the initiative's objectives. Initially heavily focused on the 90-90-90 targets, the Paris Declaration was recently updated to establish attainment of the three 90 targets as the starting point on a trajectory towards getting to zero new HIV infections and zero AIDS-related deaths.

In 2019, Dallas became a Fast Track County and as such meets quarterly with stakeholders, medical providers, and consumers with the goal of coordinating activities and reporting outcomes on 90-90-90 goals. These meetings are hosted by the Medical Director of Dallas County Health and Human Services. Members of the Fast Track Counties committee were invited to participate on the integrated plan steering committee, and the committee received regular updates on the work of the steering committee during the throughout the planning process.

Collaboration with RWHAP Parts – SCSN Requirement

RWPC members were invited to serve on the steering committee and workgroups that were convened to oversee the integrated planning process. Members participated in three (3) steering committee meetings from August-November 2022 to develop the structure of the Integrated Plan and identify additional partners who should be involved in the process. There were approximately 26 participants per meeting, and minutes for each of the steering committee meetings are included in Appendix D.

Engagement of People with HIV – SCSN Requirement

In addition to the steering committee and goal-specific workgroup meetings, three (3) listening sessions were held in September. The listening sessions were conducted during the already scheduled Planning & Priorities and Consumer Council Committee meetings, as well as the HIV Task Force meeting. PLWH and other consumers were asked to respond to the following questions:

- What are some words you would use to describe what your experience has been in terms of getting the care you want and/or need?
- What the gaps in services or supports that you need? What is missing?
- Have there been any resources/services that have worked particularly well for you?
- If you had a magic wand, what would you do to make it possible for everyone to get the care they want?

The Integrated Plan also engaged PLWH in identification of service gaps and needs through the 2019 Ryan White Council of the Dallas Area Needs Assessment (Appendix B). This needs assessment utilized Consumer Focus Groups and Consumer Surveys to identify areas where PLWH saw the biggest need for improvement. As a follow-up, an Interim Needs Assessment was conducted in 2021 that collected feedback from PLWH on the gaps identified in the 2019

needs assessment and the changes implemented (Appendix E). The 2022 Dallas Area Needs Assessment is currently underway. Any findings or recommendations generated through that assessment will be incorporated into the annual review and updated process of the Integrated Plan.

Section III. Contributing Data Sets and Assessments

Data Sharing and Use

The data discussed and highlighted in this section were provided by Dallas County Health and Human Services and Texas State Health Department, through a series of data files, reports, and plans. Dallas regional population data was gathered from the Census. Dallas County Health and Human Services has data-sharing agreements that can be provided on request.

Epidemiologic Snapshot

This snapshot reviews trends in data and characteristics for populations with newly acquired HIV, populations currently living with HIV, populations that do not know their status, and persons at risk for exposure to HIV.

Populations with Newly Acquired HIV

Within Dallas County in 2020, cisgender men accounted for 78.1% (N=665) of newly acquired HIV, transgender women accounted for 2.2% (N=19), and transgender men account for 0.1% (N=1) of all new diagnoses (Figure 1). In previous years (2015 – 2019) transgender populations that acquired HIV remained consistent in counts. Data regarding accurate numbers for transgender men and women is limited due to inconsistent practices for capturing gender-related demographic information.

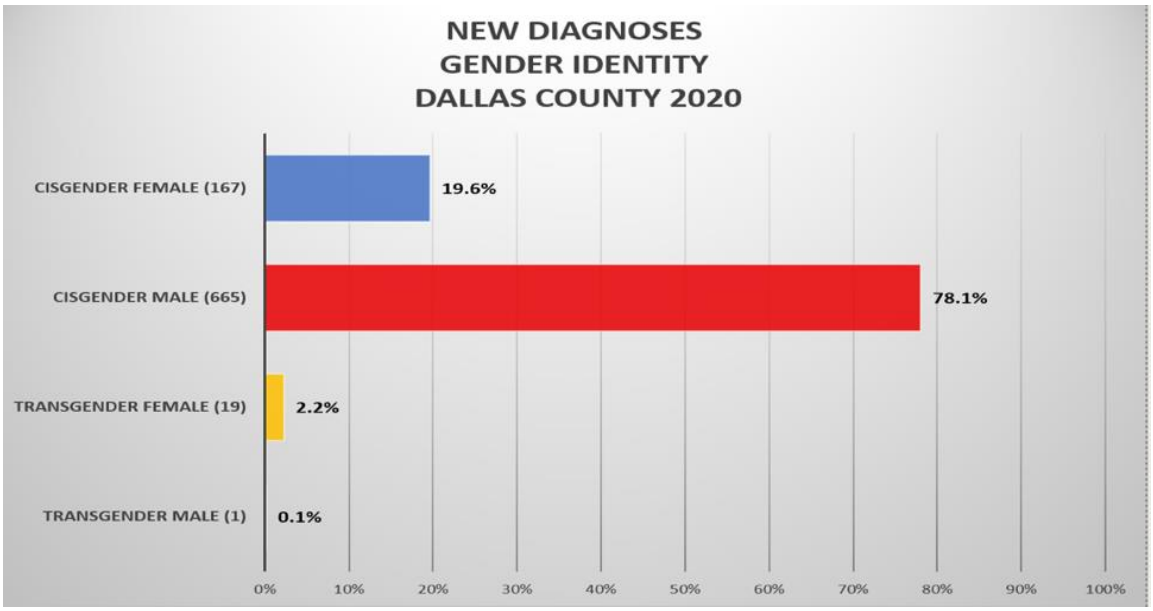


Figure 1. New Diagnoses of HIV by Gender Identity in Dallas County 2020
Source: Texas HSDA

Within the Sherman-Denison region, gay and bisexual men, and other men who have sex with men (MSM) have consistently represented the majority percentage of newly acquired HIV transmissions in the past 5 years (2015 – 2020). For transgender populations living within the Sherman-Denison region, there is limited data regarding newly acquired HIV transmissions. Transgender women living in Sherman-Denison accounted for 1% (N=1) of newly acquired HIV transmissions in 2020. There is no available data for previous years regarding transgender men.

Consistent with national trends, Black and Latinx populations were disproportionally affected by HIV in 2020. Black residents of Dallas County represented 47.3% (N=403) of all newly acquired HIV cases in 2020. Hispanic residents represented 29% (N= 247) of all newly acquired cases, white and Asian residents represented 18.9% (N=161) and 1.9% (N=16) of all newly acquired HIV transmissions in Dallas County, respectively (Figure 2).

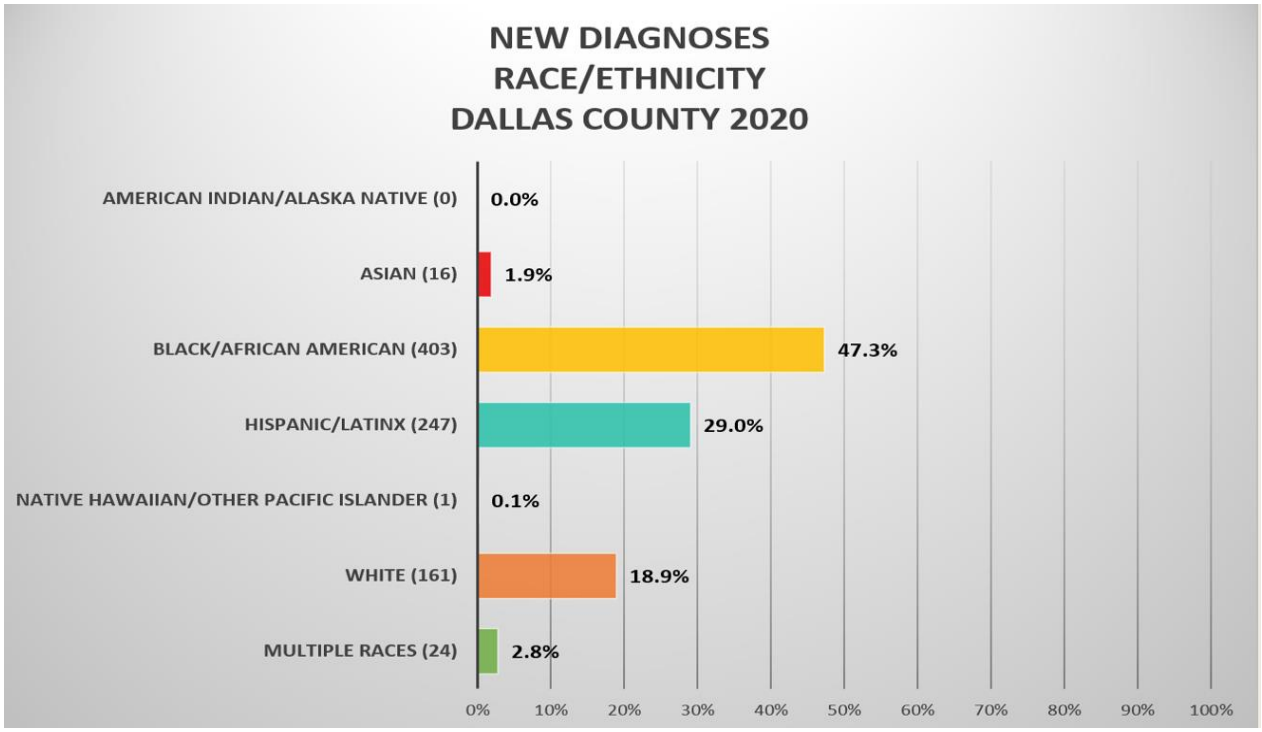


Figure 2. New Diagnoses of HIV in Dallas County by Race/Ethnicity 2020
Source: Texas HSDA

Within the Sherman-Denison region, there were 3 newly acquired cases of HIV for both Latinx and white residents and 2 newly acquired HIV cases for Black residents. In previous years (2015 – 2020) white residents of the Sherman-Denison region represented the majority of newly acquired cases, but this rate declined between 2016 thru 2018 (Figure 3).

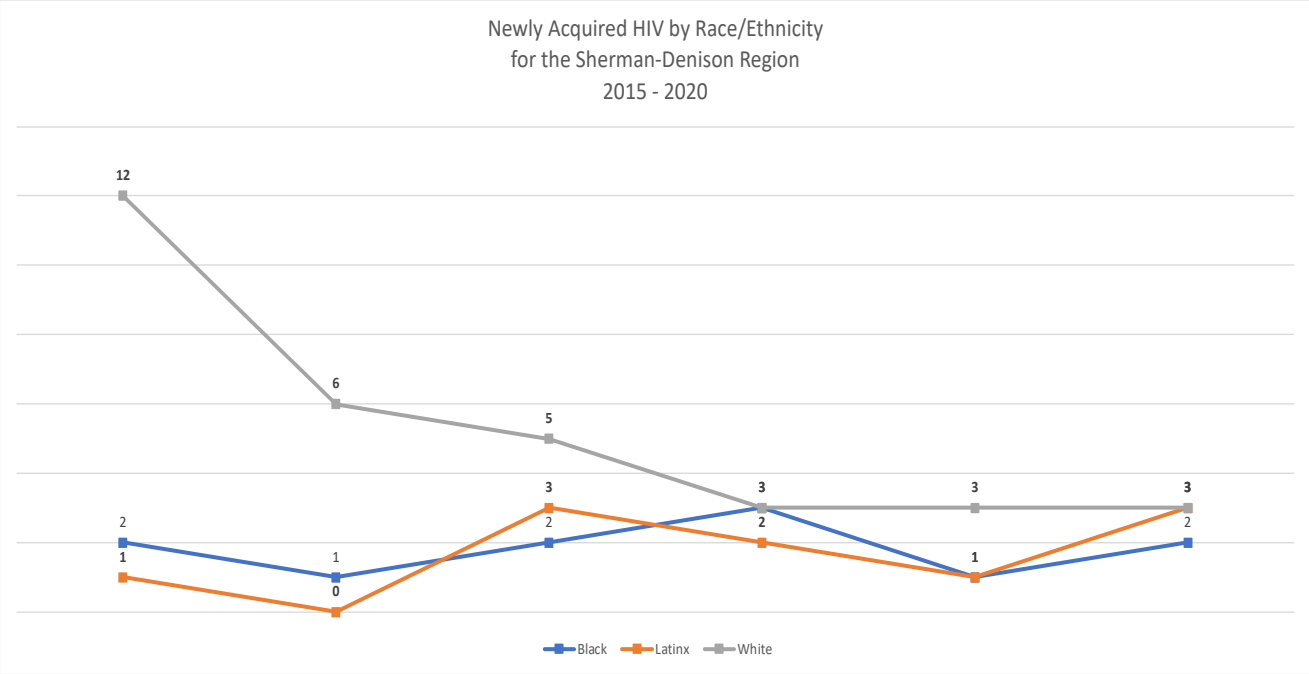


Figure 3. Newly Acquired HIV Trend by Race/Ethnicity for Sherman-Denison Region 2015 - 2020
Source: Texas HSDA

Consistent with national trends, Dallas County residents between ages 25–34 represented the majority of newly acquired HIV cases for 2020, followed by residents aged 15–34. The age group with the highest number of cases over the past 5 years (2015 – 2020), has consistently been age group 25-34 (Figure 4).

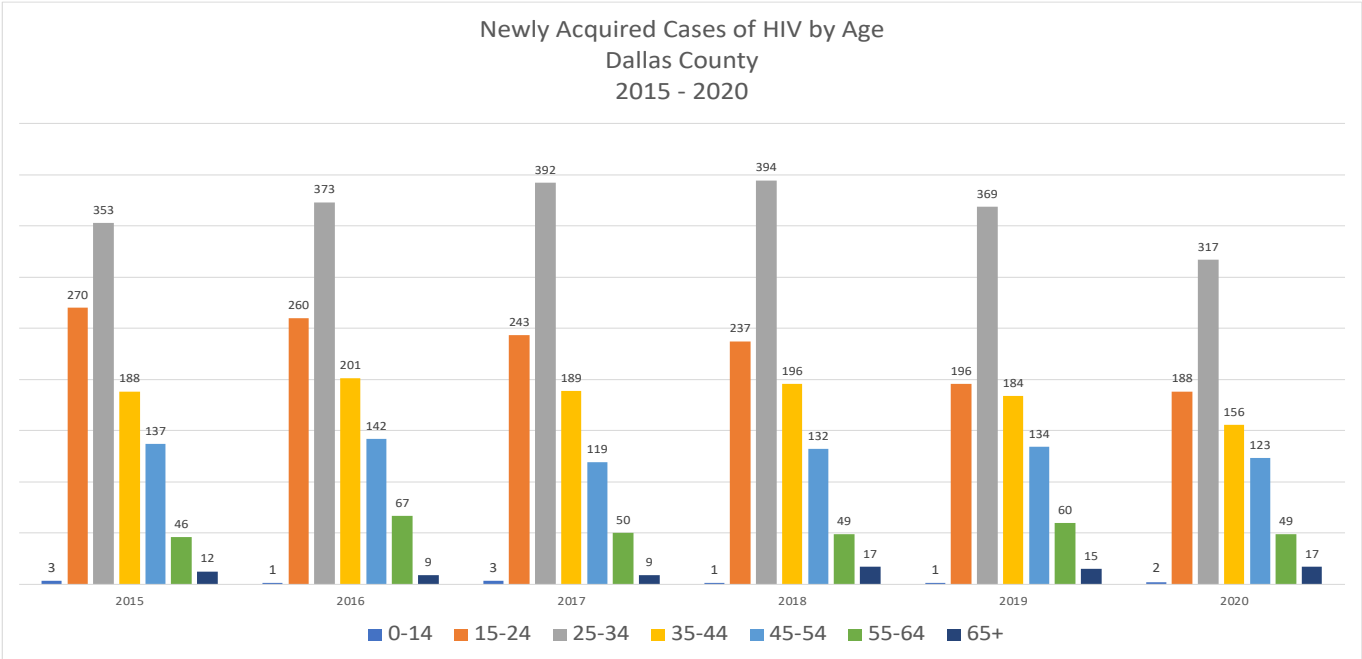


Figure 4. Newly Acquired Cases of HIV by Age Dallas County 2015 – 2020
Source: Texas HSDA

The Sherman-Denison region in recent years (2019-2020) has seen an increase in newly acquired HIV cases among residents of ages 25-34 years old, though other age groups could be underrepresented due to the COVID-19 pandemic (Figure 5).

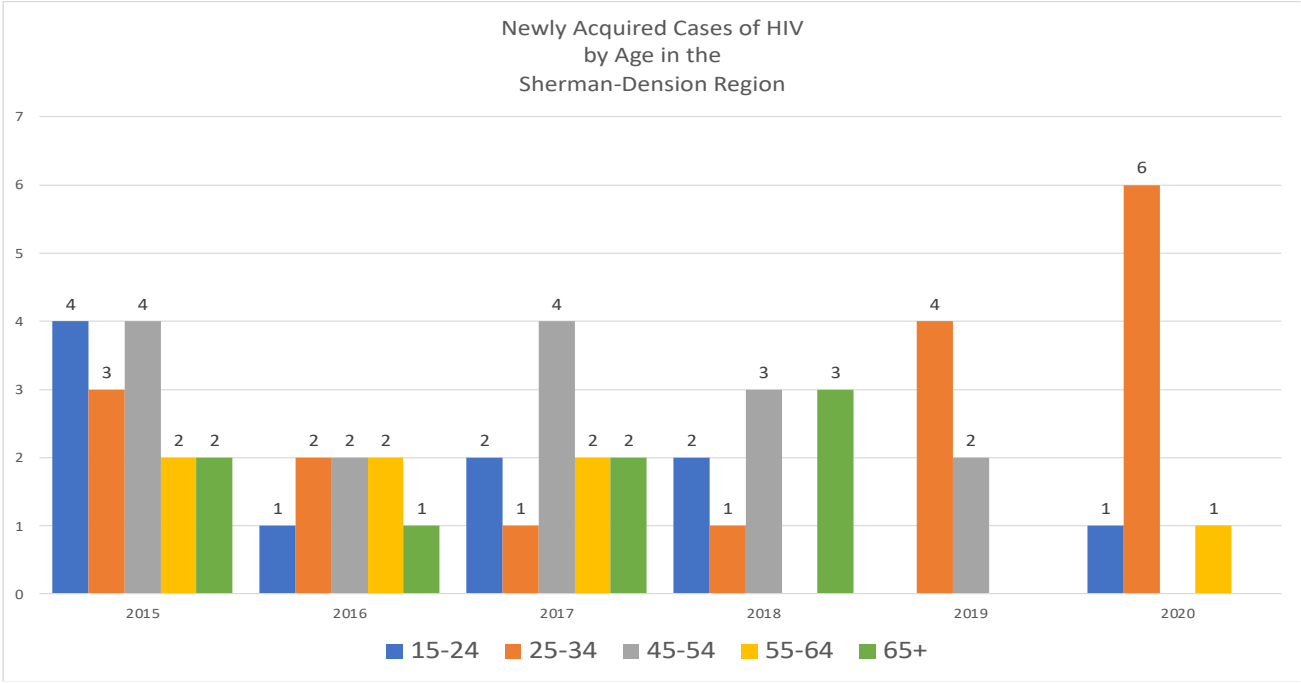


Figure 5. Newly Acquired Cases of HIV by Age Sherman-Denison 2015 – 2020
Source: Texas HSDA

Consistent with trends over the past five years (2015 – 2020) gay and bisexual men and other MSM have consistently represented the majority of all new HIV diagnoses within Dallas County. For modes of transmission outside of MSM, women who have sex with men (WSM) have had consistently higher counts of newly acquired cases in previous years (2015 – 2020), when compared to people who inject drugs (PWID), men who have sex with men who also have sex with people who inject drugs (PWID/MSM), and men who have sex with women (MSW) (Figure 6). Within the Sherman-Denison region, trend data for 2015 – 2020 for these groups is limited.

Populations at Risk of Exposure to HIV

Within the Dallas region, cisgender men were 4 times more likely to acquire HIV in 2020 when compared to cisgender women. In previous years (2015 – 2020) cisgender men have consistently been 4 times more likely to acquire HIV within the Dallas region. In previous years (2015 – 2015) transgender women have been at greater risk for acquiring HIV in the Dallas region (data regarding transgender men has been either non-existent or limited).

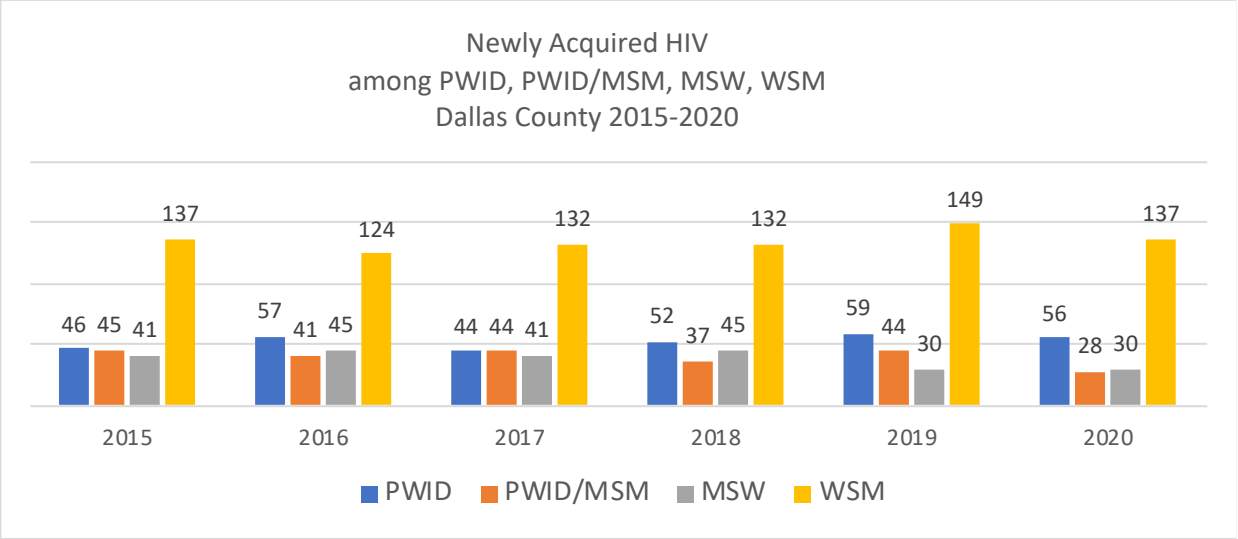


Figure 6. Newly acquired HIV cases among PWID, PWID/MSM, MSW, and WSM within Dallas County 2015 – 2020

Consistent with national trends, Black and Latinx MSM, continue to be the populations with the greatest risk of acquiring HIV in 2020 within the Dallas region. Residents in the Dallas region, who identified as Black were 1.6 times more likely to acquire HIV in 2020.

Populations Living with HIV within the Dallas Region

At the end of 2021, the total number of Dallas region residents living with HIV was 25,492 (Figure 7). The Dallas region represented 24.7% of the total number of residents within the Texas cascade system living with HIV.

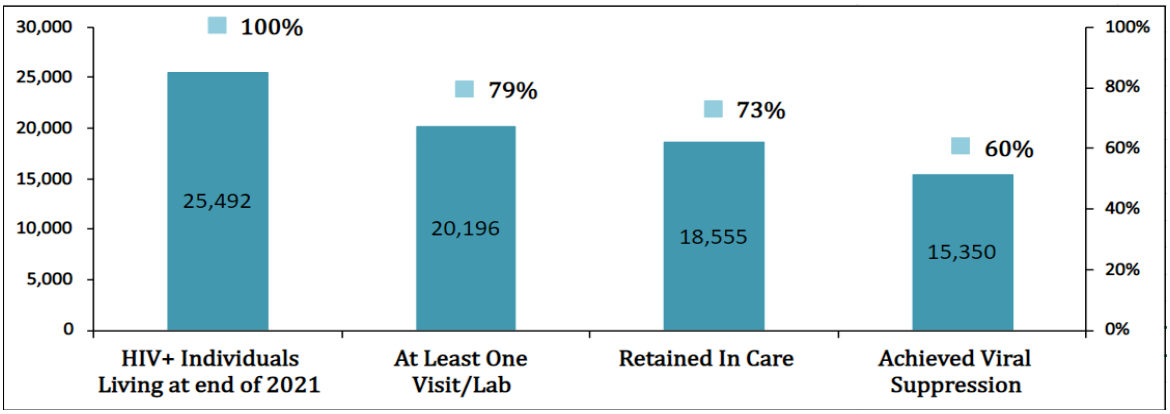


Figure 7. Texas HIV Treatment Cascade for Dallas Region 2021
Source: Enhanced HIV Reporting System as of July 1, 2022, Medicaid, ELR, Ryan White Services Data (ARIES), ADAP, and Private Payers

Priority populations identified by the HIV National Strategic Plan for the Dallas region, include Black and Latinx men who have sex with men, Black women who have sex with men, white men who have sex with men, and transgender people.

Black residents represent 22% of the total population (N=2,613,539) within the Dallas region, yet Black residents account for 42% (N=10,509) of the total prevalence of people PLWH within the Dallas region in 2020. Similarly, Latinx residents represent 40% of the total population, and account for 25% (N=6,109) of the total prevalence of PLWH within the Dallas region in 2020. Trends in previous years (2015 – 2020) have shown an increase in PLWH among priority populations. Between 2015 – 2020, the number of Latinx MSM living with HIV increased by 29%, Black MSM experienced an increase of 31%, White MSM experienced an increase of 3%, Black WSM experienced an increase of 16%, and transgender residents experienced an increase of 59% within the Dallas region (Figure 8).

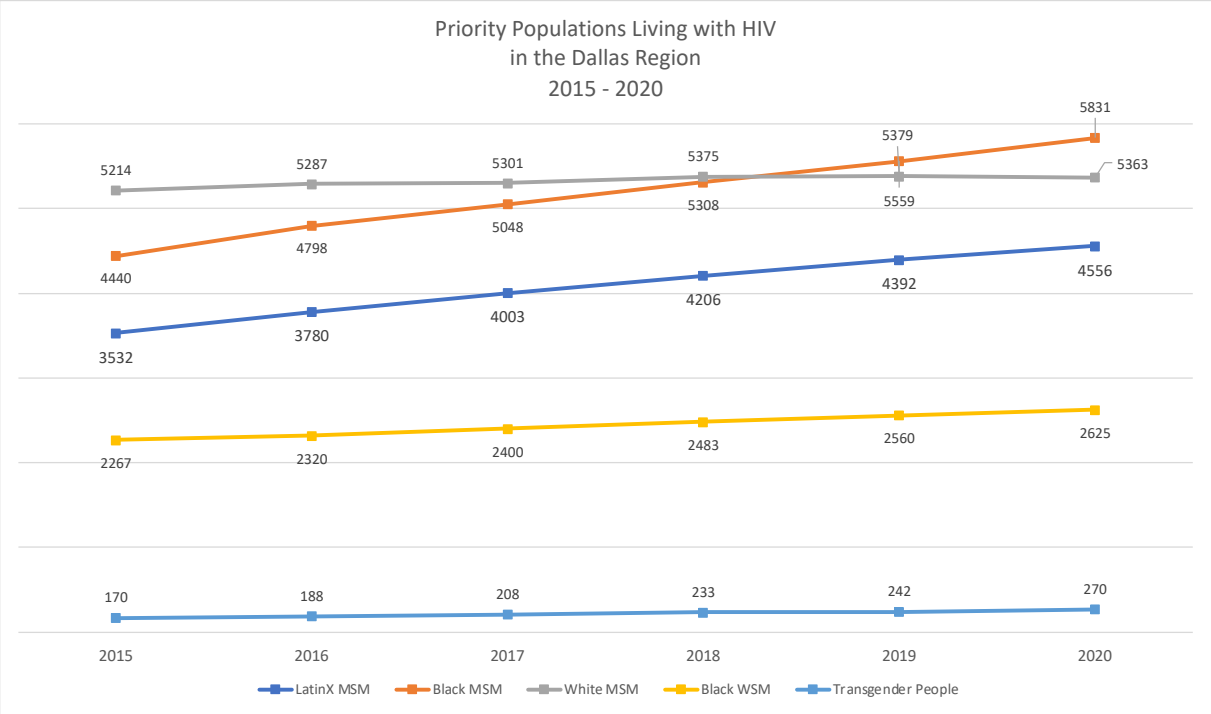


Figure 8. Priority Populations Living with HIV in the Dallas Region 2015 – 2020

In 2020, 6% (N=1,488) of PLWH in Dallas County identified as people who inject drugs. 4.6% (N=1,126) of PLWH identified as MSM and PWID. Over the past 5 years (2015-2020) the number of PLWH who identify as people who inject drugs has increased 8.2%. Trends for PLWH who identified as MSM and PWID have also increased by 9.2% over the 5-year period.

Populations Living with Undiagnosed HIV

Due to the COVID-19 pandemic, estimates regarding the number of people in the Dallas region living with HIV is likely to have been depressed because of decreased HIV testing. General trends over previous versus exact figures should be considered.

In 2020, most people suspected to be living with undiagnosed HIV are men who have sex with men (MSM), followed by women who have sex with men (WSM), and men who have sex with women (MSW). The largest estimated population by race living with undiagnosed HIV is Black MSM (Figure 9).

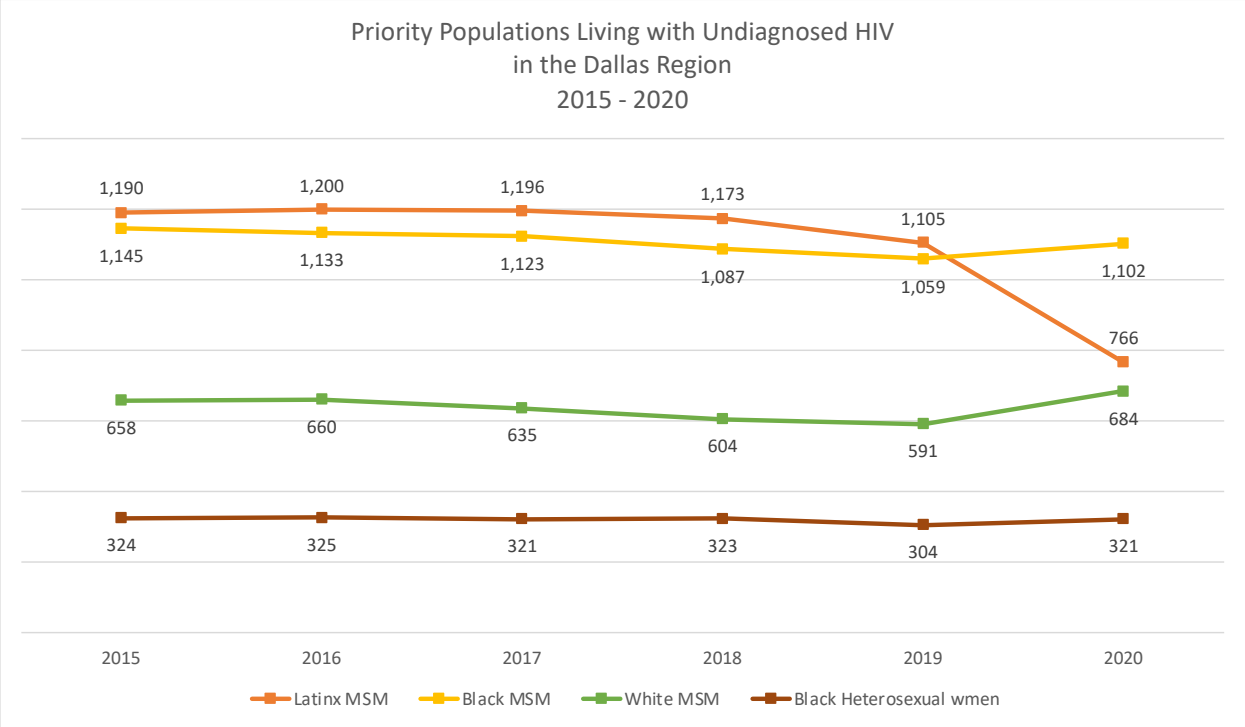


Figure 9. Priority populations living with Undiagnosed HIV in Dallas Region 2015 – 2020
Source: Routine disease surveillance for the number of people with diagnosed HIV, with the total prevalence, proportion diagnosed, and number of people with undiagnosed HIV estimates were produced using a CDC algorithm customized for use with Texas jurisdictions.

Estimates regarding the number of people who are transgender or gender-diverse living with undiagnosed HIV in the Dallas region is limited or not available.

HIV Prevention, Care and Treatment Resource Inventory

Through various Ryan White, state, federal, and local funding, the Dallas region can offer a variety of medical and/or supportive services for PLWH (Appendix E). Currently, there are a total of 21 organizations offering services for PLWH in the Dallas EMA through RW funding. [1]

[1] 2019 RW Needs Assessment

Ryan White Funded Organizations and Services Provided	AIDS pharmaceutical assistance	Case management	Emergency financial assistance	Food bank/home delivered meal	Health insurance assistance	Housing	Legal services	Linguistics	Medical case management	Medical transportation	Mental health services	Non-medical case management	Oral Health	Outpatient medical care	Outreach lost to care	Referral for healthcare	Respite care (Adult)	Substance abuse
AHF Healthcare Center (Dallas)	■		■	■				■	■	■		■		■		■	■	
AIDS Services of Dallas (ASD)				■		■			■	■		■				■		
Bryan's House		■														■		
Callie Clinic	■			■	■				■	■		■		■		■		
Community Dental Care													■			■		
Health Services of North Texas	■		■		■				■		■			■		■		
Legacy Cares				■		■					■	■				■		■
Legal Hospice of Texas							■									■		
Parkland Hospital	■								■	■	■	■		■	■	■		■
Prism Health North Texas	■	■			■				■		■	■	■	■		■		
Resource Center Health Campus				■	■							■	■	■		■		

Strengths and Gaps

The 2019 Ryan White Council of the Dallas Area Needs Assessment and Ryan White Planning Council of the Dallas Area Interim Needs Assessment- August 2021 findings, along with feedback from the 2022 Listening Sessions were used to identify the changes and updates made since the implementation of the Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan- CY 2017-2021. Many Ryan White-funded organizations offer flexible hours, allowing for easier access to services. Extensive language services are available at most Ryan White-funded organizations, as well as diverse options for payment. In the Dallas region, there are also a range of services and resources available to youth under the age of 18. The most prevalent needs not being met were affordable housing, mental health care, and prevention messaging. Rural areas have specific unmet needs that include funding needed for outreach, peer support and navigation, support groups, and PrEP/nPEP. These are long-existing challenges that do not appear to have any infrastructure or funding available to support them. As such, this is an opportunity to engage groups serving PLWH or other at-risk populations and enlist their help in developing solutions to serve these populations.

Housing

There is a need for increased safe, affordable housing opportunities, specifically for middle to low-income individuals and families, including individuals with a history of incarceration and

homes for aging/elderly PLWH. For those who earn above federal housing support income guidelines, there is a need for more assistance in obtaining and maintaining housing. Although these individuals exceed income guidelines, those guidelines do not account for medical and other expenses, causing a further financial strain on this group of individuals.

There has been an increase in funding for housing resources available, specifically because of the American Rescue Act funds. Additionally, Dallas County has purchased a hotel in partnership with Catholic Charities and the City of Dallas for COVID-19 that will be used to offer 180 units of permanent supportive housing (PSH) to PLWH. St. Jude offers PSH, and the county will be expanding access to Emergency Housing Vouchers (EHVs). Individuals can be placed on the housing priority list by calling the MDHA Homeless Crisis Line.

Medical Care

Since the implementation of the Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan- CY 2017-2021, the Dallas region has worked to increase access to medical care and treatment throughout the city. The Dallas region now has clinics with more flexible hours, including Saturday and evening hours available at one clinic, as well as a new Rapid Start Clinic. The relocation of the Amelia Court Clinic, now known as the Adult Comprehensive Care and Engagement Support Services (ACCESS) Clinic, has been relocated to increase capacity of clients served and services offered, including HIV care and treatment, referral services, geriatric care and healthy aging, and behavioral health.[2] In addition, the Community Health Center for Health Empowerment PrEP Clinic has begun providing HIV care to decrease the share of clients who were not getting connected to treatment. The Dallas region has also implemented mobile testing units located outside of nightclubs in two districts to increase testing access, which are being utilized by many.

Further, changes reported by providers include updates to forms to be more inclusive, increased education on transgender issues, increased cultural humility and awareness, full wraparound services (including pharmacy and medical clinic), increased Spanish-speaking services and additional bilingual therapist(s), and implementation of a Rapid Start Clinic.

Listening Session participants shared that the use of injectable, long-acting PrEP offered by some service providers has been useful to help protect patients' HIV/AIDS status, ultimately reducing patient stress and anxiety. These injectable medications, however, have not yet been rolled out on a large-scale.

In terms of prevention, treatment, and care services and supports, barriers need to be addressed to ensure PLWH are not facing additional challenges and burdens in receiving necessary care. Medical staff and patient communication improvements, specifically to include a focus on the quality of life, should be implemented to reduce stigma surrounding

[2] https://www.parklandhealth.org/locations/adult-comprehensive-care-and-engagement-support-se-148

HIV/AIDS. The ability to pay for medical and oral care remains a challenge for PLWH in the Dallas region. Inadequate services and supports available in immigration detention centers, as well as challenges in accessing care post-release from criminal justice systems, is an additional gap in services. Reduced paperwork requirements, increased PrEP/nPEP, and improvements in access and affordability for necessary medications and healthcare services and supports should be implemented to decrease patient burden and stress. For PLWH who are age 16 or younger, testing is not easily available, thus identifying a need for universal testing to be implemented in healthcare and sports physicals for individuals aged 13 to 64.

Prevention

The HIV Taskforce is working to increase distribution of free condoms through partnerships with community-based organizations, social service organizations, and other non-profit organizations. Prism Health North Texas has implemented a new program called Nice Package. This program was implemented to provide contactless delivery options for condoms to decrease transmission rates.

There has been an increase in the Dallas region of providers offering PrEP and nPEP.

Mental Health and Substance Use

There has been an increase in the need for mental health and substance use disorder (SUD) services and supports, specifically strategies for coping with anxiety and depression caused by isolation and fear during the pandemic. There are also current gaps in the available services and supports for managing stress. Increases in available mental health and SUD services and support are especially needed for PLWH who are underinsured, uninsured, and/or living in poverty, as well as those living in rural areas.

Peer Support

Participants in the Listening Session conversations noted that the ability to connect with other individuals living with HIV/AIDS has been beneficial. Peer support, including support groups, provides a platform to expand trust, have a conversation around areas they are struggling in, and gain new insights and perspectives. Holding non-traditional support groups has allowed for greater comfortability in attending and voicing concerns. Although progress has been made to increase the availability of services and supports, gaps were still identified that need to be addressed.

Transportation

Transportation presents additional challenges in accessing all necessary services and resources. Utilization of ride-share services, such as Uber and Lyft, and gas cards in lieu of bus tickets would be beneficial in assisting PLWH who have disabilities in accessing services. PLWH who have disabilities also have an additional barrier to accessing healthy groceries. Assistance with grocery shopping and carrying groceries into the homes would be helpful.

Needs Assessment

Dallas County Health and Human Services employs multiple methods of assessing HIV prevention and care service needs and barriers to services for residents of the Dallas Region. Importantly, PLWH are actively recruited and engaged in community planning and oversight activities to ensure that the voice and perspective of people with lived experience influences the system. While a Comprehensive Needs Assessment is currently underway in the jurisdiction – and therefore results are not yet available to inform this Plan – data on service needs and barriers drawn from three other recent planning and/or assessment processes were consulted in the development of this Plan:

- Ryan White Planning Council of the Dallas Area Interim Needs Assessment- August 2021
- Ryan White Council of the Dallas Area 2019 Comprehensive HIV/AIDS Needs Assessment
- Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan, CY 2017-2021.

In 2019, the Dallas region facilitated the Ryan White Planning Council of the Dallas Area 2019 Comprehensive HIV/AIDS Needs Assessment (Appendix B). The plan was meant to assist in developing funding allocation priorities and a comprehensive plan aimed at meeting the needs of people living with HIV/AIDS. The objectives of the Comprehensive Needs Assessment were to:

- Identify trends in the HIV epidemic within the Dallas region, focusing on recent changes and emerging affected populations.
- Identify consumer service needs, needs that are not currently being fulfilled, service utilization patterns, and barriers to care.
- Obtain detailed information and analyze the treatment initiation gap for PLWH after being diagnosed.
- Obtain detailed information on PLWH with unmet need for medical care; including demographics, barriers, and strategies to connect to care.
- Identify and evaluate the system of HIV care, evaluating current capacity gaps, and barriers (including but not limited to eligibility barriers) in the continuum and treatment cascade. This will include HIV/AIDS services providers and providers of service that PLWH use.
- Evaluate the systems for and rate of linking PLWH into medical care.
- Identify and evaluate the impact of health care reform on Ryan White enrollment and types of services most needed after PLWH enroll in expanded Medicaid programs or health insurance exchanges/marketplaces.
- Evaluate and interpret the use of alcohol and other non-prescribed drugs and the impact on adherence and make recommendations to identify the best approach to address the subject.

Epidemiologic data were collected and compiled by Brad Walsh at Parkland Health and Hospital System. The Texas State Department of Health Services provided quantitative data

for incidence, prevalence, trends, co-morbidities, and services. He also obtained ARIES data from the local provider data system to supplement the state data. These data were provided to the contractor, Susan Wolfe, and Associates, who conducted additional analyses, compilation, and used the data to prepare graphs for this report. Additional data were obtained online from the United States Census American Community Survey and the Center for Disease and Control Prevention risk surveys.

Priorities

The following are the key priorities that arose from the needs assessment process:

Identify trends in the HIV epidemic within the Dallas region, focusing on recent changes and emerging affected populations.

The incidence of new cases has remained fairly steady since 2013. The highest numbers of new HIV and AIDS diagnoses are in Dallas County, followed by Collin and Denton Counties. The prevalence of HIV/AIDS in the Dallas region continues to rise. Both the number of PLWH and the rate per 100,000 population is highest in Dallas County. Collin and Denton Counties have higher numbers of PLWH compared with other counties in the Dallas region. The rate of prevalence per 100,000 persons is higher in Collin and Kaufman Counties. The remaining counties have lower prevalence and rates.

HIV/AIDS mortality rates for Black PLWH in the Dallas region are over five times the rate for non-Hispanic white PLWH, suggesting a need to identify the reasons for the higher death rate and address them.

There is a lack of data for transgender individuals. Reliable estimates for the number are difficult to find, and HIV rates are unknown. Recent HRSA HIV/AIDS program client-level data suggest there are 157 identified transgender individuals receiving Ryan White services in the Dallas region. There is no such data available for counties in the Sherman-Denison HSDA.

Results of the breakdown of new cases by race and ethnicity suggest that efforts to prevent racial and ethnic disparities in new cases and reduce new cases overall would have the greatest impact by targeting African American and Hispanic/Latinx communities. Also, new diagnoses are fastest growing among the 25 to 34 years age group.

New diagnoses of HIV among MSM continue to rise in recent years (2015-2020) indicating a need to increase prevention efforts and messaging that specifically targets MSM.

Poverty rates are high among PLWH in the Dallas EMA. While the poverty rate for individuals residing in the Dallas region is 11%, an estimated 23% of PLWH in the Dallas region have incomes at or below the poverty level. Data were not available for the Sherman-Dennison HSDA.

Emerging health issues and comorbidities that complicate HIV care include sexually transmitted infections, obesity, diabetes, heart disease, and hypertension. Providers also

reported increased mental health problems and substance abuse. Because of improvements in treatment, more PLWH are living longer which is increasing the need for specialized geriatric care for this population.

Identify consumer service needs, needs that are not currently being fulfilled, service utilization patterns, and barriers to care.

Providers in the Dallas region identified challenges to HIV/AIDS prevention. Younger people who did not see the epidemic in the beginning view HIV/AIDS as another chronic but treatable disease. There is still stigma associated with HIV and it creates barriers to treatment. HIV prevention should be included with general health prevention messaging such as prevention regarding illicit drug use, improving diet, and increased exercise. Even with PrEP, people need to understand the need to use condoms to prevent other sexually transmitted infections. Messaging needs to be tailored toward audiences that experience the highest rates of transmission.

Barriers to HIV care cited by survey participants were the amount of time it takes to get care, the paperwork burden, the time it takes to get an appointment, lack of weekend and evening hours, the clinic treats HIV and not their other medical conditions, and the staff does not understand their culture. It is important to keep in mind that survey participants were predominantly from the Dallas region. Evidence from data and providers suggests that for individuals living in suburban and rural areas, the paucity of services locally and resources and time necessary to reach services located in Dallas may also serve as a barrier.

Obtain detailed information and analyze the treatment initiative gap for PLWH after being diagnosed.

Barriers to successful linkage to care were identified using consumer surveys and focus groups. Patients perceived stigma when they go to HIV clinics. There are institutional barriers such as considerable time elapsing and the paperwork burden between diagnoses and seeing a provider. PLWHA sometimes have higher order needs, such as housing instability or unresolved trauma that need to be resolved before they will seek treatment. Transportation may not be available, especially in rural areas. Psychosocial barriers include denial or having to come out to their families as they share their diagnosis.

Obtain detailed information on PLWH with unmet need for medical care; including demographics, barriers, and strategies to connect to care.

In 2021 the State of Texas estimated that as many as 3,997 individuals in the Dallas region may be undiagnosed. Estimated numbers were higher among males, Black people, people ages 25-34, and MSM.

Among PLWH, in 2021, in the Dallas region, 79% were linked to care; 73% were retained in care, and 60% were virally suppressed. A total of 87.7% of PLWH who were retained in care were virally suppressed. [3]

There are barriers to retaining PLWH in care. There is a high administrative burden with paperwork required every six months. Information is not centralized so PLWH who are seeking care must complete such updates with all of their providers. Youth lose their Medicaid coverage when they turn 19 and may drop out of care at that time. Resources are primarily centralized around downtown Dallas and not easily accessible to individuals living in Dallas County outside of the city or in other rural counties. Sometimes other needs arise and take priority, such as loss of housing, substance abuse issues, or life disruptions where people fall out of their routines. Not all PLWH are comfortable with all providers, and they may leave treatment after a couple of appointments.

Programs that are successful at linking people to and keeping people in care are generally collaborative, comprehensive, and offer a single system of care where all partners are fully informed. They offer high quality care with sincere and knowledgeable providers. They are often innovative and will try a variety of strategies and are designed specifically to meet the needs of the population they serve.

In summary, efforts to improve retention in care are needed, specifically targeting Black PLWH, younger PLWH (ages 13-44), and PWID. Efforts should focus on linking Black PLWH to care and retaining them in care to increase their viral suppression percent. Additional efforts should be focused on Hispanic/Latinx PLWH whose numbers are increasing and whose percentage of virally suppressed is less than that of White PLWH, as well as PWID and ages 44 or younger individuals among the PLWH population. Innovative and culturally relevant strategies are needed to overcome logistical barriers such as transportation, geographic distance, and hours/days of service as well as psychological barriers such as stigma, feelings of invulnerability, and denial.

Identify and evaluate the system of HIV care, evaluating current capacity gaps, and barriers (including but not limited to eligibility barriers) in the continuum and treatment cascade. This will include HIV/AIDS services providers and providers of services that PLWH use.

The Dallas region has excellent health care, although it is not necessarily available for or accessible by all PLWH in the Dallas region. There is an insufficient supply of mental health care available to meet the needs of the population. There is also a need for mental health providers who are knowledgeable about LGBTQ individuals, HIV, and navigating life with HIV, as well as more culturally appropriate and community competent providers. Dental and vision services also need increased capacity in more locations.

[3] Enhanced HIV AIDS Reporting System, "Texas HIV Treatment Cascade for Dallas EMA," 2022.

There are 21 identified organizations providing a spectrum of HIV related services to PLWH in the Dallas region who may not have sufficient resources for disease management. Potential areas of improvement identified include relatively longer wait times for dental care (average 0 to 50 days) and mental health counseling (average 0 to 10 days). These wait times were substantially longer than other services such as outpatient HIV medical care (0-7 days) or outpatient OB/GYN services (0-2 days).

The most prevalent needs not being met were needs for affordable housing, mental health care, and prevention messaging. Rural areas had specific unmet needs that included funding needed for outreach, peer support and navigation, support groups, and PrEP/PEP. Needs varied across priority populations.

Prevention services are not universally available throughout the Dallas region. They need to target specific geographies and populations and be more culturally responsive to them. Planning and assessment efforts for prevention need to be more inclusive and examine within group variation. PrEP and PEP are not accessible to everyone. There is a need for more widely available education about safe sex. Prevention initiatives need to target stigma among the larger population and within sub-populations, including rural, African American, and Latinx communities.

Evaluate the system for and rate of linking PLWH into medical care.

In 2021, 12% of PLWH in the Dallas region were not linked to care. The percent of PLWH with unmet needs and 20 or more PLWH was highest in the 75454 (Melissa; 43%); 75247 (Dallas west; 38%); 76205 (Denton; 37%); 75402 (Greenville, 36%); and 75401 (Greenville, 35%) zip codes. Many areas with unmet needs did not have Ryan White-funded services in proximity or were in rural areas or suburbs that do not have specialized HIV care.

Linkage to care varied by sex and race/ethnicity for previous years (2020), showing that 75.6% of cisgendered women were linked to care compared to 75.8% of cisgender men linked to care. Of transgender women, 84% were linked to care and 100% of transgender men were linked to care. Data is limited regarding transgender populations due to being unable to ascertain what percentage of clients were asked about their gender identity vs being assumed by the provider. Percentages linked to care are lower for Black and Hispanic PLWH (74.1%) compared to White PLWH (77.8%).

In summary, targeted efforts to link PLWH with care in the Dallas region are needed for women, Black and Hispanic persons, PWID, heterosexual individuals, transgender individuals, and age groups 0-12, 13-24, and 65 and older. Peer support and peer navigation were suggested as potentially effective strategies.

Identify and evaluate the impact of health care reform on Ryan White enrollment and types of services most needed after PLWH enroll in expanded Medicaid programs or health insurance exchanges/marketplaces.

Respondents to the provider survey reported that the impact of the Affordable Care Act on their organizations and clients was mixed that there was mostly little to no impact. This was primarily attributable to Texas not accepting the expanded Medicaid provision. Other problems cited were restrictive eligibility requirements and insurance premiums that are not affordable, adding to the barriers to clients accessing care.

Evaluate and interpret the use of alcohol and other non-prescribed drugs and the impact on adherence and make recommendations to identify the best approach to address the subject.

Providers reported they are seeing an increase in substance abuse among PLWH. Consumer respondents reported the most frequently used substances were alcohol, marijuana, stimulants, depressants, and non-prescribed painkillers. Among consumers who dropped out of care, 26% reported using drugs as a reason. They also reported there are few services available for low-income PLWH who need substance abuse treatment. Substance abuse and other behavioral health services should be integrated into primary care. Resources are needed to expand inpatient substance abuse treatment as well. Explore the feasibility of programs that provide both housing and substance abuse aftercare support.

Recommendations for Services

Target prevention initiatives toward youth (ages 13-35), Black, and Hispanic/Latinx communities, and MSM. Make testing more widely available, and work to have it incorporated into more routine health care. Provide testing at health fairs and large community events. Inform youth that they can be tested without parental consent. Provide youth with more consistent sexual health information and education.

Expand to more geographic locations and target populations identified as needing prevention and intervention services. Include individuals from underserved populations when developing strategies at the table as decision-makers (e.g., transgender individuals; more people of color; youth).

Address racial disparities at multiple levels. At the individual level, target unmet needs. At the community level, address stigma toward LGBTQ individuals and HIV/AIDS. At the systems level, systemic racism must be acknowledged and addressed.

Identify ways that the paperwork burden on both consumers and providers can be reduced. Consider a universal intake system and longer periods between required re-certification.

Join with other groups to advocate for Medicaid expansion and affordable housing options. As Dallas neighborhoods continue to gentrify, an increasing number of low-income individuals and families are being pushed out and unable to find affordable housing, including PLWH. Such work can also help improve access and stability for people living in rural communities.

Provide comprehensive services with one-stop shops to the extent possible. Include services to meet psychosocial needs and peer navigators who can provide guidance and support.

Take a deep dive into examining the system of care. Incorporate more evaluation into services to determine both their efficiency and effectiveness and use findings for continuous improvement. Include voices of Black gay men, Black and Hispanic heterosexual women, members of the transgender communities, and others who have been traditionally excluded at the table for planning and decisions (2019 Needs Assessment- Appendix B pp. 12-16).

Actions Taken

The 2019 needs assessment report was delivered in March 2020, just before Dallas County begin to experience the impact of COVID-19. This left little opportunity for providers and the RWPC to give it adequate attention as they have been busy since that time managing the impact of the pandemic on their organizations and consumers. Nonetheless, the interviews and focus groups asked questions to determine whether providers and consumers had seen or heard of the results from the 2019 needs assessment. They also asked about changes made by providers and consumers' observations of changes.

Did providers and consumers hear or see the results?

Consumers who participated in the focus groups reported they were not aware of the results. Among providers, more than half had seen the report or at least browsed parts that were relevant to them.

What changes did providers make?

Providers described some changes they had made after they read the results of the needs assessments. Others had made changes that were unrelated to the results, but consistent with the recommendations, nonetheless. Some changes that were planned had to be put on a back burner due to COVID-19.

Rural providers outside of the Dallas region did not find the needs assessment to be helpful because it focuses primarily on the needs of populations they do not serve.
Reported changes based on the needs assessment are listed below.

- Including clients more often in decisions about how services are provided.
- Using the data to support grant writing and shifting grants to specifically support medical case management.
- Integrating primary care with the management of HIV in a clinic to improve access and reduce stigma of visiting an HIV service only clinic.
- Working across the Dallas region to reduce the eligibility burden with each agency having its own eligibility burden and clients having to do the same things multiple times, creating undue burden. This is still a work in progress.
- Increasing access and the number of new patients seen.

- Doing research about transgender issues; engaging in work on cultural humility and awareness; and changing forms to be more inclusive and include preferred name, as they are required to enroll people based on their legal names.
- Providing full wraparound services with pharmacy and a full medical clinic. This includes Spanish-speaking services, including transcription services for others.
- Implementing a Rapid Start Clinic. They were already considering it, but the needs assessment influenced them to move forward.
- Being intentional about hiring more bilingual staff.

What changes did consumers observe?

Consumers reported they have seen some changes since the 2019 needs assessment was completed, although they are not sure that they were related, or expressed that they were unrelated.

- One clinic is open on some Saturdays and has evening hours.
- Another clinic opened and there is more access in different parts of the city, including the southern sector and Fair Park area.
- The Amelia Court clinic moved to the new professional building at Parkland. Staff have more resources and room to provide care.
- The Community Health Center for Health Empowerment PrEP clinic started HIV care because they were seeing so many come in for testing who were not getting into care.
- Mobile testing units were out by nightclub locations in the Design District and Cedar Springs areas. They noticed a lot of people out and about participating in the mobile units (2019 Needs Assessment- Appendix B pp. 8-10).

In 2020, Susan Wolfe and Associates, LLC (SWA), in collaboration with Dr. Kyrah Brown from the University of Texas at Arlington presented the report with the results of the 2019 Dallas EMA Ryan White Needs Assessment. When the report was presented, the Ryan White Planning Council (RWPC) prepared a plan to respond to the findings and began implementing the plan. Shortly after the Needs Assessment findings were shared, however, the COVID-19 epidemic disrupted the operations of systems providing health and supportive care for PLWH and providers were forced to develop alternative ways to conduct outreach and deliver care.

In 2021, as COVID-19 rates declined and vaccination rates increased, there were expectations that providers and PLWH would be able to return to providing and receiving services with the same methods used pre-COVID-19. However, COVID-19 era adaptations led to innovations and new ways of doing things that may be retained. The Interim Needs Assessment offered an opportunity to capture not only the impact of COVID-19 on providers and consumers, but also the lessons learned.

The purpose of the Interim Needs Assessment was to:

- Identify how COVID-19 impacted the care delivery system and outreach, especially for underserved populations and populations with special needs.

- Determine the extent to which COVID-19 impacted individuals from identified underserved populations and their ability to access prevention and care services (Interim Needs Assessment- Appendix E).

Approach

The Key Informant Surveys were conducted by the contractor, Dr. Susan Wolfe. Dallas County Health and Human Services provided Dr. Wolfe with a list of organizations, contact names, and contact information for individuals who play a key role in the development and provision of services to PLWH in the Dallas region. E-mail invitations were sent to individuals from 27 different organizations requesting their participation. Recipients were asked to click on a link to Sign-Up Genius to select a date and time slot to schedule their interview. Follow-up invitations were sent to non-respondents after the sign-up deadline passed. Twenty-three individuals responded and signed up to be interviewed. One individual was unable to participate at her designated time due to an unforeseen event; one had to cancel because of a conflict and did not reschedule; and another did not show at the scheduled time. The final number of interviews was 20 key informants.

The interview was conducted using a semi-structured interview protocol via Zoom conferencing technology on the computer or telephone. All Key Informants agreed to having their interviews recorded. Interviews lasted from 45 minutes to 1.5 hours and averaged one hour. Three interviewees were unable to complete the entire interview because of scheduling conflicts or other time limitations. All interviews were completed between October 17, 2019, and November 25, 2019.

Organizations represented housing services, health care services, mental health services, children's health services, consumers, policy and advocacy services, transgender services, and other service providers serving PLWH in the Dallas region. Nineteen respondents served Dallas County and one respondent served the Sherman-Dennison HDSA.

Twelve focus groups were conducted. Three of the focus groups were conducted in June and July of 2018 by the Care Coordination Ad Hoc Committee. Two focus groups were conducted in April and June 2019 by Brad Walsh from Parkland Health and Hospital System. The remaining seven focus groups were conducted by the contractor, Susan Wolfe and Associates. All focus groups used a standard, semi-structured protocol. Eleven of the 12 focus groups were recorded. Participants were asked if they consented to recording and one participant in one group asked that the focus group not be recorded. Participants were asked to sign an informed consent form and each participant received a gift card as compensation for their time and input. All focus groups were arranged by Dallas County Health and Human Services in collaboration with service providers. The purpose of the focus groups was to gain added input from priority populations (2019 Needs Assessment- Appendix B pp. 2-6).

Section IV: Situational Analysis

Dallas region stakeholders have been building local momentum to address the HIV epidemic. There are many groups engaged in activities aimed at ending the HIV epidemic in the Dallas Region, including the Ryan White Planning Council, HIV Task Force and Fast Track Cities Committee. While each group has identified priorities and developed plans, they have not yet been able to land on an approach that would allow them to collaborate and leverage each other's resources and strengths effectively. The Integrated Plan provided an opportunity to engage key stakeholders from across the community to work together to develop shared priorities and collaborative strategies for HIV prevention and care in the Dallas Region. A cross-sector group of stakeholders was convened comprised of members of these active community groups to guide the planning process. This steering committee ensured that the community input described in Section II and the Data and Assessments discussed in Section III were used to identify current strengths, challenges, and identified needs for HIV prevention and care in the Dallas Region.

Diagnose

It is important to note that the COVID-19 pandemic has created challenges for not only the affected populations but for reviewing crucial data regarding new cases of HIV. Due to the COVID-19 pandemic, the counts of newly diagnosed persons with HIV are likely to be artificially low; thus, interpretation of the year-to-year trend in diagnoses should be approached with caution until more yearly data is available.

Testing for individuals under the age of 16 has been identified as an area of improvement as testing is not easily available for this age group. In 2019, men who have sex with women, men who inject drugs, women who inject drugs, and men who have sex with men and people who inject drugs were all more likely to be designated as AIDS-presenting at diagnosis. Data suggests that among women who have sex with men, numbers may be artificially low in 2020 due to, among other factors, the limited number and types of settings offering high-quality HIV testing as well as a lack of pervasive peer norms in support of HIV testing.

An identified strength is that all Parkland facilities have implemented opt-out testing. Further coordination with government institutions and other public/private partnerships are needed to increase access to testing. Collaboration with hospital emergency departments, schools, and correctional facilities has also been identified as an area of improvement.

Structural inequalities in Dallas area systems of care show that cultural proficiency training for providers and staff could lead to the removal of a barrier to care for these high-risk populations. Black and Latinx residents of the Dallas region are disproportionally affected by the HIV epidemic. These communities accounted for 76.3% (N=650) of all new HIV diagnoses in 2020 compared to their white counterparts who accounted for 18.9% (N=161). There are structural and systemic issues that lead to barriers to access to care for Black and Latinx

residents. In the Ryan White Planning Council of the Dallas Area Interim Needs Assessment-August 2021 (Interim Needs Assessment), Black communities reported barriers to care including poor experiences with providers, a lack of providers of color, and distance from providers. Latinx communities continue to face language barriers due to the availability of Spanish-speaking case managers and providers.

Identified needs for the Dallas area include priority prevention methods for the following communities: gay, bisexual, and other men who have sex with men and residents between the ages of 24 – 34. Men who have sex with men accounted for 70% (N=596) of all new HIV diagnoses followed by women who have sex with men at 16.2% (N=138), and then people who inject drugs at 6.5% (N=55) of all new diagnoses for HIV in 2020.

Treatment

At the end of 2021, of the 25,492 Dallas area residents living with HIV, 20,196 residents were in care within the Texas HIV treatment cascade system. Of the residents that were in care, 18,555 were designated retained in care; 15,350 achieved viral suppression. Identified strengths in the program are that 74% of all new diagnoses were linked to care within 1 month.

Stage	Number of Clients	Percentage of Clients
Total New Diagnoses	964	
Linked in 1 month	717	74%
Linked in 2-3 months	85	9%
Linked in 4-12 months	47	5%
Linked in 12+ months	3	0%
Not Linked	112	12%

One area of strength includes enhanced integrated care models. AHF Healthcare Center, Prism Health North Texas, and ASD all offer integrated care models which enable psychosocial, mental health, and substance abuse treatment, as well as risk reduction counseling that is co-located with HIV primary care providers. Increased public and private partnerships to address the gaps in coverage has been identified as an area of improvement.

Other strengths identified in the 2021 Interim Needs Assessment include reports of flexible hours in Ryan White funded organizations, as well as extensive language services, and diverse options for payment. Some providers within Dallas area reported offering more specialized services for target populations, such as services specifically for transgender consumers, including a transgender clinic. Participants also reported a range in youth services for populations under the age of 18.

Barriers to HIV treatment cited by survey participants were the amount of time it takes to get care, the paperwork burden, the time it takes to get an appointment, lack of weekend and evening hours, the clinic treats HIV and not their other medical conditions, and the staff does

not understand their culture. Evidence from data and providers suggests that for individuals living in suburban and rural areas, the paucity of services locally and resources and time necessary to reach services located in Dallas may also serve as a barrier.

While there is a lack of data pertaining to PLWH who identify as transgender, participants in the Interim Needs Assessment identified a lack of services pertaining to transgender individuals as a challenge. Transgender women report barriers related to fear given the number of transgender women who have been murdered. Transgender men report receiving limited attention regarding their specific needs. Both transgender men and women reported experiencing discrimination by providers.

Increased supports for populations in immigration detention centers, and post-release support from criminal justice systems is another identified need. Improvements are also needed in affordability of services and medications.

Prevent

In 2021, 15,350 Dallas area residents achieved viral suppression within the Texas HIV treatment cascade system. The use of long-acting PrEP has been useful in protecting patient status. Within the Dallas metro area there are 10 PrEP providers for uninsured populations and 17 locations that assist patients in accessing PrEP through verifying insurance and other options of assistance. The Sherman-Denison region has limited services with only one service provider for PrEP for the region.[4] Increasing data monitoring of PrEP usage has been identified as an area of improvement, and planning is ongoing to address this need. Another area of improvement is employing harm reduction techniques such as syringe service programs.

Other challenges identified by providers in the Interim Needs Assessment include stigma, lack of prevention messaging, and condom usage. Providers stated that younger populations tend to not understand the severity of living with HIV, and view HIV as another chronic but treatable disease. Providers expressed challenges due to stigma as a barrier to prevention methods in the Ryan White needs assessment. Stigma is highest among Black and Latinx communities. This caused providers to struggle with getting people tested and into care, especially if there is a risk of being identified as HIV positive from being seen at a care facility.

The Interim Needs Assessment identified areas of service gaps within the Ryan White network. These gaps in services included many social determinants of health which include housing instability, transportation services, and services in rural areas. Specific service gaps for rural communities include a lack of funding for outreach, peer support, and PrEP/PEP (Appendix E).

[4] "PrEP Locator: A National Database for US PrEP Providers," US PrEP Provider Directory, accessed November 28, 2022, https://preplocator.org/.

Respond

In order to detect and respond to outbreaks, the ability to distinguish between new and pre-existing diagnoses is critical. Data sharing across organizations and sectors is important in increasing the capacity to detect and respond to outbreaks. However, the challenges of data security and maintaining of confidentiality are presented with any expansion of data access. Organizations are often cautious in respect to this; therefore, consensus among relevant organizations regarding data sharing is needed.

In the event of an outbreak, connecting people quickly to the prevention and treatment services they need is critical. The challenges of fragmentation of services between various organizations and the need for clients to provide data multiple times, as expressed in listening sessions, present challenges in responding to outbreaks efficiently. Greater collaboration among service providers and coordination across counties is needed.

The DCHHS has a broad plan that utilizes the health department which could serve as a starting point in data sharing to increase the capacity to detect and respond to outbreaks. CQM data may also prove to be an opportunity that will also provide important insights. Increased funding for data surveillance and the expansion of public/private partnerships will be needed. Uniform data reporting requirements are also needed.

Priority Populations

Based on the Community Engagement and Planning Process in Section II and the Contributing Data Sets and Assessments detailed in Section III, each of the goals, objectives and key activities/strategies has a focus on the priority populations that have been identified. There are specific activities noted to engage with priority populations, or organizations that work with them, to ensure they get access to the services and resources needed.

Section V: 2022-2026 Goals and Objectives

The goals and objectives in this section were developed through a number of activities during the Integrated Planning process:

- A crosswalk of existing plans was completed to identify similarities among the goals, objectives, and strategies of each plan.
- Listening sessions were conducted with PLWH and other consumers to hear directly from them about what should be done to improve access to care and resources.
- The Integrated Planning Steering Committee convened monthly and helped develop the goals and objectives noted in this section.
- Goal-specific workgroups were convened to revise the goals and objectives as necessary, as well as to identify specific strategies the jurisdiction should engage in to meet the goals as outlined.

Goal 1: Diagnose all Dallas Regional residents as quickly as possible.

Objective 1- 90% of Dallas Regional Residents will know their HIV status.

Key Activities/Strategies:

1. Develop and implement strategies for testing residents in rural communities.
    - Establish baseline testing data.
    - Engage mobile medical partners.
    - Increase the efficacy of at-home testing.
2. Develop a "community calendar" for Dallas Regional Residents to access that will provide updated testing information.
    - Compile a list of partners who should be engaged to provide information to populate the community calendar.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: Specialty groups in rural counties; primary care providers; large employers; Black Greek organizations (Divine 9); community centers; transportation providers.

Data Indicator(s): Total number of tests performed; community calendar developed.

Data Source(s): DCHHS, EHE Coordinator, HIV Task Force, RWPC, ASOs, CBOs, Stakeholders.

Objective 2- Promote and increase community-based HIV testing opportunities in healthcare and non-healthcare settings.

Key Activities/Strategies:

1. Convene/attend conferences and meetings to share information and resources for healthcare providers and other healthcare professionals around HIV testing strategies and support.
2. Expand or increase opt-out, routine screening in healthcare and other institutional settings, particularly in highly impacted communities.
    - Develop educational materials for providers to have readily available and visible in their offices.
3. Encourage and support CBOs use of targeted social media posts encouraging routine testing.
4. Develop community-based strategies for targeted testing for priority populations.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: Dallas County Medical Society; ER staff; OB/GYN providers; primary care providers; large medical systems, particularly those who serve members of priority populations; insurance groups; corrections personnel.

Data Indicator(s): Total number of tests performed; number of community testing events listed on community calendar; number of social media posts from CBOs encouraging routine testing.

Data Source(s): DCHHS, EHE Coordinator, HIV Task Force, RWPC, ASOs, CBOs, Stakeholders.

Goal 2: Treat all HIV diagnoses quickly and effectively.

Objective 1- Increase the percentage of Dallas Regional residents who are linked to care within 14 days of diagnosis

Key Activities/Strategies:

1. Develop and implement a survey to understand the most pressing social determinants of health that PLWH need support with.
2. Standardize the definition of “linkage to care.”
3. Provide culturally responsive training to case managers.

4. Establish a 'warm handoff' system where providers connect people receiving a positive diagnosis directly to a case manager/navigator.

Target Population(s): All Dallas Regional Residents who are PLWH, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: AIDS Education Technical Assistance Consortium (AETC); academic institutions; technical training programs; organizations that work with the unhoused population; organizations that serve priority populations.

Data Indicator(s): Social determinants of health survey developed and implemented; standardized definition of "linkage to care" created; number of case managers who complete culturally responsive training; linkage to care data.

Data Source(s): DCHHS, AETC, TBD

Objective 2- Increase the percentage of Dallas Regional residents who are living with HIV that are retained in care.

Key Activities/Strategies:

1. Maintain a network of case managers so they can keep caseloads low and address other social determinants of health for their clients.
2. Recruit and hire people with lived experience (HIV positive, experience utilizing the system) to serve as case managers and navigators.
3. Provide training and professional development for PLWH to earn a living wage and develop the tools necessary for the role for which they are hired.

Target Population(s): All Dallas Regional Residents who are PLWH, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: AETC; academic institutions; technical training programs; organizations that work with the unhoused population; organizations that serve priority populations

Data Indicator(s): TBD

Data Source(s): TBD

Objective 3- Increase the percentage of Dallas Regional Residents who are living with HIV that are reconnected to care within 90 days of contact.

Key Activities/Strategies:

1. Establish a 'warm handoff' system where providers reconnect people getting reestablished in care directly to a case manager/navigator.
2. Recruit and hire people with lived experience (HIV positive, experience utilizing the system) to serve as case managers and navigators.
3. Provide training and professional development for PLWH to earn a living wage and develop the tools necessary for the role for which they are hired.

Target Population(s): All Dallas Regional Residents who are PLWH, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: AETC; academic institutions; technical training programs; organizations that work with the unhoused population; organizations that serve priority populations

Data Indicator(s): TBD

Data Source(s): TBD

Objective 4- Enhance the HIV care continuum that coordinates resources and services.

Key Activities/Strategies:

1. Create opportunities for case managers to build relationships with case managers outside of their service delivery areas.
2. Remove siloes that exist between organizations.
3. Develop local "medical neighborhoods" where clients can access multiple services in a single location. The services should be available in the evenings and on weekends.

Target Population(s): All Dallas Regional Residents who are PLWH, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people

- People who inject drugs
- Residents aged 25-34

Key Partners: AETC; academic institutions; technical training programs; primary care providers; large medical systems, particularly those who serve members of priority populations; Insurance groups.

Data Indicator(s): TBD

Data Source(s): TBD

Goal 3: Prevent new transmissions among Dallas Regional Residents using proven methods and strategies.

Objective 1- Increase the use of PrEP and nPEP by 50%, especially for priority populations.

Key Activities/Strategies:

1. Collaborate with providers to provide strategies to help them identify and prescribe PrEP to priority populations they serve.
2. Create awareness and opportunities and availability of nPEP to community members.
3. Community organizations should identify and hire credible messengers to engage community members in prevention activities.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: DCHHS, HIV Task Force, EHE Coordinator, pharmaceutical companies.

Data Indicator(s): Number of providers offering PrEP and nPEP prescriptions; number of credible messengers hired by community organizations.

Data Source(s): TBD

Objective 2- Employ harm reduction strategies that are proven to prevent the transmission of HIV.

Key Activities/Strategies:

1. Engage and educate State Representatives who are from and/or represent priority populations.
2. Advocate for policies that ease restrictions on proven harm reduction strategies.

3. Engage and train non-traditional partners to reach community members who engage in high-risk behaviors.
4. Gather a report on the landscape of sexual health education in schools.
5. Promote comprehensive sexual health education through schools.

Target Population(s): All Dallas Regional Residents, especially PLWH who are members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: Local social media influencers; State Representatives; organizations that provide food support; houselessness outreach workers; sex workers; organizations that serve the LGBTQ community; high schools and universities.

Data Indicator(s): Report on the landscape of sexual health education in schools; laws enacted that ease restrictions on harm reduction strategies.

Data Source(s): TBD

Objective 3- Develop and conduct workforce development/training for healthcare professionals on HIV testing guidelines, risk factors, prevention tools and culturally responsive efforts.

Key Activities/Strategies:

1. Educate providers on talking to their patients about sexual health and risk.
2. Educate providers on cultural competency/humility and anti-stigma.
3. Integrate HIV and sexual health education into curricula at medical schools, nursing schools, and other schools that train healthcare professionals.

Target Population(s): High school and university students; students in medical schools, nursing schools and other healthcare fields.

Key Partners: Primary care providers; food providers; houselessness outreach workers; sex workers; organizations that serve the LGBTQ community.

Data Indicator(s): TBD

Data Source(s): TBD

Goal 4: Respond quickly to potential outbreaks by getting prevention and treatment services to Dallas Regional Residents who need them.

Objective 1- Ensure accurate and reliable data is available to the appropriate entities for prompt surveillance efforts.

Key Activities/Strategies:

1. Develop a "standard of care" around data collection.
2. Ensure that data use agreements (between the county, testing agencies, community organizations, hospitals, etc.) are current and MOUs are in place.
3. Develop strategies to collect data about the transgender population.
4. Increase funding to support trends identified by surveillance data.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: DCHHS, EHE Coordinator, HIV Task Force, RWPC, ASOs, CBOs, Stakeholders.

Data Indicator(s): TBD

Data Source(s): TBD

Objective 2- Engage in local and regional outbreak response planning to be implemented when outbreaks are detected.

Key Activities/Strategies:

1. Determine whether there is a local/regional outbreak response plan.
    - If so, review and update the plan, as necessary.
    - If not, identify an entity that will be responsible for developing and implementing a response plan.
2. Identify an objective entity that can host an annual data sharing event.
3. Review zip code data to understand prevalence among priority populations.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: CDC, State/Local Health Departments, Community Organizations

Data Indicator(s): Identification or development of an outbreak response plan; identification of an objective entity to hold an annual data sharing event; TBD.

Data Source(s): TBD

Objective 3- Increase access to support services that address social determinants of health for Dallas Regional residents.

Key Activities/Strategies:

1. Develop and implement a survey to understand the most pressing social determinants of health that PLWH need support with.
2. Conduct a crosswalk of existing plans to identify strategies to support the needs of PLWH.
3. Increase the public/private partnership to address gaps in the Ryan White part A network.

Target Population(s): All Dallas Regional Residents, especially members of priority populations including:

- Gay, bisexual, and other men who have sex with men (MSM), particularly Black and Latinx men
- Black women
- Transgender people
- People who inject drugs
- Residents aged 25-34

Key Partners: DCHHS, EHE Coordinator, HIV Task Force, RWPC, ASOs, CBOs, Stakeholders.

Data Indicator(s): Social determinants of health survey; TBD

Data Source(s): TBD

Updates to Other Strategic Plans Used to Meet Requirements

There were no updates to other strategic plans to meet the requirements.

Section VI: 2022-2026 Integrated Planning Implementation, Monitoring and Jurisdictional Follow Up

As previously discussed, there are multiple groups in the Dallas region engaged in activities aimed at ending the HIV epidemic. Specific strategies around implementing, monitoring, and evaluating the integrated plan will be developed in more detail in the coming year, when several of the groups will be going through a restructuring process. Part of the restructuring will involve clarifying the roles they will have in monitoring the progress of the goals, objectives, and strategies of the integrated plan.

Implementation

DCHHS will create a report template that all Ryan White- funded agencies and entities that were part of the integrated planning process will complete on a quarterly basis. The report template will contain consistent reporting detail including metrics such as HIV testing data, viral suppression, number of community-based testing events, etc. Currently, Ryan White-funded agencies submit invoices that also capture some potentially relevant data, so they will be reviewed to determine what should be reported across all agencies. The jurisdiction will determine which entity will be responsible for compiling and sharing the data collected. The data collected from the template is the first step for the jurisdiction to begin gathering relevant data that will assist with understanding whether the goals and objectives have been met.

DCHHS is considering establishing a system-wide Case Manager whose primary responsibility will be to lead a Regional Case Management Operating Committee. As this role is being developed, there is consideration that this role will also assist in exploring and establishing regular data collection from the funded agencies.

Monitoring

There are several groups that will play a role in overseeing the implementation and monitoring of the 2022-2026 Integrated Plan, including the HIV Task Force, Fast Track Counties committee and Ryan White Planning Council. It should be noted that in 2023, both the HIV Task Force and Fast Track Counties committees will convene to revamp how they do their work. Discussions will involve clarifying the mission of each group, the role of leadership, how each group will be staffed, and the role of the committees for each. Currently, the HIV Task Force meets monthly, and the Fast Track Counties committee meets quarterly, and this is likely to continue. They will also consider the respective roles they play with implementation and monitoring of the Integrated Plan, including the identification of a liaison responsible for receiving and sharing information with the Ryan White Planning Council.

The Planning and Priorities committee of the Ryan White Planning Council is tasked with overseeing projects and will receive updates about the status of goals and objectives. For

each monthly meeting, there will be a standing agenda item dedicated to updating the committee on the progress of the goals and objectives of the plan. Any critical updates and/or recommendations will be made to the Ryan White Planning Council.

Evaluation

The jurisdiction, through the Continuous Quality Management (CQM) Committee of the RWPC, will continue to refine the metrics used to evaluate the Integrated Plan. While the data template is the first step to having regular and consistent data available to track progress, the development of a data dashboard that metrics will be reported directly into is a longer-term goal for the jurisdiction. This will allow real-time and trend data to be available to allow the jurisdiction to make informed decisions about how funding should be allocated to best meet the needs of Dallas Regional residents. Until then, funded agencies will complete and submit the data templates on a quarterly basis, and then present the findings to the RWPC.

Improvement

The Planning and Priorities Committee will review the Plan on an annual basis to assess its implementation. They will also review the data that has been collected over the previous year to determine whether there has been progress made toward meeting the goals, objectives, and strategies as outlined. If there are changes recommended to any areas of the plan, they will be submitted to the full RWPC for discussion and adoption.

Reporting and Dissemination

The Ryan White Planning Council will ensure that each of its committees receives quarterly updates on the progress of implementing the Plan, as well as any changes made based on evaluation and improvement efforts. In addition, the liaisons to the HIV Task Force and Fast Track Counties committee will ensure those entities receive *at least* quarterly updates that are provided to the RWPC.

Section VII: Letters of Concurrence

RWHAP Part A Planning Council/Planning Body(s) Chair(s) or Representative(s)

Dear (Name):

The Ryan White Planning Council Dallas ***concurs with reservations*** for the inclusion of specified updates to be incorporated with the following submission by the Dallas County Department of Health and Human Services in response to the guidance set forth for health departments and HIV planning groups funded by the CDC's Division of HIV/AIDS Prevention (DHAP) and HRSA's HIV/AIDS Bureau (HAB) for the development of an Integrated HIV Prevention and Care Plan, including the Statewide Coordinated Statement of Need (SCSN) for calendar year (CY) 2022-2026.

The Ryan White Planning Council Dallas has reviewed the Integrated HIV Prevention and Care Plan submission to the CDC and HRSA to verify that it describes how programmatic activities and resources are being allocated to the most disproportionately affected populations and geographical areas with high rates of HIV.

The Ryan White Planning Council Dallas ***concurs with reservations for the inclusion/updates of the following provisions: The Executive Summary must incorporate progression details from the 2017-2021 Integrated Plan; the Data Sets must incorporation a caveat for the Rural HSDA's; the Situation Analysis section must incorporate changes/improvements comparable information as applicable to the 2nd 5-Year Plan to further demonstrate*** that the Integrated HIV Prevention and Care Plan submission fulfills the requirements put forth by the CDC's Notice of Funding Opportunity for Integrated HIV Surveillance and Prevention Programs for Health Departments and the Ryan White HIV/AIDS Program legislation and program guidance.

The Ryan White Planning Council Dallas and Standing Committee Members participated in the Steering Committee, in addition to listening sessions that were aimed at getting input on needs, priorities, gaps, and opportunities. In addition, three listening sessions were conducted in September 2022 to hear directly from consumers about what should be done to improve access to care and resources. Individuals were convened in September 2022 to discuss current strengths and gaps in services for Dallas County residents living with HIV/AIDS.

The Ryan White Part A Planning Council received multiple updates about the status of the Integrated Planning process, in which several Planning Council members participated. In addition, members of the Planning and Priorities and Consumer Council Committee (sub-committees of the RWPC) who are also PLWHA assisted in recruiting and convening other consumers to participate in listening sessions and share feedback on what should be done to improve access to care and services, particularly for identified priority populations.

The Ryan White Planning Council Dallas and Standing Committees have an established monthly schedule to conduct meeting whereby the EHE/Grants Department will have standing agenda items dedicated for presentation from program representatives.

The signature(s) below confirms the ***concurrence with reservations*** of the Ryan White Planning Council Dallas with the Integrated HIV Prevention and Care Plan.

Signature: _____Date: _____
Helen Zimba Ryan White Planning Council Co Chair(s)

Integrated Planning Body (Dallas County Integrated Planning Steering Committee)

Program Officer Name

Dear Program Officer,

The Dallas County Integrated Planning Steering Committee [***concurs or concurs with reservations***] with the following submission by the Dallas County Health and Human Services in response to the guidance set forth for health departments and HIV planning groups funded by the CDC's Division of HIV/AIDS Prevention (DHAP) and HRSA's HIV/AIDS Bureau (HAB) for the development of an Integrated HIV Prevention and Care Plan, including the Statewide Coordinated Statement of Need (SCSN) for calendar year (CY) 2022-2026.

The planning body has reviewed the Integrated HIV Prevention and Care Plan submission to the CDC and HRSA to verify that it describes how programmatic activities and resources are being allocated to the most disproportionately affected populations and geographical areas with high rates of HIV. The planning body [***concurs or concurs with reservations***] that the Integrated HIV Prevention and Care Plan submission fulfills the requirements put forth by the CDC's Notice of Funding Opportunity for Integrated HIV Surveillance and Prevention Programs for Health Departments and the Ryan White HIV/AIDS Program legislation and program guidance.

The Dallas County Integrated Planning Steering Committee was convened to advise on the scope of the Integrated Plan, identify key partners and data sources, and provide feedback on the approach to gathering community input. The Steering Committee also assisted in identification, recruitment, coordination, and facilitation of goal-specific, planning workgroups. The group met monthly from August through November 2022.

The signatures below confirm the [***concurrence or concurrence with reservations***] of the planning bodies with the Integrated HIV Prevention and Care Plan.

Signatures:

Planning Body Chair(s), Date

Dallas HIV Task Force (EHE Planning Body)

Program Officer Name

Dear Program Officer,

The HIV Task Force [***concurs or concurs with reservations***] with the following submission by the Dallas County Health and Human Services in response to the guidance set forth for health departments and HIV planning groups funded by the CDC's Division of HIV/AIDS Prevention (DHAP) and HRSA's HIV/AIDS Bureau (HAB) for the development of an Integrated HIV Prevention and Care Plan, including the Statewide Coordinated Statement of Need (SCSN) for calendar year (CY) 2022-2026.

The planning body has reviewed the Integrated HIV Prevention and Care Plan submission to the CDC and HRSA to verify that it describes how programmatic activities and resources are being allocated to the most disproportionately affected populations and geographical areas with high rates of HIV. The planning body [***concurs or concurs with reservations***] that the Integrated HIV Prevention and Care Plan submission fulfills the requirements put forth by the CDC's Notice of Funding Opportunity for Integrated HIV Surveillance and Prevention Programs for Health Departments and the Ryan White HIV/AIDS Program legislation and program guidance.

The HIV Task Force serves as the EHE Planning Body and received multiple updates about the status of the Integrated Planning process, in which several HIV Task Force members participated. In addition, members of the Task Force who are also PLWHA assisted in recruiting and convening other consumers to participate in listening sessions and share feedback on what should be done to improve access to care and services, particularly for identified priority populations.

The signatures below confirm the [***concurrence or concurrence with reservations***] of the planning bodies with the Integrated HIV Prevention and Care Plan.

Signatures:

Planning Body Chair(s), Date

Appendix A: Dallas County Dallas Eligible Metropolitan Area Integrated HIV Prevention and Care Plan CY 2017 - 2021

Appendix B: Ryan White Planning Council of the Dallas Area 2019 Comprehensive HIV/AIDS Needs Assessment February 2020

Appendix C: Integrated Plan Steering Committee Roster

Appendix D: Dallas County IP Steering Committee Notes

Appendix E: Ryan White Planning Council of the Dallas Area Interim Needs Assessment August 2021

HRSA HAB, HIV Integrated Prevention and Care Plan, CY2022-2026
Summary Statement

SECTION I: Integrated Plan Submission and Review Summary	
Jurisdiction	**Dallas, Texas**
Submission Type	☐ Integrated state/city prevention and care plan ☐ Integrated state-only prevention and care plan ☒ Integrated city-only prevention and care plan ☐ Other:_____
RWHAP Part A Jurisdictions (EMA/TGA) or MSAs included in the plan	
Did the jurisdiction use portions of other plans to satisfy requirements (e.g., EHE plan)?	☐ Yes ☒ No or Not Applicable **Name of Plan(s) Used:** **If available, URL to other Plan(s):**
Executive Summary Included	☒ Yes ☐ No
HRSA Reviewer's Name(s)	
HRSA Reviewer's Name:	Matthew James
HRSA Reviewer's Name:	Kristin Athey

SECTION II: Community Engagement and Planning Process	
1.	
Please select all planning bodies that participated in developing the Integrated Plan	☒ Integrated HIV Prevention and Care Planning Body ☒ RWHAP Part A Planning Council/Planning Body ☐ RWHAP Part B Advisory Group ☐ HIV Prevention Group (HPG) ☒ EHE Planning Body ☒ Other, please specify: Fast Track Cities

Please note *the remainder of this table includes the language provided to the recipient in the CY 2022-2026 CDC DHAP and HRSA HAB Integrated Prevention and Care Plan Guidance Checklist and will indicate whether the HRSA reviews found the requirement to be met or not met.*	
1. Jurisdiction Planning Process: Describe how your jurisdiction approached the planning process. Include in your description the steps used in the planning process, the groups involved in implementing the <u>needs assessment</u> and/or developing planning goals and how the jurisdiction incorporated data sources in the process. Describe how planning included representation from the priority populations. This may include sections from other plans such as the EHE plan. Please be sure to address the items below in your description	**HRSA-CDC Response** Partial
a. **Entities Involved in Process:** List and describe the types of entities involved in the planning process. Be sure to include CDC and HRSA-funded programs, new stakeholders (e.g., new partner organizations, people with HIV), as well as other entities such as HOPWA-funded housing service providers or the state Medicaid agency that met as part of the process. See *Appendix 3* for list of required and suggested stakeholders	**HRSA-CDC Response** Partial
b. **Role of RWHAP Part A Planning Council/Planning Body (not required for state only plans):** Describe the role of the RWHAP Part A Planning Council(s)/Planning Body(s) in developing the Integrated Plan.	**HRSA-CDC Response** Yes

1. **Role of Planning Bodies and Other Entities:** Describe the role of CDC Prevention Program and RWHAP Part B planning bodies, HIV prevention and care integrated planning body, and any other community members or entities who contributed to developing the Integrated Plan. If the state/territory or jurisdiction has separate prevention and care planning bodies, describe how these planning bodies collaborated to develop the Integrated Plan. Describe how the jurisdiction collaborated with EHE planning bodies. Provide documentation of the type of engagement occurred. EHE planning may be submitted as long as it includes updates that describe ongoing activities.	**HRSA-CDC Response** Partial
2. **Collaboration with RWHAP Parts:** Describe how the jurisdiction incorporated RWHAP Parts A-D providers and Part F recipients across the jurisdiction into the planning process. In the case of a RWHAP Part A or Part B only plan, indicate how the planning body incorporated or aligned with other Integrated Plans in the jurisdiction to avoid duplication and gaps in the service delivery system.	**HRSA-CDC Response** Partial
3. **Engagement of People with HIV:** Describe how the jurisdiction engaged people with HIV in all stages of the process, including needs assessment, priority setting, and development of goals/objectives. Describe how people with HIV will be included in the implementation, monitoring, evaluation, and improvement process of the Integrated Plan.	**HRSA-CDC Response** Partial
4. **Priorities:** List key priorities that arose out of the planning and community engagement process.	**HRSA-CDC Response** No
5. **Updated to Other Strategic Plans Used To Meet Requirements (Only for those jurisdictions that used sections of other plans):** If the jurisdiction is using portions of another local strategic plan to satisfy this requirement, please describe: 1. How the jurisdiction uses annual needs assessment data to adjust priorities. 2. How the jurisdiction incorporates the ongoing feedback of people with HIV and stakeholders. 3. Any changes to the plan because of updated assessments and community input. Any changes made to the planning process because of evaluating the planning process.	**HRSA-CDC Response** N/A
General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing):	

- In the section related to the jurisdictional planning process, no priority populations were identified, there was no discussion of how stakeholders were engaged, and there was no description of the strategies used in the planning process.
- The jurisdiction does not identify funding sources for stakeholders (e.g., CDC, HRSA) to ensure that resources are being leveraged to meet needs.
- The jurisdiction does not identify possible new stakeholders that should be engaged in activities.
- There is no description of how people with HIV will be included in the monitoring, evaluation, and improvement process of the Integrated HIV Prevention and Care Plan.
- Key priorities identified by the planning and community engagement processes should be identified this section and also reflected in the goals and objectives of the Integrated HIV Prevention and Care Plan.

SECTION III: Contributing Data Sets and Assessments	
The following table indicates whether or not the HRSA reviewers found that the recipient responded to the following requirements in Section III Contributing Data Sets and Assessments of the Integrated Plan Submission	
1. **Data Sharing and Use:** Provide an overview of data available to the jurisdiction and how data were used to support planning. Identify with whom the jurisdiction has data sharing agreements and for what purpose.	**HRSA-CDC Response** No
2. **Epidemiologic Snapshot:** Provide a snapshot summary of the most current epidemiologic profile for the jurisdiction that uses the most current available data (trends for most recent 5 years). The snapshot should highlight key descriptors of people diagnosed with HIV and at-risk for exposure to HIV in the jurisdiction using both narrative and graphic depictions. Provide specifics related to the number of individuals with HIV who do not know their HIV status, as well as the demographic, geographic, socioeconomic, behavioral, and clinical characteristics of persons with newly diagnosed HIV, all people with diagnosed HIV, and persons at-risk for exposure to HIV. This snapshot should also describe any HIV clusters identified and outline key characteristics of clusters and cases linked to these clusters. Priority populations for prevention and care should be highlighted and align with those of the HIV National Strategic Plan. Be sure to use the HIV care continuum in your graphic depiction, showing burden of HIV in the jurisdiction.	**HRSA-CDC Response** Partial
3. **HIV Prevention, Care and Treatment Resource Inventory:** Create an HIV Prevention, Care and Treatment Resource Inventory. The Inventory may include a table and/or narrative but must address **all** of the following information in order to be responsive:	**HRSA-CDC Response** Partial

• Organizations and agencies providing HIV care and prevention services in the jurisdiction. • HRSA (must include all RWHAP parts) and CDC funding sources. • Leveraged public and private funding sources, such as those through HRSA's Community Health Center Program, HUD's HOPWA program, Indian Health Service (IHS) HIV/AIDS Program, Substance Abuse and Mental Health Services Administration programs, and foundation funding. • Describe the jurisdiction's strategy for coordinating the provision of substance use prevention and treatment services (including programs that provide these services) with HIV prevention and care services. • Services and activities provided by these organizations in the jurisdiction and if applicable, which priority population the agency serves. • Describe how services will maximize the quality of health and support services available to people at-risk for or with HIV.	
a. Strengths and Gaps: Please describe strengths and gaps in the HIV prevention, care and treatment inventory for the jurisdictions. This analysis should include areas where the jurisdiction may need to build capacity for service delivery based on health equity, geographic disparities, occurrences of HIV clusters or outbreaks, underuse of new HIV prevention tools such as injectable antiretrovirals, and other environmental impacts.	**HRSA-CDC Response** Partial
b. Approaches and Partnerships: Please describe the approaches the jurisdiction used to complete the HIV prevention, care and treatment inventory. Be sure to include partners, especially new partners, used to assess service capacity in the area.	**HRSA-CDC Response** No

4. **Needs Assessment** Identify and describe all needs assessment activities or other activities/data/information used to inform goals and objectives in this submission. Include a summary of needs assessment data including: 1. Services people need to access HIV testing, as well as the following status neutral services needed after testing: a. Services people at-risk for HIV need to stay HIV negative (e.g., PrEP, Syringe Services Programs) – Needs b. Services people need to rapidly link to HIV medical care and treatment after receiving an HIV positive diagnosis - Needs 2. Services that people with HIV need to stay in HIV care and treatment and achieve viral suppression –Needs 3. Barriers to accessing existing HIV testing, including State laws and regulations, HIV prevention services, and HIV care and treatment service – Accessibility	**HRSA-CDC Response** Partial
a. Priorities: List the key priorities arising from the needs assessment process.	**HRSA-CDC Response** Yes
b. Actions Taken: List any key activities undertaken by the jurisdiction to address needs and barriers identified during the needs assessment process.	**HRSA-CDC Response** Yes
c. Approach Please describe the approach the jurisdiction used to complete the needs assessment. Be sure to include how the jurisdiction incorporated people with HIV in the process and how the jurisdiction included entities listed in *Appendix 3.*	**HRSA-CDC Response** Yes

General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing):

- The Integrated HIV Prevention and Care Plan does not identify who the jurisdiction has data sharing agreements with or for what purpose. The jurisdiction should conduct a data sharing inventory and also review current data sharing agreements to identify additional agreements that may be needed to ensure access to data needed to measure progress.
- The Epidemiologic Snapshot should identify socioeconomic, behavioral, and clinical characteristics for people with newly diagnosed HIV, all people with diagnosed HIV, and people at-risk of exposure to HIV.
- There is no mention of any HIV clusters identified, their key characteristics, or how the jurisdiction works with the state to coordinate cluster response.

- Updating the Resource Inventory will allow for the identification of gaps in services for HIV prevention and care outside of RWHAP-funded service categories.
- Resource inventory information should be used to implement and promote the status neutral approach and facilitate warm hand offs as listed as a key activity for the Treat goal.
- The Resource Inventory should describe how services will maximize the quality of health and support services available to people at-risk for or with HIV.
- Findings from the Resource Inventory are not used to identify gaps in services. The jurisdiction should review all key stakeholders, including those outside of the RWHAP system, to determine the capacity of existing partners and identify potential new partners that could support the expansion of services.
- The Needs Assessment should be revised to include all the components specified in the guidance, including an assessment focused on implementing a status neutral approach. If additional needs are identified during this process, the goals and objectives should be revised to be responsive to these needs.

SECTION IV: Situational Analysis	
The following table indicates whether or not the HRSA reviewers found that the recipient responded to the following requirements in Section IV Situational Analysis of the Integrated Plan Submission	
1. Situational Analysis: Based on the Community Engagement and Planning Process in Section II and the Contributing Data Sets and Assessments detailed in Section III, provide a short overview of strengths, challenges, and identified needs with respect to HIV prevention and care. Include any analysis of structural and systemic issues affecting populations disproportionately affected by HIV and resulting in health disparities. The content of the analysis should lay the groundwork for proposed strategies submitted in the Integrated Plan's goals and objective sections. The situational analysis should include an analysis in each of the following areas: a. Diagnose all people with HIV as early as possible b. Treat people with HIV rapidly and effectively to reach sustained viral suppression c. Prevent new HIV transmissions by using proven interventions, including pre-exposure prophylaxis (PrEP) and syringe services programs (SSPs) d. Respond quickly to potential HIV outbreaks to get needed prevention and treatment services to people who need them *Please note jurisdictions may submit other plans to satisfy this requirement, if applicable to the entire HIV prevention and care service system across the jurisdiction.*	**HRSA-CDC Response** Yes

a. **Priority Populations:** Based on the Community Engagement and Planning Process in Section II and the Contributing Data Sets and Assessments detailed in Section III, describe how the goals and objectives address the needs of priority populations for the jurisdiction	**HRSA-CDC Response** Partial
General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing): • Provide a better description of the specific activities that will be undertaken to meet the needs of priority populations, including which organizations will carry out these activities and the resources needed.	

SECTION V: 2022-2026 Goals and Objectives	
The following table indicates whether or not the HRSA reviewers found that the recipient responded to the following requirements in in Section V 2022-2026 Goals and Objectives of the Integrated Plan Description	
Did the plan List and describe goals and objectives for how the jurisdiction will diagnose, treat, prevent and respond to HIV. Be sure the goals address any barriers or needs identified during the planning process. There should be at least 3 goals and objectives for each of these four areas. See Appendix 2 for suggested format for Goals and Objectives.	
Diagnose	**HRSA-CDC Response** Partial
Treat	**HRSA-CDC Response** Partial
Prevent	**HRSA-CDC Response** Partial
Respond	**HRSA-CDC Response** Partial
a. Updates to Other Strategic Plans Used to Meet Requirements (applicable only if recipient used other plans to satisfy this requirement): If the jurisdiction is using portions of another local strategic plan to satisfy this requirement, please describe any changes made because of analysis of data.	**HRSA-CDC Response** N/A
General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing):	

- Goals should be revised to align with the SMART format to ensure that goals and activities are measurable and effective.
- Additional goals (at least three) should be identified for each of the four pillars to align with the Integrated HIV Prevention and Care Plan Guidance.

SECTION VI: 2022-2026 Integrated Planning Implementation, Monitoring and Jurisdictional Follow Up

Purpose: To describe the infrastructure, procedures, systems, and/or tools that will support the key phases of integrated planning. In this section jurisdictions will detail how best to ensure the success of Integrated Plan goals and objectives through the following 5 key phases:

1. Implementation
2. Monitoring
3. Evaluation
4. Improvement
5. Reporting and Dissemination

Tips given to recipients for meeting this requirement

1. This requirement may require the recipient to create some new material or expand upon existing materials.
2. Include sufficient descriptive detail for each of the 5 key phases to ensure that all entities understand their roles and responsibilities, and concur with the process.
3. If you are submitting portions of a different jurisdictional plan to meet this requirement, you should include updates that describe steps the jurisdiction has taken to accomplish each of the 5 phases.

The following table indicates whether or not the HRSA reviewers found that the recipient responded to the following requirements in Section VI 2022-2026 Integrated Planning Implementation, Monitoring and Jurisdictional Follow Up of the Integrated Plan Submission.

1. 2022-2026 Integrated Planning Implementation Approach: Describe the infrastructure, procedures, systems or tools that will support the five key phases of integrated planning to ensure goals and objectives are met.	**HRSA-CDC Response** Partial
a. **Implementation** Describe the process for coordinating partners, including new partners, people with HIV, people at high risk for exposure to HIV, and providers and administrators from different funding streams, to meet the jurisdiction's Integrated Plan goals and objectives. Include information about how the plan will influence the way the jurisdiction leverages and coordinates funding streams including but not limited to HAB and CDC funding.	**HRSA-CDC Response** Partial

	b. Monitoring Describe the process for monitoring progress on the Integrated Plan goals and objectives. This should include information about how the jurisdiction will coordinate different stakeholders and different funding streams to implement plan goals. If multiple plans exist in the state (e.g., city-only Integrated Plans, state-only Integrated Plans), include information about how the jurisdiction will collaborate and coordinate monitoring of the different plans within the state to avoid duplication of effort and potential gaps in service provision. Be sure to include details such as specific coordination activities and timelines for coordination. *Note: Recipients will be asked to provide updates to both CDC and HRSA as part of routine monitoring of all awards.*	**HRSA-CDC Response** Partial
	c. Evaluation: Describe the performance measures and methodology the jurisdiction will use to evaluate progress on goals and objectives. Include information about how often the jurisdiction conducts analysis of the performance measures and presents data to the planning group/s	**HRSA-CDC Response** Partial
	d. Improvement: Describe how the jurisdiction will continue to use data and community input to make revisions and improvements to the plan. Be sure to include how often the jurisdiction will make revisions and how those decisions will be made	**HRSA-CDC Response** Partial
	e. Reporting and Dissemination: Describe the process for informing stakeholders, including people with HIV, about progress on implementation, monitoring, evaluation and improvements made to the plan.	**HRSA-CDC Response** Partial

2. Updates to Other Strategic Plans Used to Meet Requirements (applicable only if recipient used other plans to satisfy this requirement): If the jurisdiction is using portions of another local strategic plan to satisfy this requirement, please describe: 1. Steps the jurisdiction has already taken to implement, monitor, evaluate, improve, and report/disseminate plan activities. 2. Achievements and challenges in implementing the plan. Include how the jurisdiction plans to resolve challenges and replicate successes. 3. Revisions made based on work completed.	**HRSA-CDC Response** N/A

General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing):

- The jurisdiction did not describe how the goals and objectives will be implemented other than developing a template to capture data.
- The jurisdiction should work with stakeholders to determine how funding streams can be leveraged when implementing strategies and/or activities to achieve goals and objectives.
- There is no discussion on collaboration with different plans within Texas or how there will be coordination across activities or a timeline for carrying out the proposed activities.
- With no specific coordination activities or timeline for implementing activities described, the jurisdiction cannot effectively evaluate the Integrated HIV Prevention and Care Plan. Performance measures are not presented in the document.
- The jurisdiction needs a strategy for using current data and community input to make improvements to the Integrated HIV Prevention and Care Plan.
- There should be a strategy for sharing the results of evaluation activities to stakeholders beyond providing information to the Planning Council. Information should be shared with stakeholders and people with HIV that may not be members of the workgroups described in the Integrated HIV Prevention and Care Plan. The jurisdiction should explore leveraging existing methods and stakeholder resources (e.g., EHE website) to disseminate information about implementation of the Integrated HIV Prevention and Care Plan.

SECTION VII: Letters of Concurrence	
The following table indicates whether or not the HRSA reviewers found that the recipient provided letter(s) of concurrence that represent individuals/planning groups, as appropriate, from the following:	
1. CDC Prevention Program Planning Body Chair(s) or Representative(s) 2. Community Co-Chair	**HRSA-CDC Response** N/A
3. RWHAP Part A Planning Council/Planning Body(s) Chair(s) or Representative(s)	**HRSA-CDC Response** Yes

4. RWHAP Part B Planning Body Chair or Representative	**HRSA-CDC Response** N/A
5. Integrated Planning Body	**HRSA-CDC Response** N/A
6. EHE Planning Body	**HRSA-CDC Response** Yes
General Comments on Section and/or explanation for no/partial responses in the review tool (e.g., what information was missing): • Table of Contents lists a steering committee letter of concurrence but it was not attached.	

As a reminder, the Integrated plans are *"living documents"* and serve as a blueprint for HIV prevention and care activities.

Integrated Plan Submission Review Summary

I. Highlights and Observations of Plan:

The submitted Integrated HIV Prevention and Care Plan does not fully integrate HIV prevention and treatment. The Resource Inventory only contains RWHAP service categories and does not incorporate stakeholders or other funding streams that address prevention and non-RWHAP activities, which is critical to the jurisdiction's approach to addressing needs.

There is limited discussion on the engagement of people with HIV, besides members of the Planning Council, in the implementation, monitoring, and evaluating of the Integrated HIV Prevention and Care Plan.

There was little discussion of critical prevention activities including PrEP, PEP, condoms, and Undetectable = Untransmittable (U=U).

II. Plan Strengths*:*

The Epidemiologic Snapshot provided comprehensive data on people with undiagnosed HIV.

III. Programmatic/Legislative Compliance Issues:

None noted

A. Action Items to Resolve Programmatic/Legislative Compliance Issues:

None noted

IV. Recommendations for Plan Improvement:

The jurisdiction should determine how the Integrated HIV Prevention and Care Plan implementation, monitoring, and evaluation activities will be determined and shared with stakeholders and people with HIV that are not on the Planning Council. This should also include prevention partners.

Throughout the document there is no discussion of how data will be used to monitor both HIV care and prevention activities. The jurisdiction should determine how data can be obtained in a timely and accurate manner to measure progress in achieving goals.

The jurisdiction should conduct a data sharing inventory and also review current data sharing agreements, to identify additional agreements that may be needed to ensure access to data needed to measure progress.

The jurisdiction should revise the Resource Inventory to include the other RWHAP Parts, prevention stakeholders, and other public and private funding streams. The revised Resource Inventory should identify stakeholders and potential partners that will implement and promote the status neutral approach and "warm hand offs" as listed as a key activity for the Treat goal. The Resource Inventory should also describe how services will maximize the quality of health and support services available to people at-risk for or with HIV. The jurisdiction should revise the plan (including goals and objectives) once the status neutral needs assessment is complete to reflect the finding.

Goals presented in the plan should be revised to follow the SMART format so they are measurable and can be evaluated.

The jurisdiction must collaborate and coordinate with the Texas State Department of Health and Human Services to align with the development, implementation, and monitoring of Integrated HIV Prevention and Care Plans within the state to avoid duplication of effort and potential gaps in services. This collaboration should include data dissemination to stakeholders, affected communities, and the public.

V. Technical Assistance Suggestions:

Continue technical assistance relationship with JSI to revise goals and objectives to reflect the SMART format and align the goals and objectives with implementation, monitoring, dissemination, and evaluation.

Consider technical assistance on how to disseminate information to stakeholders and affected communities beyond the planning council.

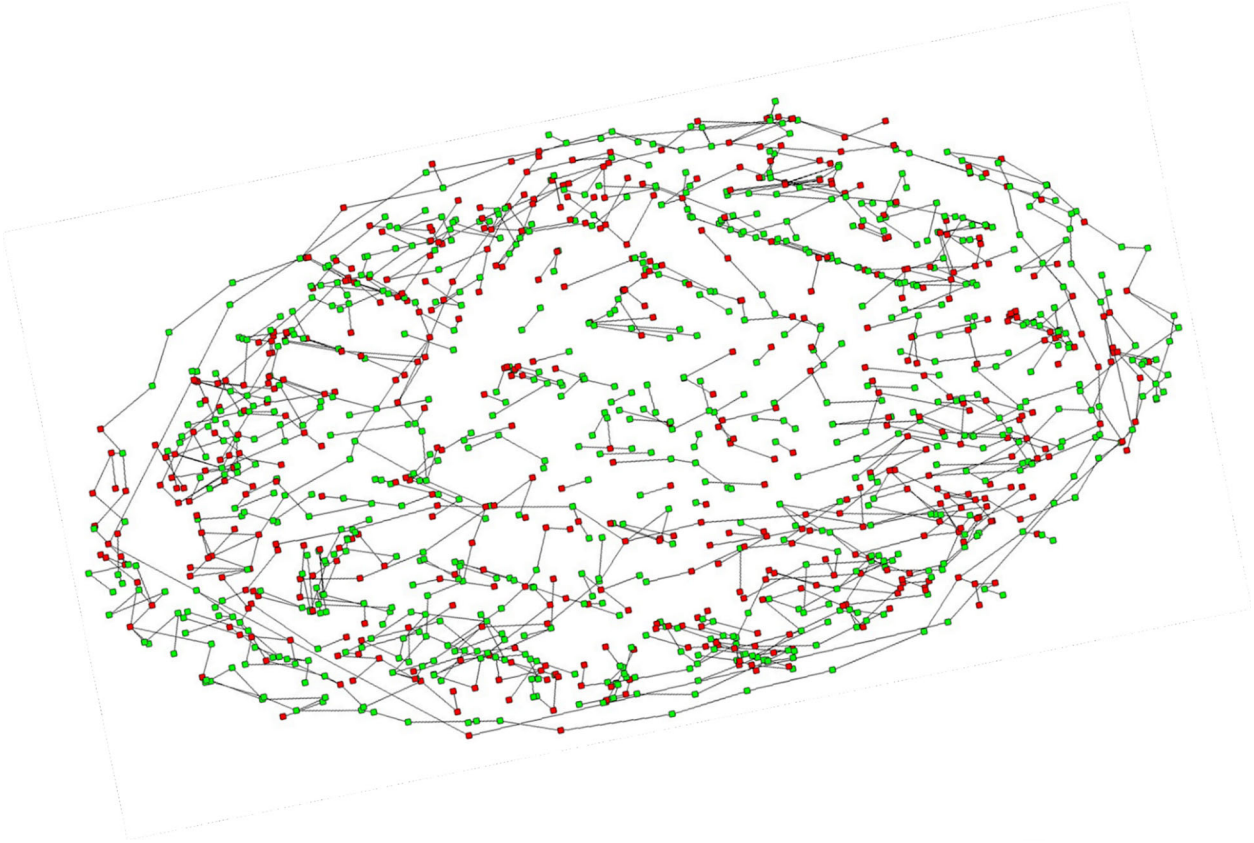
Consider technical assistance related to cluster detection response. This will require working with the state.

VI. Items for Future Monitoring Discussions:

The CDC and HRSA project officers should work with the recipient to revise goals and objectives and improve coordinate across funding streams (e.g., HAB funding and EHE funding).

Ensure steering committee letter of concurrence is submitted.

2022 Dallas EMA/HSDA Status Neutral Needs Assessment



Executive Summary

The Status Neutral Needs Assessment for the Dallas Eligible Metropolitan Area, Dallas Health Service Delivery Areas, and Sherman-Denison Health Service Delivery Areas (Dallas EMA/HSDA) was conducted between August 2022–February 2023. The assessment used a mixed methods approach including a respondent driven sampling survey with 2,046 respondents, seven key informant interviews, and three focus groups with 26 participants. Survey data was analyzed using Jamovi 2.3.9 and the focus groups and key informant interviews were coded for qualitative analysis. Priority populations for the Dallas EMA/HSDA include Hispanic men and women, Black/African American men and women, Caucasian men and women, men who have sex with men (MSM), persons of transgender or gender nonconforming experience (TGNC), and youth (13 – 24 years). Within these populations, Black MSM, Hispanic/Latinx MSM, Hispanic/Latinx women, transgender men and men, and youth living with and at risk of contracting HIV/AIDS require additional attention due to an enhanced risk to HIV exposure and were those targeted for the surveys, focus groups, and key informant interviews.

There was very low representation from Latino (n= 251) and TGNC (n=75) communities in the survey; to that end closed focus groups for TGNC participants were conducted and those for whom Spanish was their primary language. The focus group for TGNC individuals was well attended and there was TGNC representation in the key informant interviews. However, we were unable to engage any monolingual Spanish speakers for the focus groups or key informant interviews. Our findings indicate that the current sociopolitical climate is deterring individuals from these communities to remain insular fearing potential safety and legal ramifications from those with whom they are not already closely connected.

Some key results and findings include**:**

- Of 1,400 expected responses (700 PWH and 700 people at high-risk for HIV), 2046 total people were reached, including 674 PWH (91% of the 700 person goal).
- 62.9% of Black MSM respondents (n=194) reported that they were diagnosed between 3 to 5 years ago indicating that diagnoses occurred prior to the COVID epidemic. Changes in access to testing may have affected the ability to identify, diagnose and prevent infections in a timely manner since the advent of COVID because of lack of access to testing resources. This is also reflected in decreased HIV testing numbers for the Dallas region in 2020 and 2021.
- 36% of survey respondents living with HIV reported a history of injection drug use within the past 12 months (n=242); of those 61% reported sharing injection equipment.
- Among youth with HIV (n=109), most (62.4%) reported having a serodiscordant sexual partnership in the past year while a similar majority, 63.3%, reported that they had never heard of Undetectable= Untransmittable.

- Of respondents who reported that they were not living with HIV (n=1370), over 85% were unaware of PrEP despite having at least 1 behavior placing them at higher risk of HIV acquisition.
- In assessing provider capacity and capability, we noted significant strengths in the number of service providers for those within the RWHAP; there is a need to identify additional services for those at risk of HIV acquisition and those who are newly diagnosed.
- Across the existing provider network, however, there was consistent feedback that providers are not routinely educating their patients on U=U, PrEP, and PEP.
- When looking at particular areas of attention in unmet needs and gaps, the most significant issues were the high rate of uninsured individuals, and the lack of mental health and substance use service providers given the number of respondents who noted mental health symptoms and safety concerns.

Based on these findings and others detailed in this report, the following recommendations are being made.

- Strengthening the system of care by holding community listening sessions to share the results of the SNNA and using the SNNA as a jumping off point for population specific small scale needs assessments.
- Increase HIV testing and outreach to Black MSM, Latino MSM, and TGNC populations to identify, diagnose and treat new infections that may have been missed during COVID19 restrictions.
- Creating a safety net system for direct intervention for newly diagnosed individuals. This would be a centralized linkage source to facilitate entry to care for those experiencing uncertainty around their new diagnosis.
- Developing public health campaigns to educate the public on Ending the HIV Epidemic including U=U, PrEP, and PEP messaging; Messaging should be positive with diverse representation in all print and multimedia advertisements.
- Requiring cultural humility training and biomedical intervention training for all staff of funded programs-including frontline staff, support staff, and clinical staff as respondents noted feeling stigmatized and discriminated against at various levels of organizational leadership.
- Creating activated consumers through additional training and support and pursuing partnerships to create pathways for peer community health worker certification.
- Involving consumers at every level of the decision-making process to create leadership opportunities and leverage community expertise to create novel interventions for the Dallas AA.

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Background

The Dallas County Health Department's Ending the HIV Epidemic Division and the Ryan White Planning Council HSDA contracted with Ready Aim Innovate, a program of Hager Health, LLC (RAI) to conduct a Status Neutral Needs Assessment (SNNA). The purpose of the SNNA is to update the current profile of the HIV epidemic in the greater Dallas area. The SNNA provides information on the Dallas Eligible Metropolitan Area and Health Services Delivery Areas (EMA/HSDA) and the Sherman-Denison HSDA comprising eleven counties – Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hunt, Kaufman, Navarro, and Rockwall. These counties are diverse in their geographies, size, and demographics. Dallas County is a major metropolitan city home to nearly 2.6 million residents, while some of the smaller more rural communities such as Navarro and Fannin County have 54,000 and 37,000 residents respectively[1]. The availability of data for the counties within the catchment area varies with the most robust data being available for Dallas County. As it is generally accepted that the HIV epidemiological profile for the Dallas Administrative Agency (AA) is reflective of overall trends in Texas, some data will be more focused on the Dallas region and other data will more broadly speak to HIV in TX overall.

Less is known about those at increased vulnerability for HIV infection within these 11 counties, as higher risk behaviors are not as well accounted for given the lack of reporting requirements for those outside of the HIV system of care. The syndemic of syphilis and HIV continues to be a driving force in new HIV infections[2]. Syphilis infections are often used as a proxy for higher risk sexual practices with increased risk of HIV acquisition, especially in men who have sex with men. Data from annual Dallas HIV/STI profiles were compared and identified increased risk[3]. In 2018, syphilis rates were highest amongst those ages 15-34 which mimics the HIV epidemic in the Dallas AA[4]. Similarly, the rates of probable and confirmed congenital syphilis cases in Dallas County increased by 130% from 2017 to 2018[5]. Congenital syphilis is a proxy indicator for increased susceptibility for women in the Dallas AA and also speaks to a lack of access to prevention and treatment services. The presence of other STI infections also increases HIV transmission risk. Recent Dallas HIV/STI profiles report consistent increases in the number of chlamydia and gonorrhea infections leading up to the COVID-19 pandemic. As such, it is imperative that the Dallas AA has aggregated local data from individuals engaging in higher risk behaviors. Using the most recent data sets from the Texas Health Data Sets (2018, 2019), the Kaiser Family Foundation (2019, 2020) and Ryan White Services Data (HRSA 2010-2019) the following is known:

- Nearly 60% of Texans report having never taken an HIV test; this number has remained static since 2013;

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[1] (n.d.). *Quick Facts Texas*. United States Census Bureau. https://www.census.gov/quickfacts/TX

[2] Wu MX, Moore A, Seel M, et al. Congenital syphilis on the rise: the importance of testing and recognition. Med J Aust 2021; 215: 345–347.

[3] Ibid.

[4] Dallas County Health and Human Services. HIV and STI Statistics, 2019.

[5] Ibid.

- Of those newly diagnosed in Texas, 14% report a risk factor associated with Injection Drug Use (IDU); 61% have a risk factor of men who have sex with men (MSM), and 23% report a heterosexual risk factor;
- Men are 4.5 times more likely to be diagnosed with HIV than their female counterparts in Texas (2019);
- Of the 94,630 people living with HIV in Texas, only 46% were receiving any type of Ryan White Service (2018); 75% of those receiving Ryan White services in Texas are living below 138% of the Federal Poverty Line;
- There were 89 documented cases of transgender individuals diagnosed with HIV in Texas in 2019, however the total number of transgender persons in Texas is not currently measured so it is not yet possible to determine the significance as a reflection of total population
- Black and Latinx women and men are overly represented in the rate of new HIV cases in Texas
- In 2019, 21% of those diagnosed in Texas were late diagnoses, defined as receiving an AIDS diagnosis within one year of the initial HIV diagnosis
- According to AIDSVu, the percent of the population lacking health insurance in 2019 averages to roughly 20% of the public in the Dallas AA region. This translates to approximately 1.1 million people in the region without health insurance according to 2020 census data.

The Status Neutral Needs Assessment (SNNA) has been highlighted as an innovative practice by the CDC, recognizing Dallas, Texas as one of five EHE jurisdictions to "improve access to social services for all people"[6]. In alignment with this approach, this evaluation includes those with higher vulnerability to HIV infection as well as those currently living with HIV/AIDS. This assessment also highlights how behavioral and biomedical interventions can be incorporated to prevent the spread of HIV as well as the role of ongoing engagement in care utilizing treatment as prevention (TASP).

Priority populations for the EMA/HSDA include Hispanic men and women, Black/African American men and women, Caucasian men and women, men who have sex with men (MSM), persons of transgender or gender nonconforming experience (TGNC), and youth (13 – 24 years). Within these populations, Black MSM, Hispanic/Latinx men, Hispanic/Latinx women, transgender men and men, and youth living and youth at risk of contracting HIV/AIDS require additional attention due to an enhanced risk to HIV exposure and were those targeted for the surveys, focus groups, and key informant interviews. With enhanced focused on locally relevant populations, a true status neutral approach includes the following elements in Figure 1 at the community level:

[6] Issue Brief: Status Neutral HIV Care and Service Delivery | Policy and Law | HIV/AIDS | CDC

Figure 1: Status Neutral Framework at Community Level (DCHHS, 2022)

The number of new HIV infections in the Dallas County EHE jurisdiction has remained consistent at approximately 750 new infections per year through 2019. There was a substantial drop in new HIV diagnoses in Dallas from 2019 with 2020 having the lowest number of new cases reported since 2008[7]. Correspondingly, the number of HIV tests in Texas fell from 2018 to 2019 and continued to drop during the course of the COVID-19 epidemic. While testing efforts having stagnated, preliminary CDC (2021b) data indicates the number of PrEP users across Texas has increased steadily since 2017 from 9.5% to approximately 24% in 2022[8].

Impact of Covid-19 on Services Delivery

Beginning in 2020,COVID-19 cases increased exponentially across the Globe, with thousands of cases occurring in the United States on a daily basis. The impact of the COVID-19 pandemic was felt significantly in the jurisdictions being evaluated by the Status Neutral Needs Assessment, with nearly 700,000 cases to date in Dallas alone[9],[10] as shown in Figure 2. The entirety of North Texas was identified as a “red zone” area in August 2021 by county issues indicating an extremely high risk of COVID infection; to date the counties have not met the “green” criteria of “New Normal with All Recommended Vaccine Doses[11].

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[7]AIDSVu (2023). *Local Data: Texas*. https://aidsvu.org/local-data/united-states/south/texas/
[8]DHHS (2023). America's HIV Epidemic Analysis Dashboard. Indicator Data for Texas. https://ahead.hiv.gov/locations/texas
[9]New York Times (2023, February 5). *Tracking Coronavirus in Dallas County, Texas: Latest Map and Case Count*. https://www.nytimes.com/interactive/2021/us/dallas-texas-covid-cases.html
[10] Ibid
[11] Dallas County (n.d.). *Coronavirus Health and Safety Guidance*. https://www.dallascounty.org/covid-19/guidance-health.php

The coronavirus pandemic left an indelible mark on the care provided to individuals living with or at risk for HIV infection in Dallas and the surrounding counties. Dallas followed a national trend in which HIV testing numbers dropped significantly with the start of the pandemic and have yet to achieve pre-pandemic levels. Between 2019 and 2020, the number of HIV tests conducted decreased by 17%[12]. Other interruptions to health services included:

- Individuals choosing not to engage in testing to comply with public health and social distancing recommendations;
- Health Departments redirecting resources from other service delivery areas including sexual health services;
- Community-based organizations and AIDS Service Centers closing or providing less in person services;
- Staffing shortages due to infectious disease providers being reassigned to COVID related work, illness amongst front line workers, and an increase in healthcare worker resignations; and
- Loss of employer-based health insurance[13].

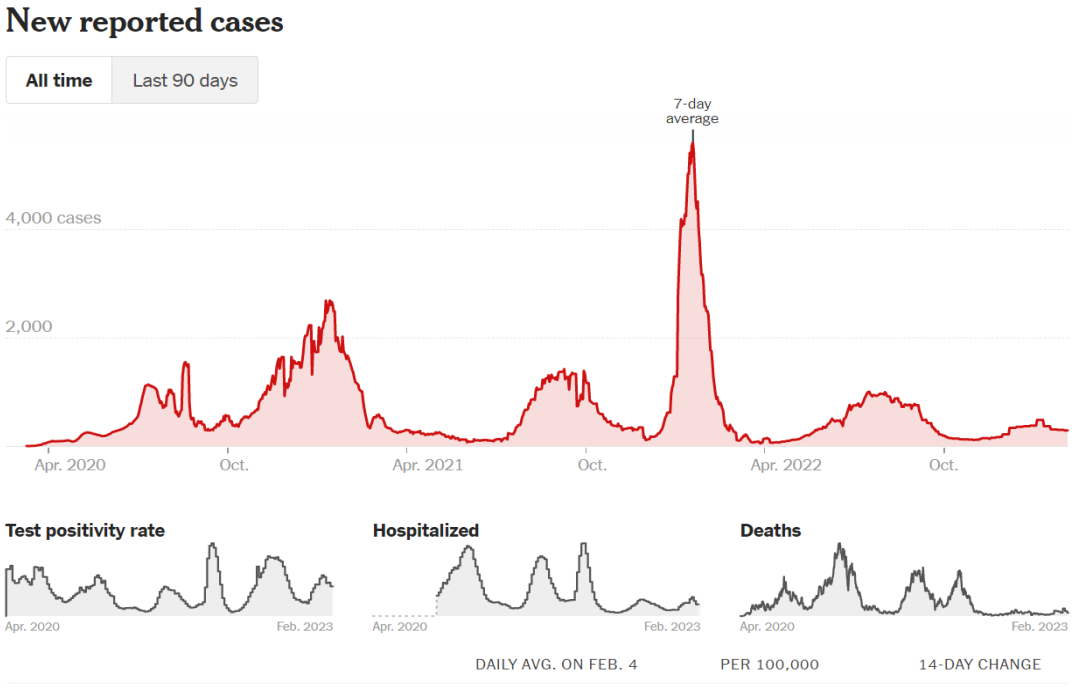


Figure 2: New York Times: Texas Latest Map and Case Count (Accessed 5 February 2023)

These challenges were common across the country with national data showing the COVID-19 pandemic was highly disruptive to HIV service systems and resulted in the redistribution of staff to manage the crisis and severely diminished reporting capacity. Infectious disease providers

[12] DiNenno EA, Delaney KP, Pitasi MA, et al. HIV Testing Before and During the COVID-19 Pandemic — United States, 2019–2020. MMWR Morb Mortal Wkly Rep 2022;71:820–824. DOI: http://dx.doi.org/10.15585/mmwr.mm7125a2

[13] Hoover KW, Zhu W, Gant ZC, et al. HIV Services and Outcomes During the COVID-19 Pandemic — United States, 2019–2021. MMWR Morb Mortal Wkly Rep 2022;71:1505–1510. DOI: http://dx.doi.org/10.15585/mmwr.mm7148a1

and staff were overwhelmed by the immediate service needs of COVID-19. Emergency response efforts in public health departments at the local, county, and state level reduced the capacity for effective data reporting from 2020 to 2022. Similar demands were placed on service provider organizations where staffing, funding, and materials normally stretched thin were additionally strained. This comprehensive status-neutral needs assessment is timely in identifying both the emerging trends following the COVID-19 pandemic and how the pandemic has changed the landscape of those living with and at risk for HIV. An article published during the height of the pandemic by the Lancet HIV (Jiang et al, 2020) reported that:

- Implementation of quarantine, social distancing, and community containment measures have reduced access to routine HIV testing;
- Timely linkage to HIV care could be hindered during the COVID-19 pandemic;
- People living with HIV who should have initiated antiretroviral therapy (ART) in hospitals might be deterred or delayed because hospitals are busy treating patients with COVID-19;
- The COVID-19 pandemic might also hinder ART continuation as some pharmacies decreased their operating hours and providers, inundated with COVID-19 related job responsibilities, take longer to respond to message and refill requests; and
- COVID-19 negatively impacted self-management among people aware of their HIV status due to myriad stressors and structural challenges that disrupted their ability to engage in their care (Wion and Miller, 2021).

It is important to note other recent trends impacting the Dallas EMA/HSDA including:

- The impact of Mpox on service delivery;
- The current political harassment of transgender individuals and its impact on service delivery;
- The impact of stigma and racism/ethnocentrism on service delivery; and
- The lack of health insurance and prescription coverage for both those living with and at higher risk for HIV infection.

Impact of Mpox

The rise of Mpox during the COVID epidemic further strained infectious disease resources through synergistic interactions; those with highest potential to Mpox exposure were the same as those with the highest vulnerability of acquiring HIV-men who have sex with other men. However, within this syndemic, we saw a different kind of community mobilization within the LGBTQ community given their experience from the early days of organizing and advocating around HIV without waiting for federal leadership[14]. In this way, Mpox was largely controlled within the United States[15]. Mpox was contained much more rapidly through grassroots approaches, and as will be discussed below, this type of community led interaction is paramount for Ending the HIV Epidemic in Texas.

[14]Mast, J. (2022, June 8). How the hard lessons of the AIDS crisis are shaping the response to the monkeypox outbreak. *Stat News*. https://www.statnews.com/2022/06/08/lessons-from-aids-playbook-are-guiding-response-to-monkeypox-outbreak/

[15]Halkitis, P. N. (2022). Contributor: On World AIDS Day—Lessons Drawn From HIV, Monkeypox, and COVID-19. *AJMC*. https://www.ajmc.com/view/contributor-on-world-aids-day-lessons-drawn-from-hiv-mpox-and-covid-19

Political Harassment of Transgender Individuals

Across the nation, there are currently over 300 bills focused on limiting the rights of those who identify as transgender, gender nonconforming, and nonbinary. Texas currently has 23 of these legislative initiatives aimed at limiting civil liberties and the right to freedom of expression[16]. This political campaign has also been broadly promoted at the community level through various levels of media and constituency organizing. Noted later in the results session, we see the direct impact of this on the perceived safety by trans* identified individuals in access services and participating in the community.

Impact of Stigma and Ethnocentrism

Demographically, Texas is predominately white compromising 78% of the population, followed Black/African American at 13.2%. Of respondents, 40.2% of residents identify as Latinx as their ethnicity. True health equity would show a similar burden reflective of population demographics. However, we see enormous disparities in the acquisition of HIV with Black/African Americans shouldering the highest burden. We also see this reflected in poorer health outcomes from the intersectionality of the stigma of living with HIV compounded by the additional stigmas of racism and ethnocentrism. Figure 3 shows the heatmap of poverty for Dallas County and where there are areas of greater poverty in the county. Fear of stigma and discrimination lends itself to decreases in HIV testing amongst priority populations and lack of engagement in preventive services such as PrEP, PEP, and fear of accessing community-based services. Figure 4 shows the racial breakdown of HIV diagnoses in the Dallas region.

[16]American Civil Liberties Union. (2023, March 10). Mapping Attacks on LGBTQ Rights in U.S. State Legislatures. Retrieved March 11, 2023, from https://www.aclu.org/legislative-attacks-on-lgbtq-rights

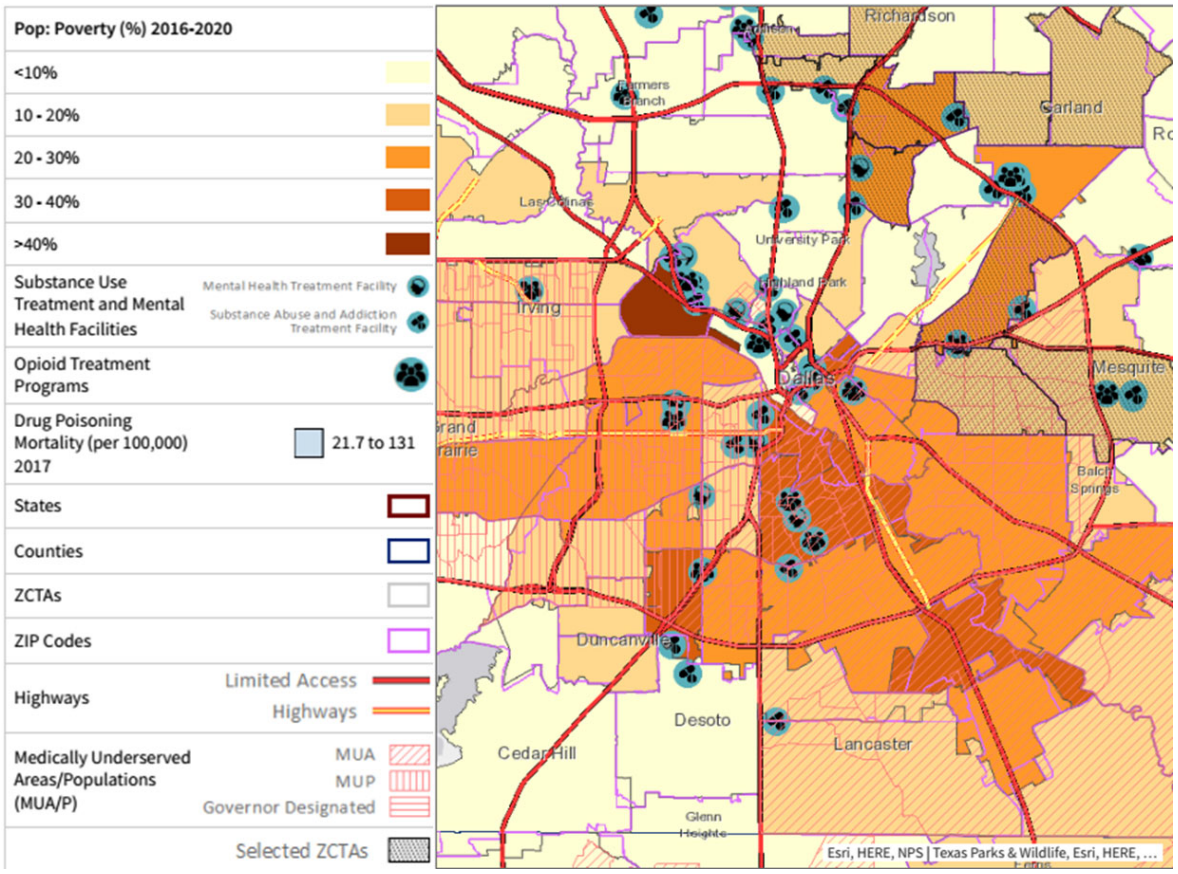


Figure 3: Population (%) living in poverty, Dallas Metropolitan areas, 2020 UDS Data.

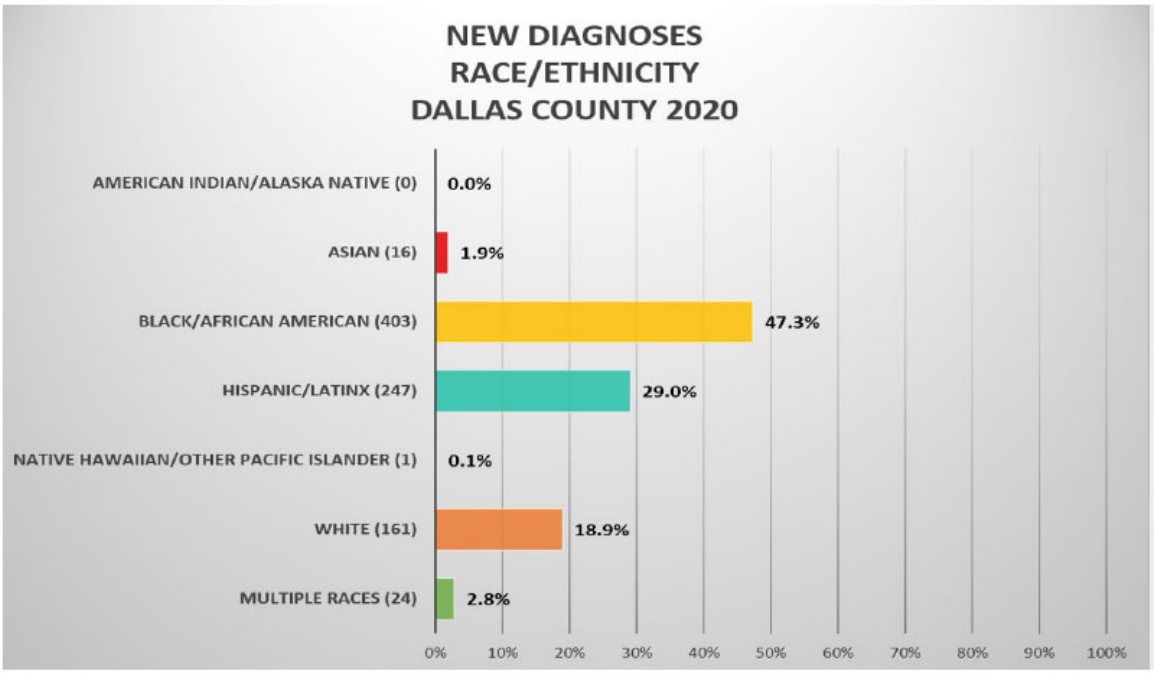


Figure 4: New diagnoses of HIV in Dallas County by Race/Ethnicity 2020 (TX HSDA, 2020)

Lack of Health Insurance

Texas is one of twelve states that has not participated in Medicaid expansion. If Texas were to expand its Medicaid program, 1,432,900 uninsured nonelderly adults would become eligible for coverage, 34%of the state's uninsured nonelderly adult population[17]. Within the community of those living with HIV, Medicaid expansion could result in up to 28% of currently uninsured PLWH/A obtaining health insurance coverage. The financial eligibility threshold for the AIDS Drug Assistance Program (ADAP) is also extremely low at 200% of the FPL. In contrast, Maryland, a state which has accepted Medicaid Expansion, has an ADAP eligibility threshold of 500% of the FPL. Florida, which is also a non-Medicaid Expansion state, has an ADAP limit of 400%. While we do not know the number of adults ages 18-64 that could benefit from prevention services in Texas, it can still be clearly stated that a lack of insurance creates a clear barrier to biomedical and other clinic level interventions. Figure 5 shows the percentage of uninsured persons in the Dallas region using a heatmap.

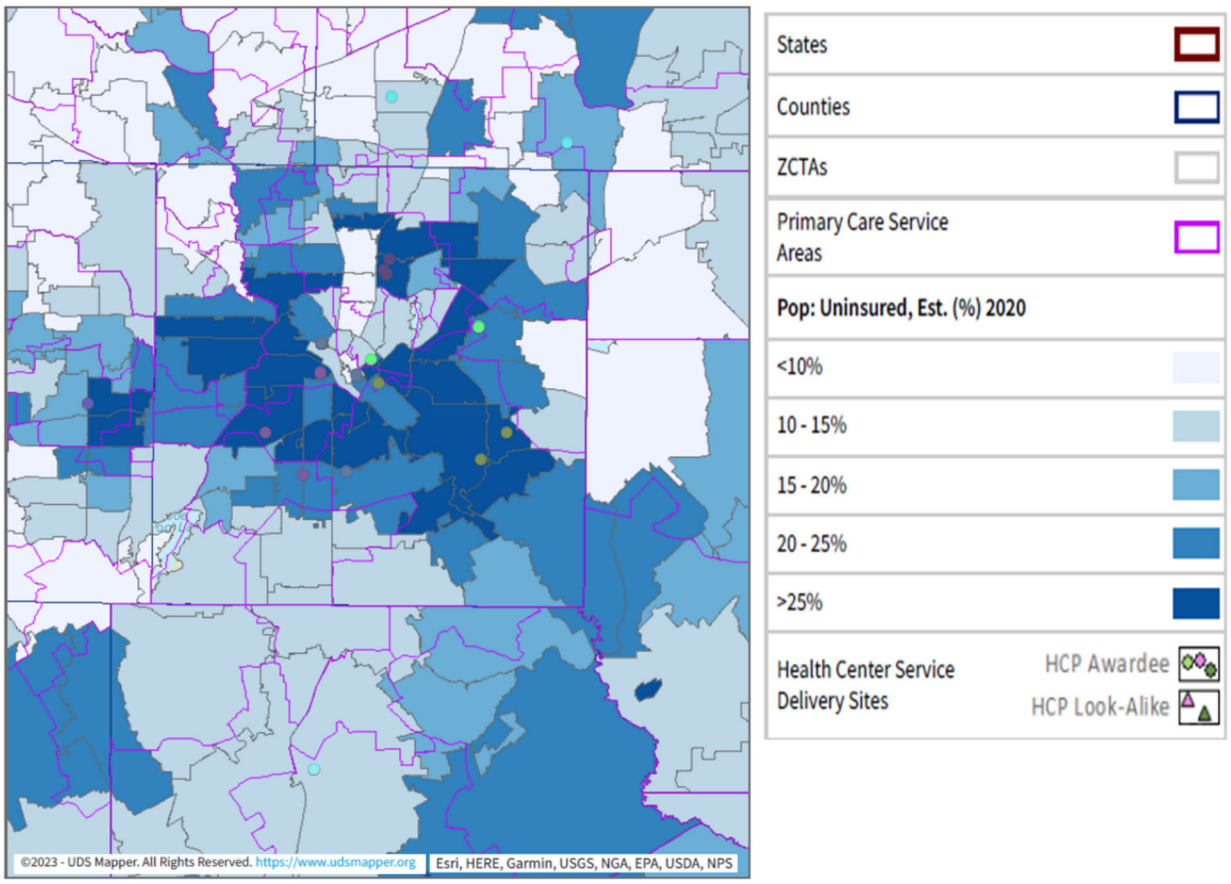


Figure 5: Uninsured People in the Dallas Metropolitan Area (UDS, 2020)

[17]KFF (2020.). *Fact Sheet*. Medicaid Expansion Texas. https://files.kff.org/attachment/fact-sheet-medicaid-expansion-TX

Goal Setting

The SNNA design is strongly aligned with the goals of the four pillars of the Ending the HIV Epidemic (EHE) and the 2022 -2026 Dallas Regional Area Integrated HIV Prevention and Care Plan CY 2022 - 2026 (Integrated Plan):

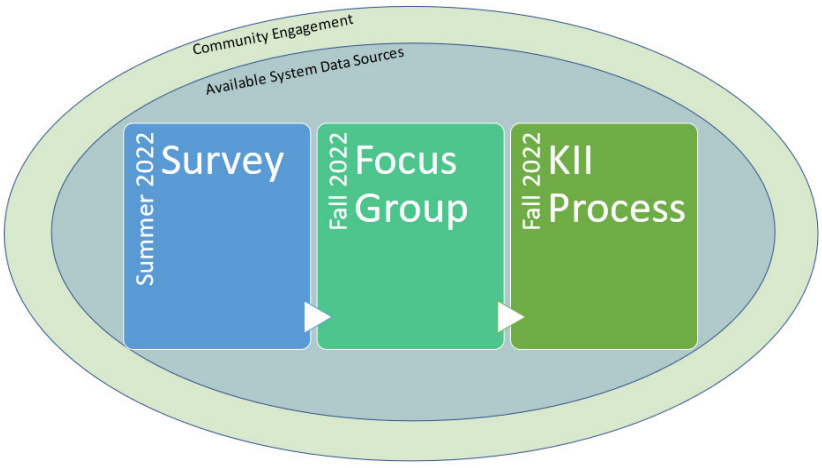
- Diagnose all Dallas Regional Residents as quickly as possible.
- Treat all HIV diagnoses quickly and effectively.
- Prevent new transmissions among Dallas Regional Residents using proven methods and strategies.
- Respond quickly to potential outbreaks by getting prevention and treatment services to Dallas Regional Residents who need them.

Methods

The Dallas SNNA was designed for three phases of data collection – a traditional survey disseminated using respondent-driven sampling, a series of focus groups, and a set of key stakeholder interviews. This model is an evidence-based approach standard to RAI's step-wise needs assessment process. The three status-neutral, community-focused evaluation activities were bookended by discussion featuring substantial input by a wide range of stakeholders, including HIV planning organizations, non-funded service provider organizations, and HIV community social groups. Beginning with available system data, the RAI team engaged HIV service system stakeholders in the Dallas EMA/HSDA to identify key target populations and geographies to conduct the survey. Throughout this process, a RAI representative attended every RW Needs Assessment Committee meeting to keep the community as the center of this process. For example, key HIV planning bodies provided a "starter" survey with preferred domains and verbiage that was integrated into the SNNA survey; gave recommendations on participating in specific HIV community events; recruited survey respondents, and developed recommendations with feedback from the local community.

Figure 6: Dallas Needs Assessment Inputs

To construct the resource inventory, the statement of provider capability and capacity, and the assessment of unmet service needs, a mixed methods data analysis was chosen. Quantitative and qualitative information were collected including social determinants of health factors, listings of available services at key service provider organizations, and the degree to which currently available services in the Dallas EMA/HSDA meet the needs of the community. Figure 6 provides a visual of the overall process.



To identify the service needs of the HIV community, the Project Director and Research Director began by meeting with HIV planning bodies and key HIV service system leaders of the Dallas EMA/HSDA. A uniform question set (Attachment B) was used during these meetings to ascertain trends across the target areas and target populations, including service needs and utilization patterns within the HIV-positive and high-risk negative aspects of the HIV community. Community liaisons and the Peer Community Health Worker connected with Consumer Advisory Boards at HIV service organizations in the Dallas AA region and collected information to inform our process of survey respondent, focus group participant, and key stakeholder interview participants.

As previously mentioned, core evidence-based strategies used to develop the SNNA included respondent-driven sampling, mixed methods data analysis, and key informant frameworks. In addition, the SNNA was created using an implementation science approach that allowed for quick strategically planned adjustments to occur while data collection was in progress. Each of these will be described in detail below relevant to the specific methods of each component of the SNNA.

Overall SNNA Sampling Strategy

RAI utilized a snowball sampling strategy across the three components of the SNNA. The strategy was informed by the initial conversations with local key informants. In meeting with Planning Council members, local RWHAP subrecipient organization leaders, and CQM Program staff it was determined that certain subpopulations, such as those with a high community incidence and prevalence of HIV might be more challenging to access and assess; these individuals are also typically absent from HIV planning body meetings and poorly represented in existing qualitative data assessments. RAI outreach staff created a strategy to target specific agencies and venues around the Dallas EMA/HSDAs to identify access points to those populations that key informants noted may be hard to engage. To encourage trust, agencies were requested to provide an introduction to participants at their programs who were known to have large social networks or who served as gatekeepers to their specific communities. It was also determined early on to use an overall data-to-care approach to sample the population. Methods standard to the HIV field may not fully identify the true extent of community unmet need as they traditionally focus on data collection from individuals currently in care and accessing services at a specific site in a specific time frame. RAI and DCHHS believed we could and should do better.

The snowball sampling strategy began with the targeted initiation of the survey instrument in specific settings such as libraries, meal programs and supportive service agencies. Initial survey participants were identified as “seeds” . If successful, respondent-driven sampling per individual with three referrals up to five levels would allow for 121 respondents for each seed. To that end, a carefully planned strategy to estimate how respondent referrals would flow through the community and across key subpopulations was needed. The accompanying diagram demonstrates how five initial high-risk negative “seeds” and five initial HIV-positive “seeds”

would lead to roughly 86% data capture (1210 of 1400 expected responses). According to this plan, the remaining 14% of the desired respondents would be approached on a one-by-one basis to get more from key groups that are missing from the collected dataset with the goal of 700 HIV-positive and 700 high-risk negative cases in the end. In the event that "seeds" did not germinate fully into a set of 121 respondents, the "reseeding" strategy noted above would be followed per our implementation science approach. The reseeding would happen as many times as needed to reach the full number of survey respondents required by the deliverables (n=1400). The strategy of seeding based on the intersection of demography, geography, and implementation science is a strongly data-to-care model.

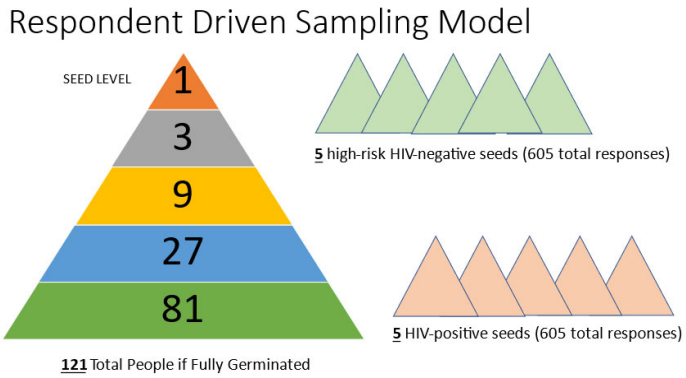


Figure 7: Respondent Driven Sampling Model for Dallas Needs Assessment

Following the survey, focus groups were designed to process pre-digested survey data to identify themes in the results and to create early sets of potential remedies and recommendations. The survey data were to be blended with other available to assist the focus groups to have the most complete picture of service needs for the entire HIV community - those with HIV and those at high-risk for HIV infection. Participants for the focus group were to be identified by the emerging needs exhibited in the survey data and/or to help correct for key populations that were still missing from the data.

Following the focus group, the data from the surveys and the focus groups would be merged to create a more advanced picture of community needs, patterns of unmet needs, and options for potential action to improve the Dallas area HIV service system. Interviewees were identified using a starter list provided by the Dallas Planning Council and appended to in discussion with other key informants in the Dallas region during initial conversations.

RAI's implementation science approach for the SNNA allowed for timing modifications for the focus group and key stakeholder interviews if the survey data collection process was lagging. Other implementation science options for sampling strategy included: refreshed key informant meetings with additional questions on how and where to access key populations, and a reversion to traditional data collection for such community needs assessments where staff are positioned in care organizations to directly collect the survey data. Figure 8 exhibits the initial plan for strategic building of needs assessment data across the three components of the SNNA using RAI's data to care approach.

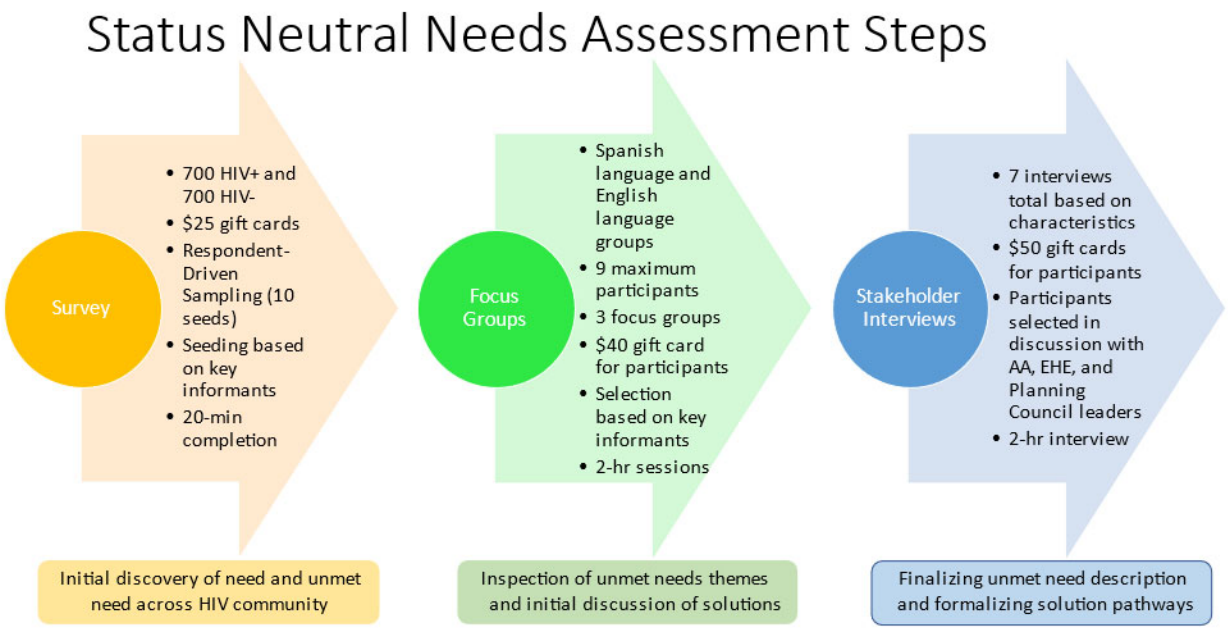


Figure 8: Status Neutral Needs Assessment Steps

Survey Instrument Creation

The SNNA survey instrument consisted of 55 questions including 105 total items programmed into Formsite online data collection tool. The survey started with a welcome message and instructions including asking respondents for their informed consent to complete the survey. The body of the survey covered key domains essential to identifying community need and identifying unmet need among the respondents. DCHHS planned for the SNNA survey component to be incentivized at $25 per respondent up to 1400 total responses. Surveys were translated into Spanish and back-translated to verify their reliability. Clients were offered either version based on their preferences. Participants were assigned a unique code when taking the survey to protect the privacy and confidentiality of the respondent.

Survey questions were designed to identify the extent to which the service community addresses social determinants of health and meets other core needs. Respondents were asked questions related to their identities, residence, and other demographic factors focused on baseline social determinants of health. This included history with the criminal justice system, preferred language, income and insurance status, highest educational level attained, and housing and food (in)security among other details. Respondents were also asked about HIV status and risk factor information, HIV and STI testing habits, knowledge about PrEP, PEP, and U=U, medication adherence history, and medical and support services access patterns. In addition, the SNNA survey included a strong vein of questions related to discrimination and implicit bias. Finally, the survey included fields to capture contact information facilitating incentive distribution and to identify the three referral respondents based on the survey dissemination method.

Survey Instrument Dissemination

RAI community liaisons used the framework created by the research staff to seed the survey instrument. A Quick Response (QR) code was created with the survey link. During outreach, staff were instructed to use the Quick Response (QR) code to help recruit initial respondents. RAI staff also met with respondents and provided links to smart phones or tablets for use by respondents to complete the survey.

Seeds were selected based on the data to care process described above. RAI research staff and outreach staff shared information on key characteristics and geographies of interest based on risk patterns noted in the epidemiological profile. Whenever possible, RAI outreach staff met with the initial seed in person to collect the initial survey data and set referrals in motion. Referrals were processed through the same online software (Formsite) used to collect the data. Once submitted, Formsite generated an email to each referred person to invite them to take the survey and access the incentive. The survey software allowed us to track IP address information to verify that unique individuals were completing the survey and track that they were being completed within the continental United States.

RAI outreach staff were also deployed to do survey recruitment with populations that might have limited access to online recruitment. Staff were provided with the QR code and were able to use either a tablet or cell phone to assist in completing surveys with individuals in public settings.

Early in the survey instrument deployment, there were challenges with the respondent driven sampling methodology (described in detail below in Results and Discussion/Recommendations sections). To ensure timely data collection, a system of constant reseeding was established. The survey QR code was added to fliers for dissemination at partnering agencies and for inclusion in pharmacy pickup bags. In the end, several waves of recruitment were conducted using online data applications to supplement venue recruitment strategies.

Focus Group Facilitation and Key Stakeholder Interview Guides and Processes

According to the initial SNNA design, the survey was to occur first, followed by the focus group, and finishing with the stakeholder interviews; the focus group facilitation guide and the key stakeholder interview guide were to be developed after a critical mass of survey data was collected to ensure practical and usable questions were asked and appropriate probes included (Attachment D). At a high level, these more targeted SNNA components were intended to generate cross-cutting themes, identify emerging challenges, and get community perspectives into appropriate solutions bases.

Seven two-hour key stakeholder interviews were planned. Interviewees each received a $50 gift card as an incentive. The key stakeholder interview guide focused on key drivers and barriers to care. Respondents were made aware that their responses would be coded and their identities blinded from DCHHS and other stakeholders. Probes for each question focused on what would have made care experience better or less problematic, recommendations they would make to service system leaders, advice they would have for friends, and additional questions to ground

responses in real human terms. Under this umbrella were questions such as one change they would make to the Dallas area service system to make their lives easier, what advice related to healthcare would you give a friend moving to Dallas, and specific examples of stigma and discrimination they have witnessed. The interview tool covered four main question areas: excellence vs subpar service, what to do if there were unlimited resources, and issues of stigma around HIV, PrEP, and U=U. Key stakeholder interviews were conducted by the SNNA Project Director and Research Director, both of whom are known to the community as living publicly with HIV

Three focus groups were planned with up to 15 participants each. Each participant received a $40 incentive for their participation. Discussions were designed to last 90 to 120 minutes and in order to receive the incentive, participants needed to be present the entire time, have their cameras on, and participate both vocally and via chat room function. The facilitation guide was similar to the key stakeholder interview guide based on the feedback and range of responses gleaned from the interviews. The RAI research team believed it was vitally important to explore in greater detail the themes of excellence, access, and stigma and discrimination that appeared in the survey data and become even more apparent in the key stakeholder interviews. The groups focused extensively on how certain realities made participants feel as human beings. The intent of these questions was to create a connection between stigma, behavior, harms, and opportunities to impact the public in more positive ways. The RAI research specialist who identifies with the HIV high-risk community facilitated the focus groups.

Focus Group and Key Stakeholder Recruitment and Composition

The data to care approach described in the overall sampling methods was used to establish the composition of the interviewee list and focus group recruitment. Ensuring the key informant interviews were equally diverse as the surveys and focus groups respondents was a key priority of the RAI team. This is important, as people considered to be knowledgeable about system dynamics at the appropriate level tend to be demographically and experientially similar, an artifact that the comprehensive status neutral needs assessment sought to address. When RAI pivoted to rely on interviewees to assist in survey recruitment, it was essential to ensure the cross-sections would be appropriately reflective for blended analysis across SNNA components, but also lead to reflective survey data collection. RAI included black MSM, Hispanic/Latinx men, Hispanic/Latinx women, Transgender men and women, Youth living with HIV/AIDS, Youth at risk of contracting HIV/AIDS, and priority populations that may be at risk of acquiring HIV as primary characteristics for interviewees. As mentioned previously, interviewees were identified based on a starter list provided by Dallas Planning Council and added to based on discussions with other key informants.

Following the data to care approach, the SNNA focus groups were targeted to focus on vulnerable populations missing from the collected survey data. Two focus groups were planned in English and one was planned in Spanish. As will be described below, the Spanish focus group had no participants so an additional English focus group was provided. One of the English focus groups was exclusively for the gender-expansive community to provide a safe

nonjudgmental platform for that community. Recruitment for each focus group emphasized diversity of geography and involved key populations discussed above. RAI outreach staff relied on key informants as well as outreach and inreach to traditional hard to reach affected communities (e.g., people who use drugs, those who engage in transactional sex, those who are unstably housed, etc.) to ensure that all relevant risk groups are involved in the discussion.

Mixed Methods Data Analysis Procedures

The RAI team is made up of various elements of the HIV community, including people with HIV, people at high risk for HIV, and people who identify with key HIV risk groups in the Dallas region. As a result, the RAI research staff identifies closely with Dallas key populations. More than a symbol, shared identity is important for information bias, particularly classification bias, during analytic processes. RAI prides itself on its demographic heterogeneity and that there is a great deal of commonality with communities of focus in its work.

The three components of the SNNA were analyzed both individually and as a collective product. This method allowed for each component to be examined in its entirety and its results fed into the next component in a stepwise fashion. Multi-factor analysis rooted in demographic factors allowed for the detection of disparities and inequities. Further exploration of issues focused on service need and availability/ accessibility based on geography, language, and cultural fit.

All surveys were coded and analyzed by the Clinical Data Analyst. Thematic analysis, applying the framework approach, was conducted including basic coding of the data and organization of codes into broad domains to allow for various side-by-side and cross-tabulation (multi-variable) analyses. The epidemiological profile was used to direct survey seeding and analysis, focus group recruitment and facilitation guide creation, and the same for the key informant interview component. These data served as a reference point for discussion and potential recommendations on a population health basis. The data analysis process included organizing information and analyzing it to identify key needs, trends, and critical issues. The research team was able to visually represent the themes identified with key supporting quotes from the data (see Results section below).

The method used for analyzing data from focus groups and interviews involved the creation of a code book and then subsequently coding all recorded discussion material for key data points. The purpose of the code book is to create a list of key areas of focus that can be evenly applied across each focus group and interview transcript. The data used in RAI's qualitative analysis was coded by one research team member and confirmed by a second team member. Statistical analyses included overall frequency data and frequency of responses for "in-care," "out-of-care," for each priority population and geographic segment. Cross-tabulations with tests of significance for "out-of-care" were conducted within each priority population and geographic segment. These cross tabulations profiled each population, outlining their characteristics (socioeconomic, demographic, etc.), needs, barriers and unmet needs/service gaps. These profiles include comorbidities reported in the survey including domestic violence, substance use, and mental illness symptoms among survey respondents. All survey data were analyzed to obtain necessary information and recommendations.

RAI's analysis of these data was used to generate sets of findings and recommendations provided below. Preliminary results were shared with the Dallas Planning Council Needs Assessment Committee to obtain input on final recommendations. The Dallas Planning Council Executive Committee and broader Planning Council were also given the opportunity to provide their comments and ask questions before the SNNA report was finalized.

Limitations

RAI's sampling methodology and other design elements for this needs assessment were calibrated to extend far outside the typical circles of input and feedback received from past needs assessment exercises. In many respects, the results received broke all expectations, but certain key populations were less prevalent in the data than expected. For example, a larger share of the respondents were expected to identify as LGBT. In addition, a larger share of the respondents were expected to identify as Hispanic. While RAI created a Spanish-language version of the survey, there was almost no uptake and no onward referrals were picked up through respondent-driven sampling. As a result, these factors affect the generalization of results across aspects of Hispanic populations. RAI outreach staff went to extraordinary lengths to reach Hispanic respondents, which are described below in the Results section.

Almost all surveys were done on individual phones and other devices. Dallas County Health and Human services provided an iPad to assist in collection of data by outreach staff with folks who lack their own devices. RAI provided a mobile hotspot device to assist in areas where bandwidth is low. One lesson learned is that the hotspot device was spotty based on local network strength and did not add much value in urban and rural areas alike with poor mobile access.

There was a missed opportunity to seed the SNNA survey instrument among gay men, particularly gay Hispanic men, at special events on the nightlife strip on Cedar Springs Rd. For future assessments, it is recommended that outreach staff spend at least one or two evenings on the nightlife strip to enroll LGBT people in community health assessment activities.

Three weeks into RAI's collection of data using the survey instrument, large numbers of responses were made in short periods of time, many of which had foreign IP addresses. The RAI research team took measures to ensure data collected in Formsite was secure and had not been breached. A lengthy process of data verification, cleaning, and revalidation was conducted to ensure that analyzed data were free from junk responses from pirates and others trying to access the incentive.

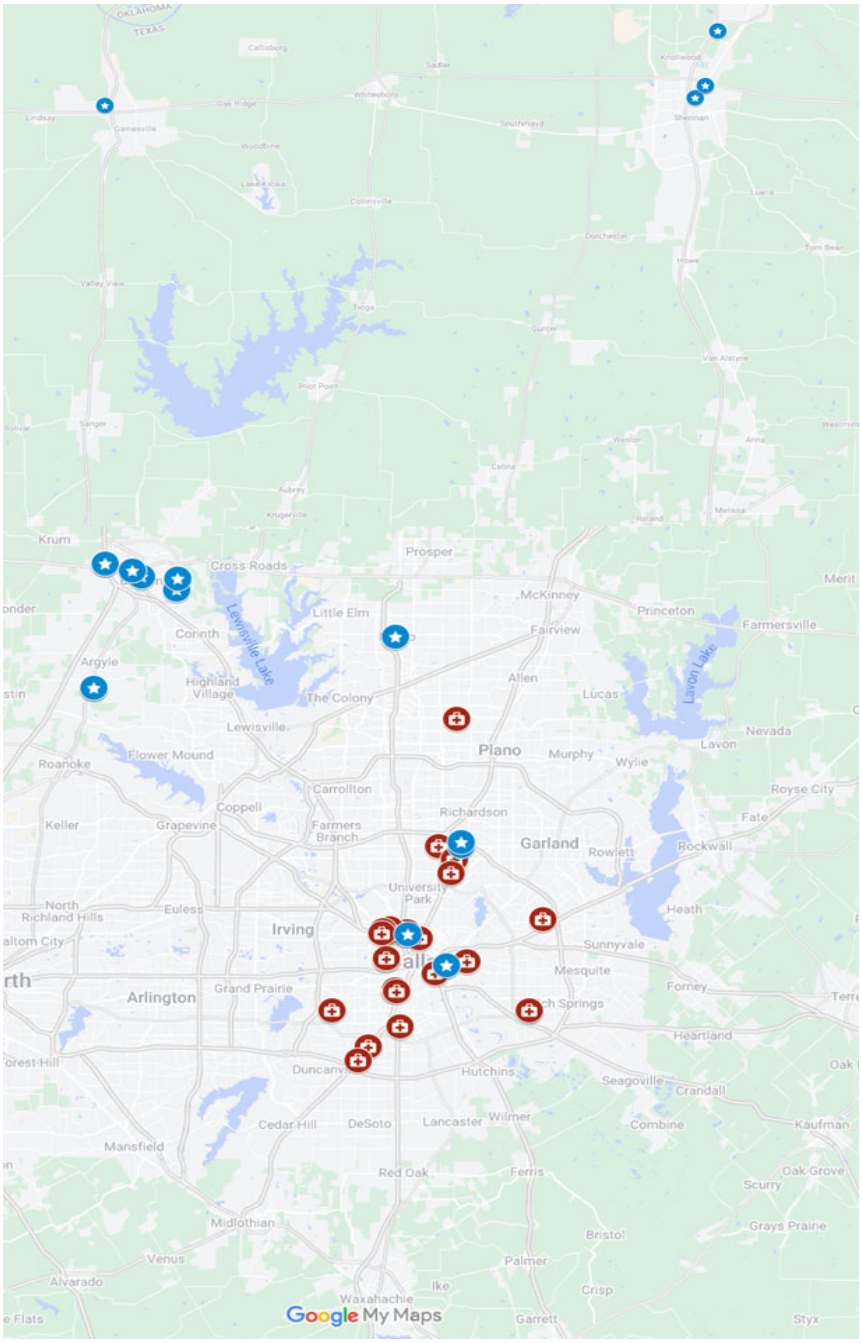
At several points in the survey deployment, individuals knowledgeable on survey deployment methods cautioned that the planned incentive payment schedule would be insufficient. The planned schedule was one $25 per completed survey with a maximum of 1 survey to be completed per individual. For respondent driven sampling, there is typically additional incentive provided for each referral that completes the survey. $45-$75 would be more appropriate to provide additional payment for each completed referral to compel followup with all referrals. If RAI's methods had included the additional incentive payment for referrals, we feel there may have been a greater degree of follow through on the initial seed referrals. Similarly, there were

individuals approached to provide key stakeholder interviews who declined, because they believed the incentive level was too low. In responding to the request for interviews, the would-be respondents stated that gift cards of this value level are also used for smaller commitments that made $50 feel like too little for a one-on-one interview lasting up to two hours.

Results

The primary results of the SNNA centered on the three components of the needs assessment: the survey, the focus groups, and the key stakeholder interviews. In addition to reporting these results, the RAI team believes it is important to share additional information about outreach efforts and their relative success and failure in reaching new populations, especially hard to reach groups. For ease of review, this section is divided into five sections to allow for a thorough review of data from the assessment components, bookended with additional details from the outreach team on their efforts.

Figure 9: RAI Suggested Seeding Map for Surveys

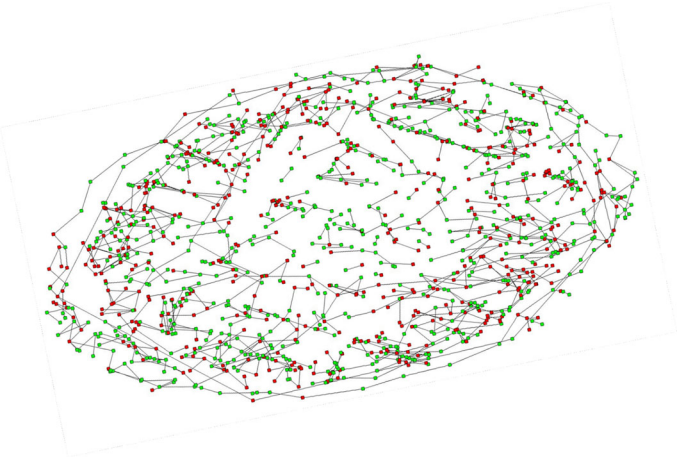


Outreach Effort Results

In order to successfully complete the survey instrument using the respondent driven sampling method, a careful effort to seed the survey was made to ensure inclusion of results from all relevant groups. As mentioned previously, the epidemiological profile for the Dallas region was used to identify key groups of people whose responses to the survey and other SNNA components would be critical to synthesizing the need and unmet framework. Figure 9 (to the right) was used to identify potential geographic priorities for survey seeding. On the

map, red circles indicate where the RAI outreach staff considered seeding the survey among people with HIV. The blue circles represent where the RAI outreach staff considered seeding the survey among people at high risk for HIV. It is important to note that people with HIV were able to refer to high risk negatives to complete the survey and vice-versa. In the social network graphic in figure 10 below, the interconnectedness of PLWH/A and higher risk negatives is evident.

Figure 10: Needs Assessment Social Network



In an effort to understand why certain populations were difficult to reach, the RAI research team interviewed the outreach team on their activities and the relative successes and challenges they faced in trying to recruit survey participants.

When asked which groups were approached and what the result was, the outreach team provided in Attachment C containing the exact names and addresses of all the groups reached out to in order to seed the survey and assist with RAI's outreach efforts.

For our suburban and rural communities, we targeted organizations catering to victims of human trafficking, pregnant women facing domestic violence and homelessness, centers of rehabilitation from substance use, clinics dedicated to Hispanic populations, CBOs for LGBTQ+, Denton County's testing sites, Adult Friend Finder dating site, Grindr, Sniffies, social media pages geared to Hispanic audiences, and places where ranch hands frequent (like the pit stop in Sanger where many migrant workers buy cases of beer after work, and livestock and ranch stores with bulletin boards). Additionally, outreach was conducted for the street homeless population, housing programs, and the Dallas Public Library. These locations were carefully selected by outreach staff to get substantial input from the chronically unhoused, those with histories of incarcerations, and people with a higher susceptibility to HIV infection including black heterosexual women, and black and brown gay and sexually expansive people.

When community liaisons were asked about the relative success of working with various organizations on SNNA outreach, results were mixed. Within our rural communities, organizations that already have experience working with HIV and STDs were the easiest to engage as well as the Denton County Health Department. Other groups, including HRSA funded entities in the suburbs and rural areas were challenging to work with and it is not clear that staff at these organizations understood the purpose of the SNNA and the ability to be at the forefront of information and data sharing. Cold calling and relying on the "Contact Us" form yielded the least results, while having a specific contact person facilitated outreach and recruitment. Finding the right people to take this survey in a rural population was challenging because of low population density, and few areas where communities congregate. Risk factors

such as male to male sexual conduct is less apparent in communities that do not have a 'gayborhood' and injection drug use is being actively hidden due to the real fears of legal consequences. Importantly, the Hispanic population is even more difficult to observe signs of risk due to cultural characteristics and issues related to safety rooted in regional politics[18]. Due to the national rise in substance use since the beginning of COVID, community liaisons prioritized areas where PWID congregated. A full list of organizational partners reached by the RAI outreach team can be found in Attachment C

Beyond service organizations, social media is another important source of engagement for the key populations of interest to the Dallas SNNA. This includes the buy/sell pages on social media apps/sites like Facebook and NextDoor. These pages are used for anything and everything and are very local (some pages, like NextDoor require proof that users live in the area). While dating apps such Adult Friend Finder seemed promising on the surface in terms of being able to select the desired type of sexual activity (i.e., anonymous sex), people engaged there were more interested in chatting and entertainment rather than setting up encounters to meet. Grindr, a mobile phone dating application, yielded mixed results. Our community liaison noted that several potential contacts thought that the SNNA outreach was a scam to steal personal identifying information. The Spanish speaking outreach staff person only received two inquiries out of all the pages posted demonstrating that this method is not as effective as relying on personal connections to have the survey completed. This relates to the conflicting priorities of health care versus documentation status since xenophobic political rhetoric and the legal system has created a fearful environment. One example to share is that a Spanish respondent shared that she lost vision in her eye from a health condition and even though it is now an emergency, still will not be seen until May because of the cost and provider availability. The client and her family are undocumented so they cannot find work that pays enough to get the necessary medical care. These related issues compound each other for all kinds of undocumented people, but especially for Latinx groups currently in the political spotlight.

Among sites in rural and suburban areas that RAI outreach staff were successful in engaging, the staff offered to assist in doing outreach to other groups and agencies.. In addition, a peer led substance use service organization provided referrals to transitional housing programs but coordination during the survey period was not possible, The team was also referred to Dallas area high school for at-risk youth and pregnant adolescents that may be a potential future site for listening sessions and mini-needs assessments.

When asked if they were directly connected to client contacts for seeding, outreach staff said they were mostly able to make the link. There was a sense that most sites understood what the outreach staff members were asking for and were able to connect to clients for seeding. Where the seeding process often broke down was when the seed respondent didn't know who to pass this survey to in terms of making referrals. Many genuinely did not know people to send this along to, because they did not want their personal contacts to feel uncomfortable or under any

[18] Furman, R., Negi, N. J., Iwamoto, D. K., Rowan, D., Shukraft, A., & Gragg, J. (2009). Social work practice with Latinos: Key issues for social workers. Social Work, 54(2), 167-174.

microscopes. This failure to disseminate points to the fact that in certain urban and rural areas social networks are smaller and more spread apart - people are more isolated related to their HIV community affiliation than RAI had anticipated. For rural areas, it is not uncommon to have to drive a long distance to connect with others, and there is no public transit system outside the urban core and the near suburbs like Denton (Denton proper has a light rail and bus system that travels within Denton city, which also reaches Carrollton where it connects to the Dallas system, but not beyond). A respondent from a rural clinic mentioned that there was a gay bar in Sherman that closed after the pandemic due to the owners passing away from COVID-19. Since then, there have been no local physical places where people from the queer community in rural areas can congregate to meet other people; social interaction is usually done through dating and social apps and social media at this point. Glitterbomb in Denton, an event where drag queens perform and the house/ball community convenes, was closed for the season, but would be an excellent place to engage with LGBT folks from the suburbs in future assessment cycles.

When asked if the client contacts the outreach staff were introduced to were diverse and demographically reflective of the regional pandemic or if they favored any specific group, there was a sense of true diversity, with certain key gaps noted. For example, one outreach staff person noted that he would have liked to have gotten some young white males to do the survey. Our final tally of respondents, fortunately, did not lack for white male participation.

When asked if they were strung along or ignored by outreached provider organizations under any circumstances, the outreach team had different experiences. While the outreach worker responsible for central Dallas expressed no problem in linking with sites with limited exception, the outreach workers in the outer counties of the Dallas region expressed extreme challenges in working with organizations. While all groups reached out to where theoretically excited by the work and philosophically aligned with the work, momentum was lost when it came time to meet with clients and seed the actual survey instrument. The primary determining characteristics for challenges of access and engagement focused on A.) inexperience working in the HIV/STI field and B.) focus on populations that are currently “under siege” in Texas, including individuals involved in (or needing) harm reduction services, undocumented persons and families, and gender expansive people. Some of these organizations stated plainly “I don’t know you and I cannot risk ruining my clients lives by having the rug pulled out from under them. I’m sorry, but this is not going to happen here”. For groups in category B, the real constraints revolved around timing (holidays and state audits), getting approvals in time from other leadership (as was the case for Women 2 Women), and inclement weather events. The local grassroots harm reduction program in Northeast Texas and a rural sober living program in Denton county were both opposed to permitting access to their participants, most likely because they feared possible legal or safety consequences.

Survey Sample Demographics

The Dallas SNNA survey instrument was deployed between November 2022 and January 2023 using the methods laid out above to recruit respondents (summarized in Table 1).

Survey Results

The online survey received 5,727 responses. Surveys that were incomplete, or had an IP address from outside the United States, or took less than 5 minutes to complete were excluded from analysis. After removing these responses, we were left with 2,046 responses. The diagram to the right depicts the social network model that emerged from respondent driven sampling. Red dots are people with HIV and green dots are people at high risk for HIV. There is a high level of interconnection between the positive and high-risk negative segments of the Dallas area HIV community.

Of the 2,046 survey respondents who successfully completed the survey, the majority of participants (70%) were between the ages of 25 and 44 with the range of participants from 16 to 70+. Nearly 16% of our respondents were under 24 comprising the second largest demographic. This result is significant and reflective of the success of the community liaison in reaching this vulnerable population as the highest rate of new infections is under the age of 24 with the percentage of those living with HIV in Texas currently measured at 4%[19]. Of the total respondents, 5.3% intended as PLWHA; of those respondents under 25, 34% identified as living with HIV.

The racial and ethnic breakdown of survey respondents were predominantly male and self-identified as Black/African American. There was an underrepresentation of Latinx respondents; barriers to this will be addressed further in the discussion section. Interestingly, the majority of survey respondents identified as heterosexual. The Williams Institute, which tracks data of LGBTQ+ individuals nationwide, reports that only 4% of Texans report being a member of the queer community and 4% of the total respondents identify as living in Dallas. As such, this sample is in alignment with other published figures on the percentage of queer individuals being in the minority. Within the SNNA survey sample, 35% of respondents identified as being of a sexual orientation other than heterosexual.

The majority of the sample identified as either Black/African American (44.9%) or White/Caucasian (40%). Only 12.3% identified as of Hispanic or Latino origin. This appears to be somewhat lower than expected for the region. Roughly 97% identified as cisgender, while 3% identified as other than cisgender. Cisgender men accounted for the majority of respondents (55%) with cisgender women composing (42%) of our respondents. A large proportion identified as heterosexual (67%). People being people, it is important to remember that self-identified sexual orientation may not always correspond to sexual behavior as people feel that there is a “right answer” or “right behaviors” to self align[20]. It is also important to note that 32% of respondents report prior periods of incarceration and approximately 20% have engaged in sex in exchange for money or basic personal necessities.

[19] AIDSVu

[20] Chandra, A., Copen, C. E., & Mosher, W. D. (2013). Sexual behavior, sexual attraction, and sexual identity in the United States: Data from the 2006–2010 National Survey of Family Growth. International handbook on the demography of sexuality, 45-66.

Table 1: Demographics	HIV positive			HIV negative		
Age Ranges	n	#	%	n	#	%
0 - 12 years old	674	0	0.0%	1363	0	0.0%
13 - 17 years old	674	0	0.0%	1363	2	0.1%
18 - 24 years old	674	109	16.2%	1363	211	15.5%
25 - 34 years old	674	332	49.3%	1363	527	38.7%
35 - 44 years old	674	141	20.9%	1363	429	31.5%
45 - 54 years old	674	41	6.1%	1363	107	7.9%
55 - 64 years old	674	41	6.1%	1363	58	4.3%
65 +	674	10	1.5%	1363	29	2.1%
Race/Ethnicity						
Black/African American	674	358	53.1%	1363	556	40.8%
Hispanic/Latinx	674	54	8.0%	1363	197	14.5%
White	674	251	37.2%	1363	566	41.5%
Asian	674	11	1.6%	1363	36	2.6%
Native Hawaiian or Pacific Islander	674	9	1.3%	1363	20	1.5%
American Indian or Alaska Native	674	3	0.4%	1363	14	1.0%
Other race/ethnicity	674	2	0.3%	1363	5	0.4%
Gender Identity						
Cis male	674	444	65.9%	1363	678	49.7%
Cis Female	674	196	29.1%	1363	658	48.3%
Trans Male/Transman	674	13	1.9%	1363	12	0.9%
Trans Female/Transwoman	674	17	2.5%	1363	12	0.9%
Genderqueer/Gender non-conforming	674	4	0.6%	1363	5	0.4%
Nonbinary	674	1	0.1%	1363	9	0.7%
Prefer not to answer gender identity	674	1	0.1%	1363	3	0.2%
Different gender identity not listed (please e	674	1	0.1%	1363	1	0.1%
Sexual Orientation						
Gay or Same-Gender-Loving Man	674	157	23.3%	1363	74	5.4%
Lesbian or Same-Gender-Loving Woman	674	64	9.5%	1363	59	4.3%
Bisexual	674	78	11.6%	1363	179	13.1%
Queer	674	10	1.5%	1363	68	5.0%
Straight or Heterosexual	674	353	52.4%	1363	967	70.9%
Pansexual	674	10	1.5%	1363	6	0.4%
Sexual Orientation: Prefer not to answer	674	8	1.2%	1363	21	1.5%
Different or other sexual identity not listed (	674	2	0.3%	1363	1	0.1%
Other sexual orientation	674	1	0.1%	1363	0	0.0%

The following tables, graphs, and images provide additional detail on demographic characteristics of survey respondents.

Table 2 and Figure 11

Which languages do you speak other than English?	n=310	%
Spanish	165	53.23%
African Dialects (Hausa, Igbo, Amharic, Yoruba, etc...)	52	16.77%
Chinese Dialects (Mandarin, Cantonese, Formosan, etc...)	35	11.29%
No response	25	8.06%
French	14	4.52%
Vietnamese	9	2.90%
German	5	1.61%
Hindi/Gujarati	4	1.29%
American Sign Language (ASL)	1	0.32%

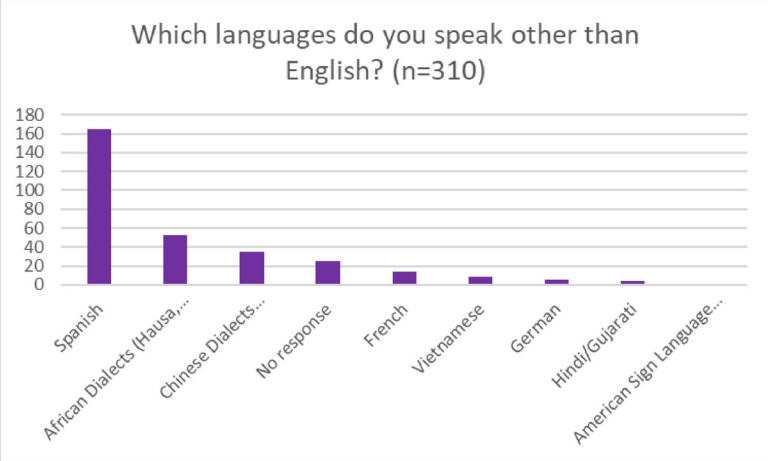


Table 3 and Figure 12

Currently Enrolled in School	n=2046	%
No, not currently enrolled	1479	72.29%
Yes, part-time	298	14.57%
Yes, full-time	264	12.90%
No response	5	0.24%

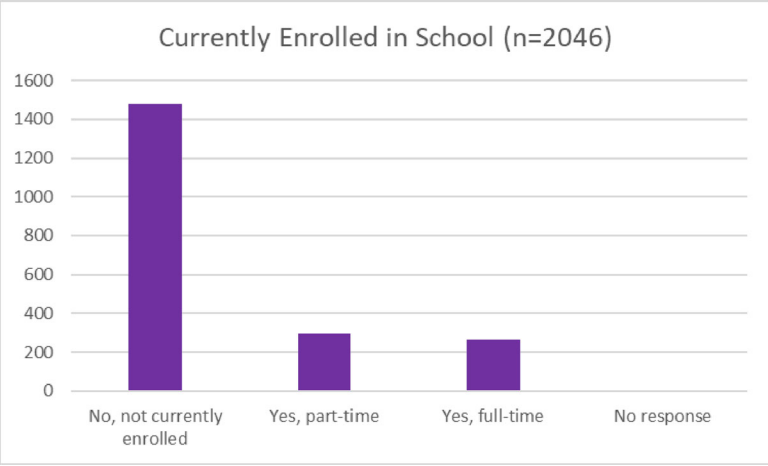


Table 4 and Figure 13

Employment Status	n=2046	%
Working full-time	1068	52.20%
Working part-time	569	27.81%
Currently looking for work or more work	179	8.75%
Unemployed and not currently looking for work	98	4.79%
Unable to work	109	5.33%
Retired	42	2.05%

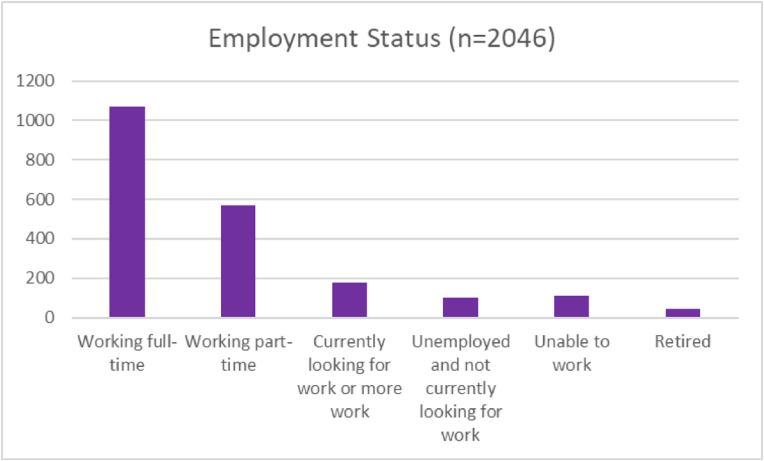


Table 5 and Figure 14

Self-Reported Income Level	n=2046	%
No income	137	6.70%
Under $25,000	358	17.50%
$25,000 to $49,999	685	33.48%
$50,000 to $74,999	597	29.18%
$75,000 to $99,999	189	9.24%
$100,000 or more	48	2.35%
Prefer not to answer	32	1.56%

Table 6 and Figure 15

Housing Status	n=2046	%
I own my home	594	29.03%
I pay rent for my home (alone or with others)	817	39.93%
I live in a family home that I do not pay for	306	14.96%
I live with friends and pay little or what I can	211	10.31%
I live in a group home (based on a charity or program)	50	2.44%
I stay in a shelter	28	1.37%
I am completely homeless	33	1.61%
No Response	7	0.34%

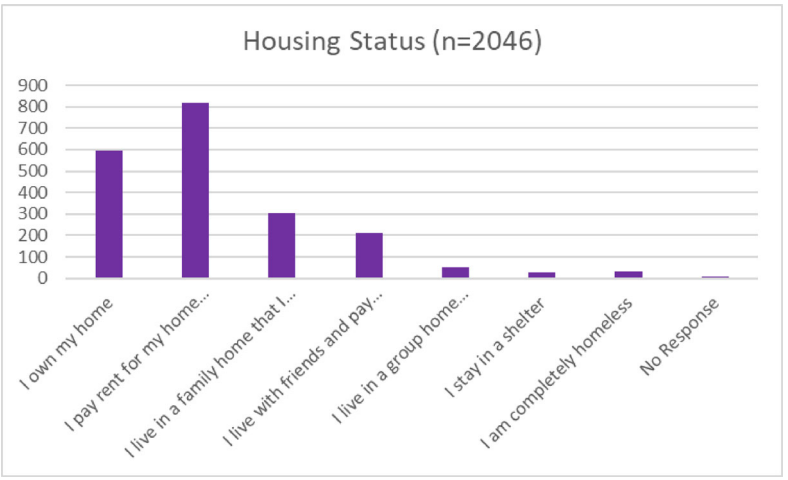


Table 7 and Figure 16

Health Insurance Status	n=2046	%
Insured	1429	69.84%
Uninsured	551	26.93%
I do not know	59	2.88%
No response	7	0.34%

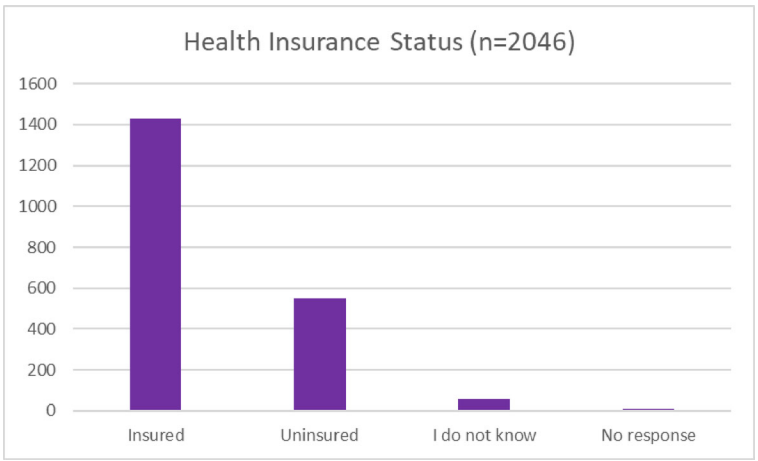
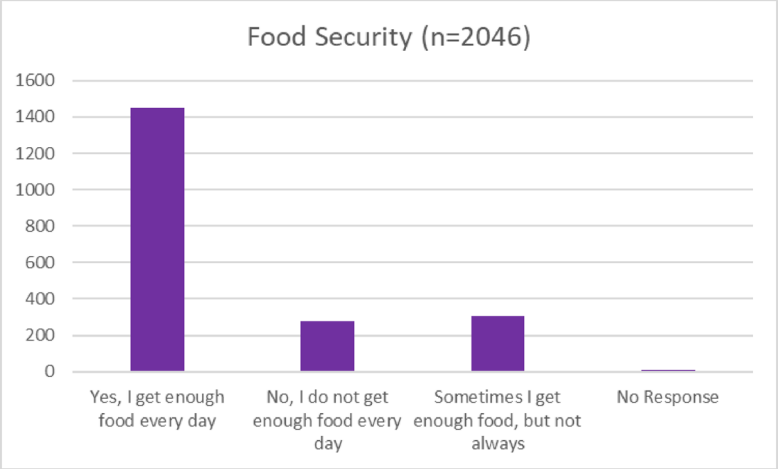


Table 8 and Figure 17

Food Security	n=2046	%
Yes, I get enough food every day	1450	70.87%
No, I do not get enough food every day	278	13.59%
Sometimes I get enough food, but not always	308	15.05%
No Response	10	0.49%



The following series of tables and graphs show patterns of HIV risk in the last 12 months. Findings for those who are at risk of acquiring HIV are in Black; Findings for people living with HIV are in red.

Table 9 and Figure 18

Sexually Active in the Last 12 Months?	n=1364	%	n=674	%
Yes	835	61.20%	529	78.50%
No	494	36.20%	141	20.90%

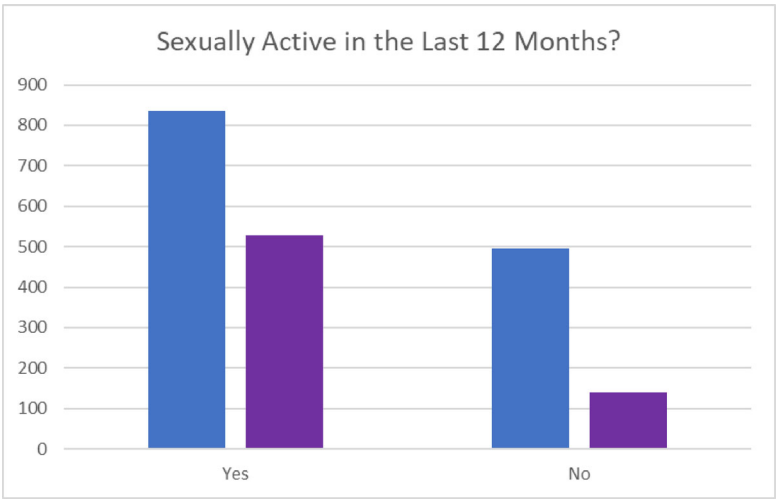


Table10 and Figure 19

In the Past 12 Months, Were You Sexually Active with Sero-discordant Partners?	n=835	%	n=529	%
Yes	61	7.30%	276	52.20%
No	721	86.30%	210	39.70%
I do not know	48	5.70%	39	7.40%

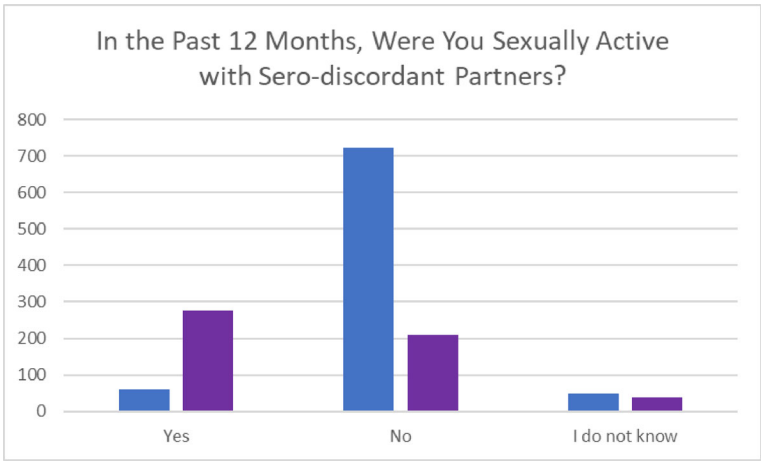


Table 11 and Figure 20

In the Past 12 Months Have You Injected Drugs?	n=1364	%	n=674	%
Yes	157	11.50%	242	35.90%
No	1179	86.40%	420	62.30%
Prefer not to answer	20	1.50%	11	1.60%

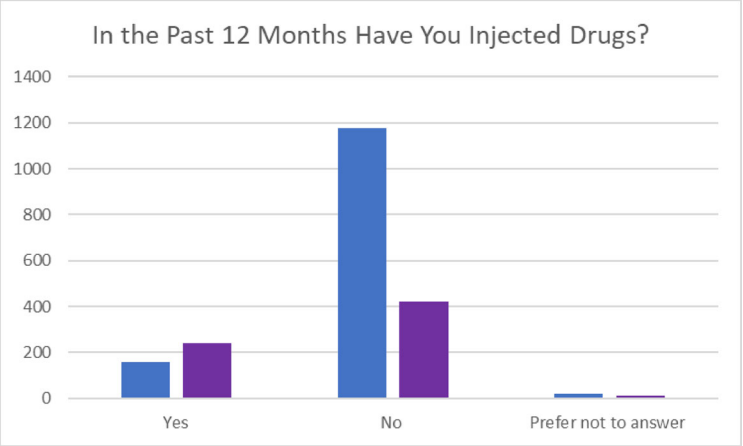
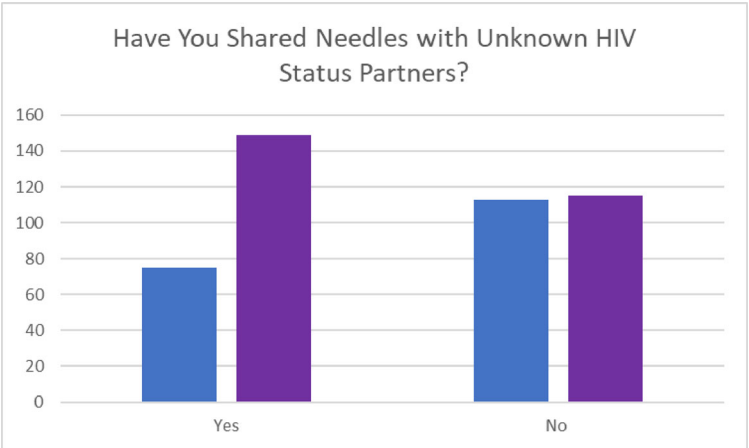


Table 12 and Figure 21

Have You Shared Needles with Unknown HIV Status Partners?	n=157	%	n=242	%
Yes	75	47.80%	149	61.60%
No	113	72.00%	115	47.50%



In consideration of these risk patterns, the next tables and graphs show how people avoid healthcare due to discrimination

Table 13 and Figure 22

Have you avoided testing or prevention services because of discrimination or bias?	n=2046	%
Yes	566	27.70%
No	1464	71.60%
No response	16	0.80%

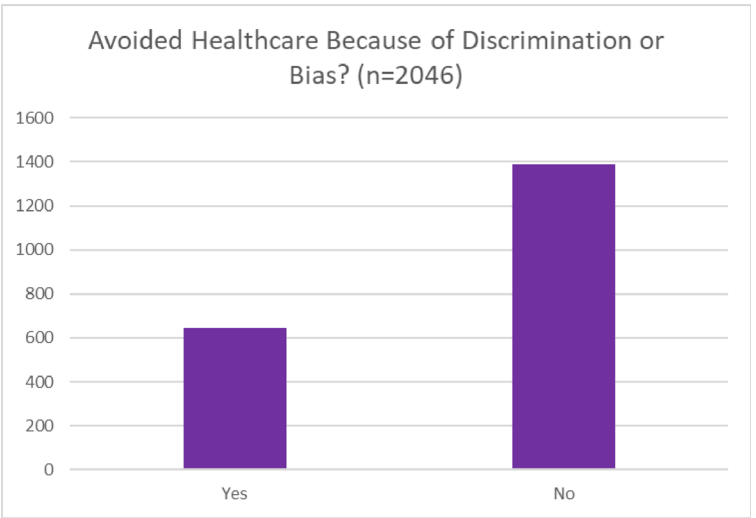


Table 14 and Figure 23

Which type of bias did you experience?	n=566	%
Race/ethnicity	272	48.10%
Sexual/gender identity	263	46.50%
HIV status	207	36.60%
Current or past alcohol or substance use	110	19.40%
Immigration status	99	17.50%
Other reasons	7	1.20%

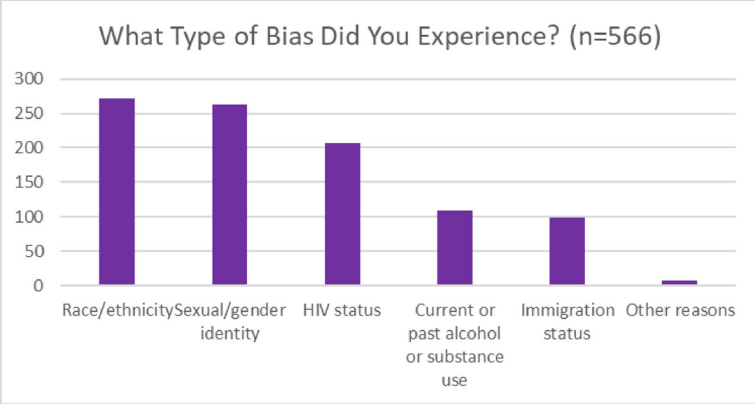


Table 15 and Figure 24

Mental Health Challenges During the Past 12 Months	n=2046	%
Feeling down, depressed or hopeless	758	37.00%
Feeling nervous, anxious, or on edge	754	36.90%
Little interest or pleasure in doing things	632	30.90%
I have not been bothered by any of the previous problems.	462	22.60%
Not being able to stop or control worrying	431	21.10%
I have nightmares from past experiences in my life	290	14.20%

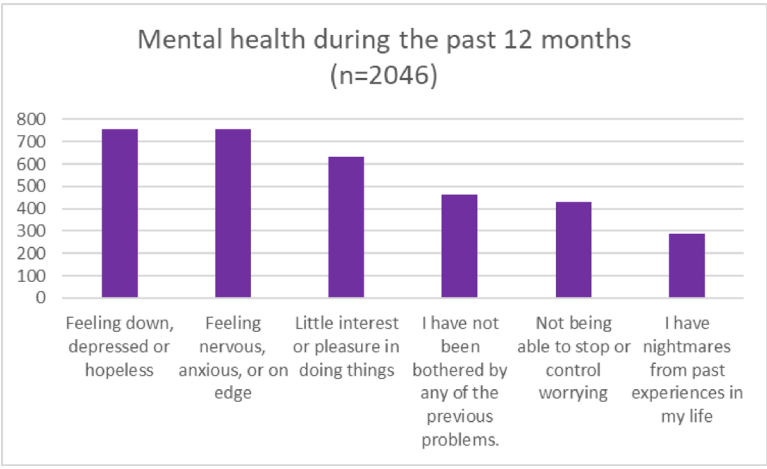


Table 16 and Figure 25

Have You Wanted to See a Mental Health Therapist?	n=1528	%
No, I did not need to speak with a therapist or counselor	558	36.50%
Yes, and I am involved with a therapist or counselor and am engaged in their care	547	35.80%
Yes, I wanted to speak with a therapist or counselor, but could not access one for some reason	423	27.70%

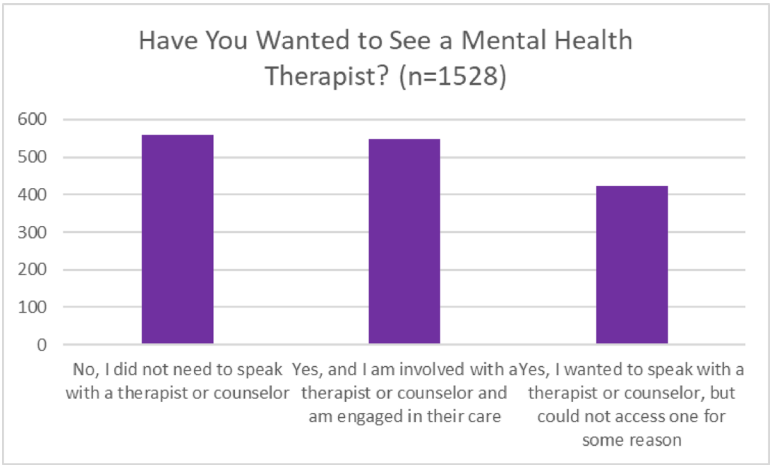
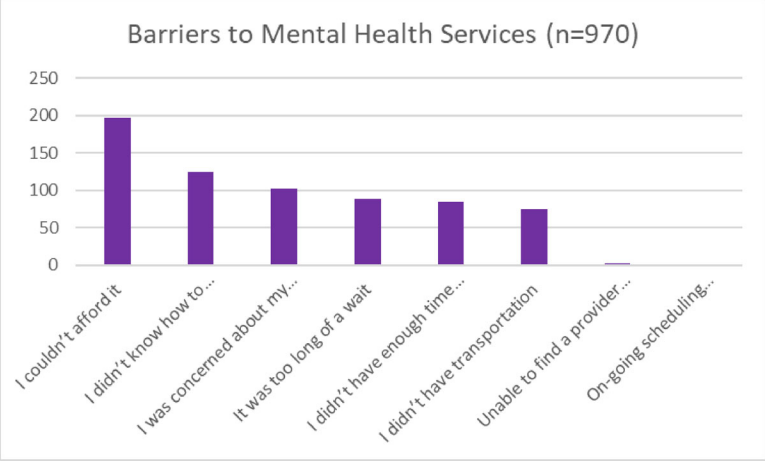


Table 17 and Figure 26

Barriers to Mental Health Services	n=970	%
I couldn't afford it	197	20.30%
I didn't know how to find/access a therapist or counselor	124	12.80%
I was concerned about my privacy and potential discrimination	102	10.50%
It was too long of a wait	88	9.10%
I didn't have enough time off work	85	8.80%
I didn't have transportation	75	7.70%
Unable to find a provider match with similar background	2	0.20%
On-going scheduling conflicts/availability	1	0.10%



The next series of graphs focuses on where people get their sexual health information.

Table 18 and Figure 27

Sexual health information sources	n=2046	%
At my clinic and/or my regular doctor or primary care provider	920	45.00%
Friends/family	713	34.80%
At a free or government clinic	678	33.10%
Community health fairs	635	31.00%
I do not have a trusted source for sexual health information	328	16.00%
Internet Searches / websites	212	10.40%
Apps / social media	163	8.00%
School	95	4.60%
Other (please explain) (2)	21	1.00%
Another local organization	16	0.80%
Television	4	0.20%
Family & Friends	2	0.10%
More information is unnecessary	2	0.10%

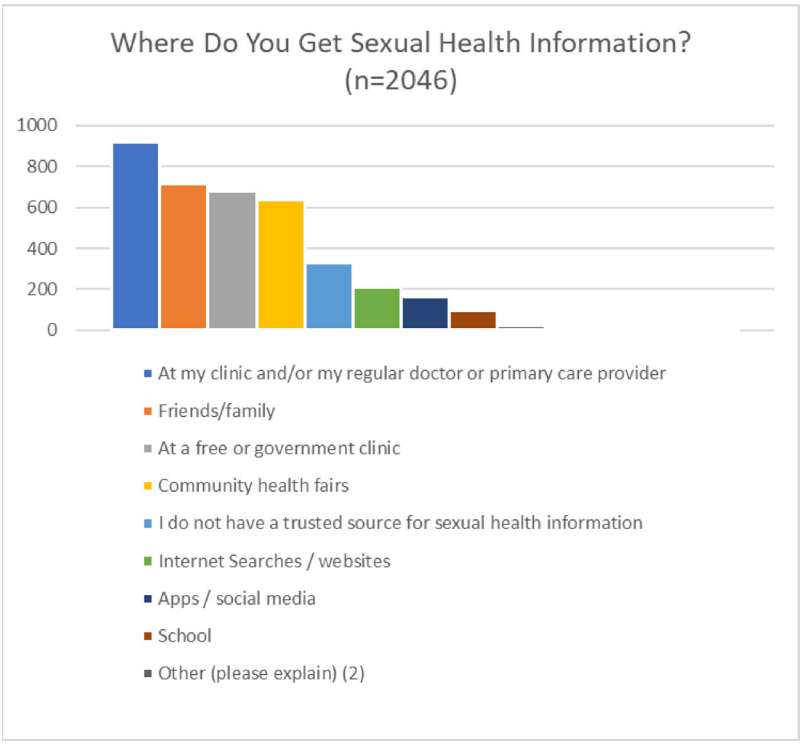
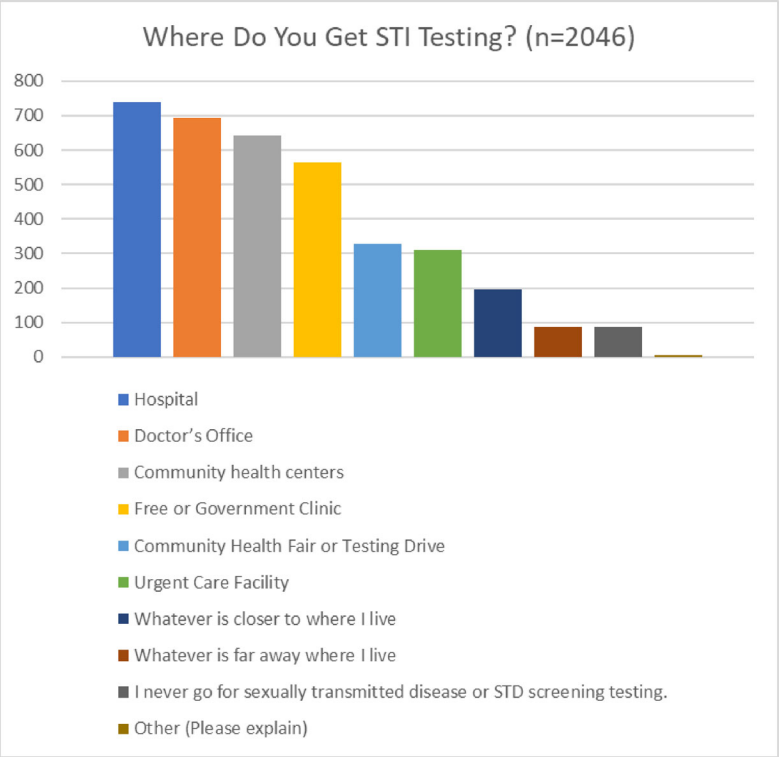


Table 19 and Figure 28

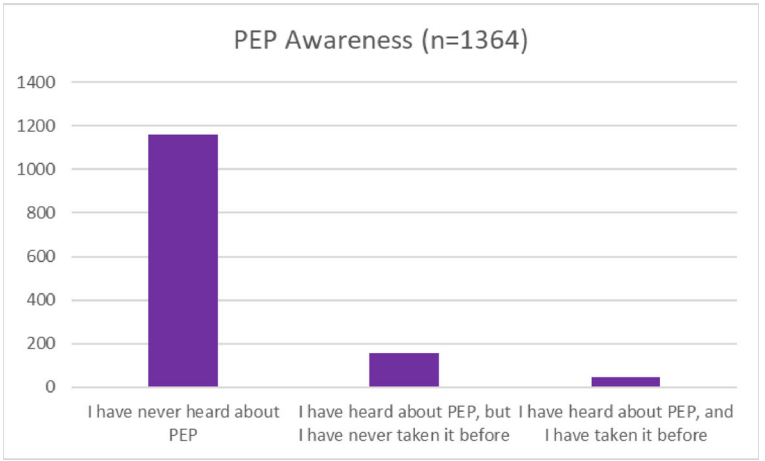
STD testing site	n=2046	%
Hospital	740	36.20%
Doctor's Office	693	33.90%
Community health centers	641	31.30%
Free or Government Clinic	564	27.60%
Community Health Fair or Testing Drive	328	16.00%
Urgent Care Facility	310	15.20%
Whatever is closer to where I live	197	9.60%
Whatever is far away where I live	87	4.30%
I never go for sexually transmitted disease or STD screening testing.	86	4.20%
Other (Please explain)	6	0.30%



The next tables and graphs show public knowledge of biomedical HIV prevention interventions. Only high-risk negatives were asked about PEP and PrEP knowledge. All were asked about U=U knowledge. Word clouds were created based on open ended questions.

Table 20 and Figure 29

PEP Awareness	n=1364	%
I have never heard about PEP	1162	85.19%
I have heard about PEP, but I have never taken it before	158	11.58%
I have heard about PEP, and I have taken it before	44	3.23%



PrEP Awareness	n=1364	%
I have never heard about PrEP	1094	80.21%
I have heard about PrEP, but I am not on PrEP	188	13.78%
I have been prescribed, but I am not currently on PrEP	53	3.89%
I am on PrEP	29	2.13%

Table 21 and Figure 30

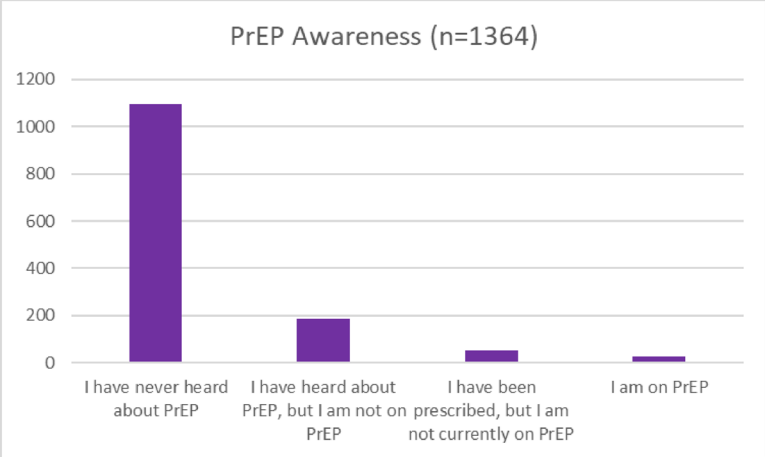


Figure 31: PrEP Word Cloud - In your own words, what is PrEP?

Table 22 and Figure 32

U=U awareness	n=2046	%
I have never heard of U=U	1561	76.30%
I have heard of U=U, but am not sure what it means	184	9.00%
I know about U=U and what it means	289	14.10%
No response	12	0.60%

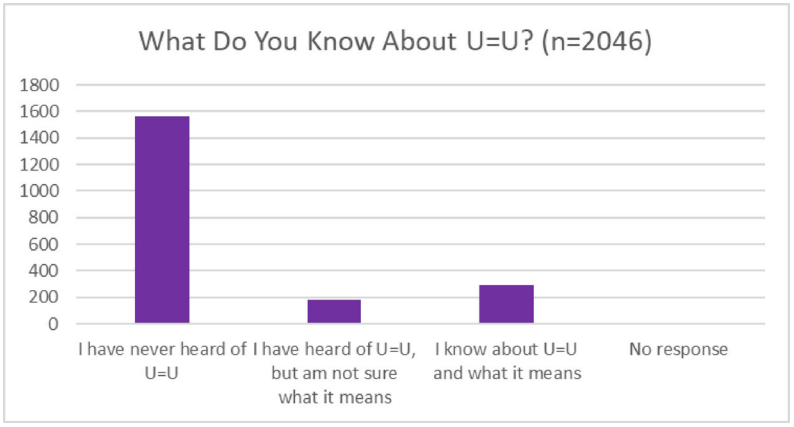


Figure 33: U=U Word Cloud - In your own words, what is U=U?

The following tables and graphics discuss matters of HIV diagnosis, linkage to care, and ongoing engagement in care.

Table 23 and Figure 34

How was HIV diagnosed?	n=674	%
I was tested by my primary care doctor	201	29.82%
I was tested during an Emergency Room visit or as a patient in a hospital	125	18.55%
I used an at-home HIV test	95	14.09%
I was tested at a health fair or another community event	54	8.01%
I was tested in a mobile clinic not part of a community event	26	3.86%
I don't remember	8	1.19%
Other testing event	25	3.71%
No response	140	20.77%

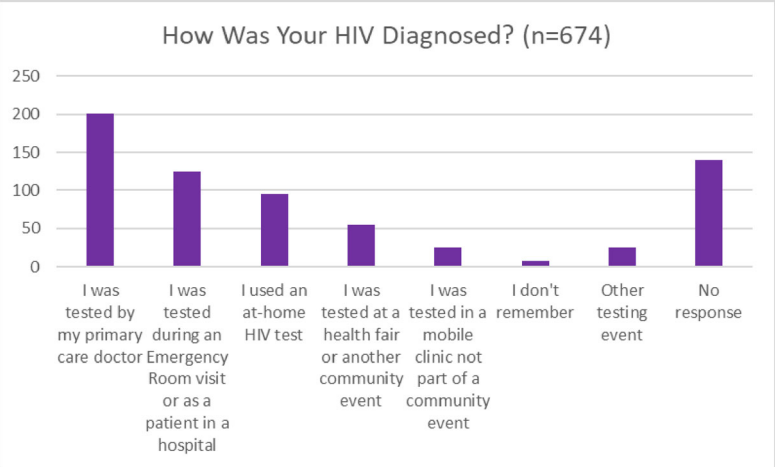


Table 24 and Figure 35

Length of time living with HIV	n=674	%
Less than a year	21	3.12%
1-2 years	119	17.66%
3-5 years	218	32.34%
6-10 years	105	15.58%
11-20 years	36	5.34%
More than 20 years	35	5.19%
No response	140	20.77%

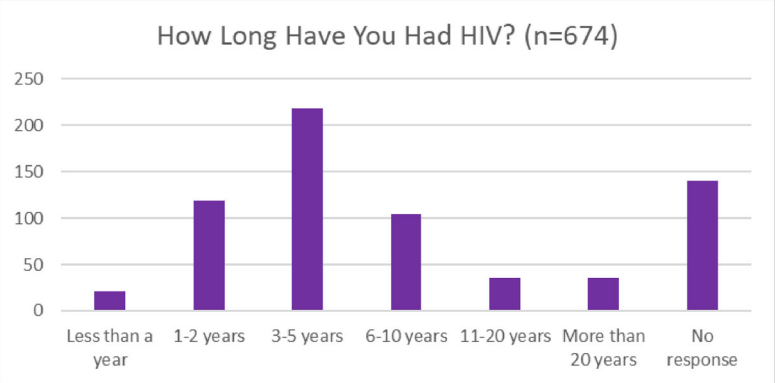


Table 25 and Figure 36

Linkage to care after HIV diagnosis	n=674	%
Less than a week	200	29.67%
Less than a month	315	46.74%
Less than a year	106	15.73%
More than a year	36	5.34%
I never entered medical care	17	2.52%

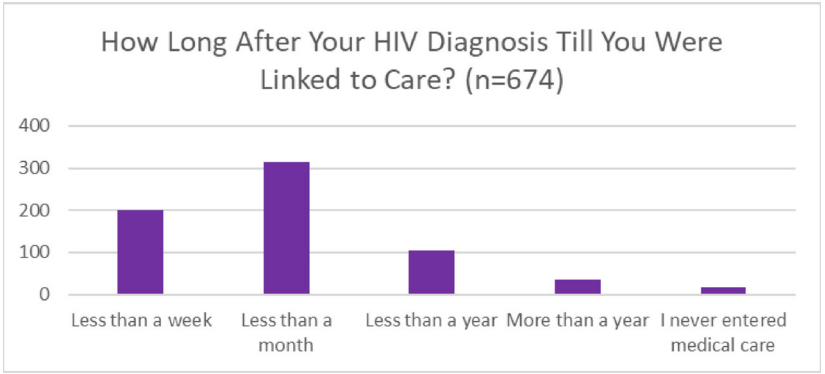


Table 26 and Figure 37

Time until comfortable in care	n=674	%
It took me years to find someone I was comfortable with	212	31.50%
It took me months to find someone I was comfortable with	194	28.80%
It took me weeks to find someone I was comfortable with	95	14.10%
I was able to find someone I was comfortable with in a matter of days	84	12.50%
I am still not fully comfortable with my care provider	70	10.40%
No response	17	2.50%
Something else (please describe)	2	0.30%

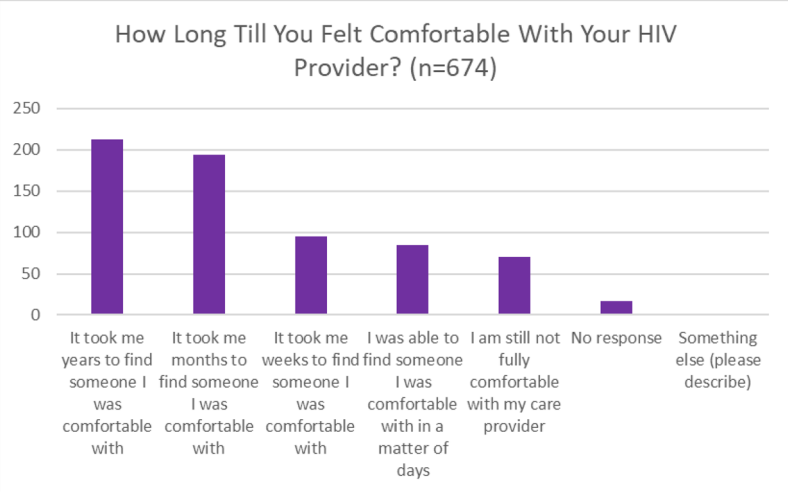


Table 27 and Figure 38

Do You Have an HIV Care Provider	n=674	%
Yes	525	77.89%
No	132	19.58%
No response	17	2.52%

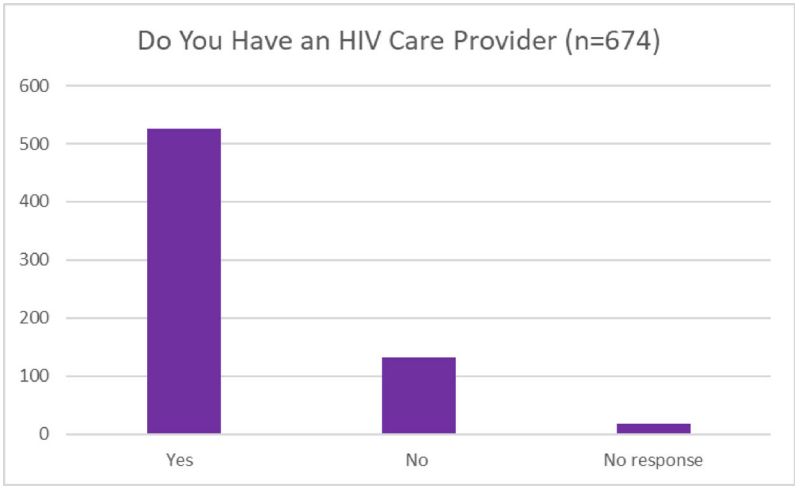


Table 28 and Figure 39

Ever Had an HIV Medical Provider?	n=132	%
Yes	81	61.40%
No	51	38.60%

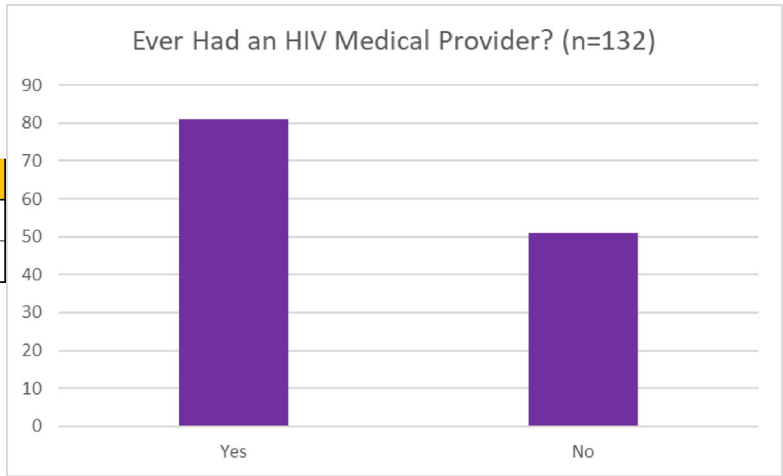


Table 29 and Figure 40

HIV Medical Care Habits	n=525	%
More than once a year, unless I am sick	250	37.10%
Once a year, unless I am sick	208	30.90%
Only when I am sick	57	8.50%
I barely ever go, but I have someone I co	10	1.50%
No response		

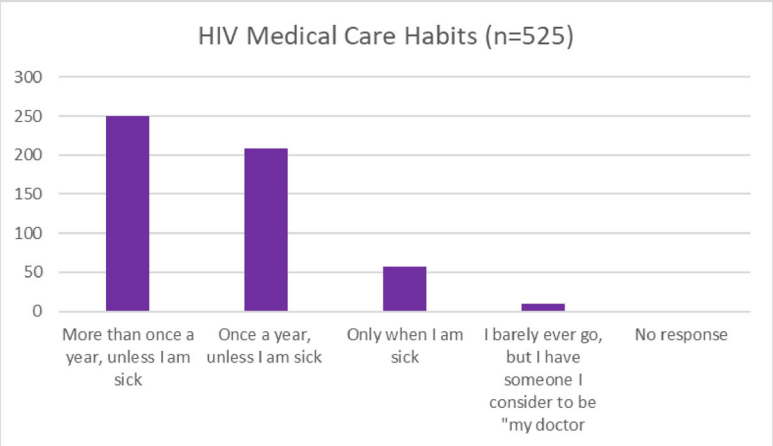


Table 30 and Figure 41

Gone More Than One Year Between HIV Medical Visits	n=525	%
Yes	249	47.40%
No	276	52.60%

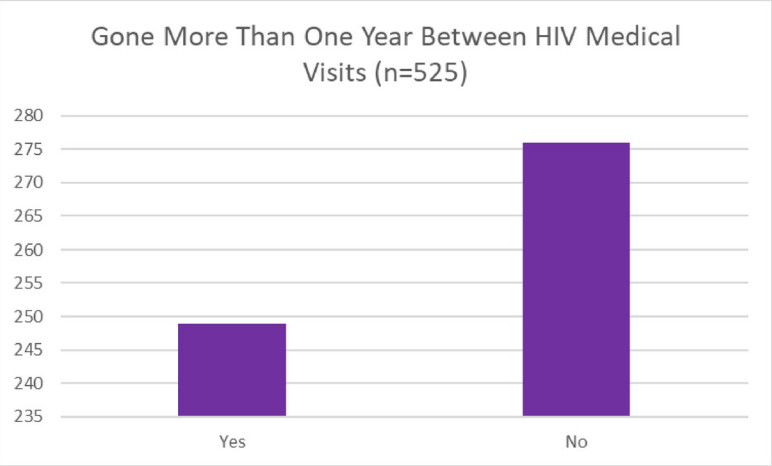


Table 31 and Figure 42

Communication Quality with HIV Care Provider	n=525	%
Great	135	25.70%
Very Good	239	45.50%
Good	122	23.20%
Not Very Good	26	5.00%
Poor	3	0.60%

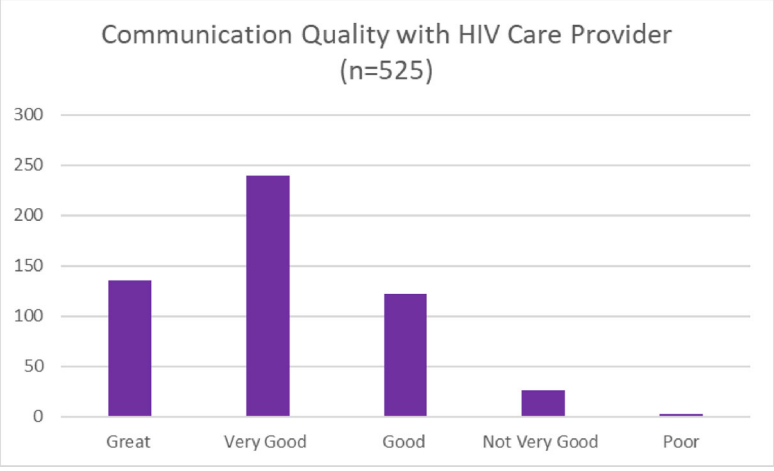


Table 32 and Flower 43

Ever taken HIV medications	n=674	%
Yes, and I am still taking HIV medications	543	80.60%
Yes, but I stopped taking HIV medication	116	17.20%
No, I have never taken HIV medication	15	2.20%

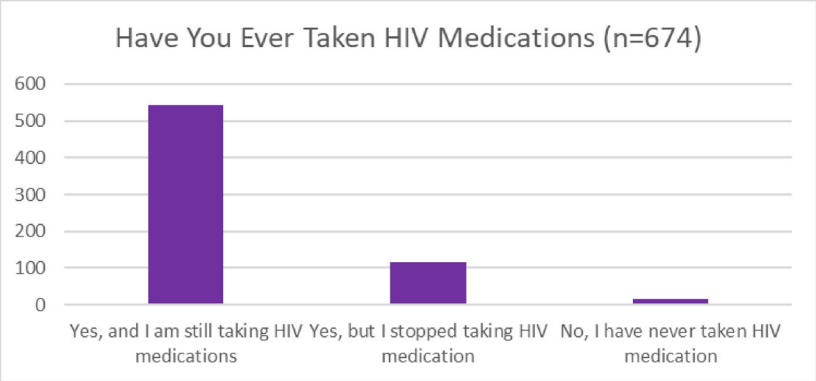


Table 33 and Figure 44

Do you take your medications as prescribed?	n=674	%
Yes, always	479	71.10%
No, never	48	7.10%
Sometimes Yes and Sometimes No	144	21.40%
Prefer Not to Answer	3	0.40%

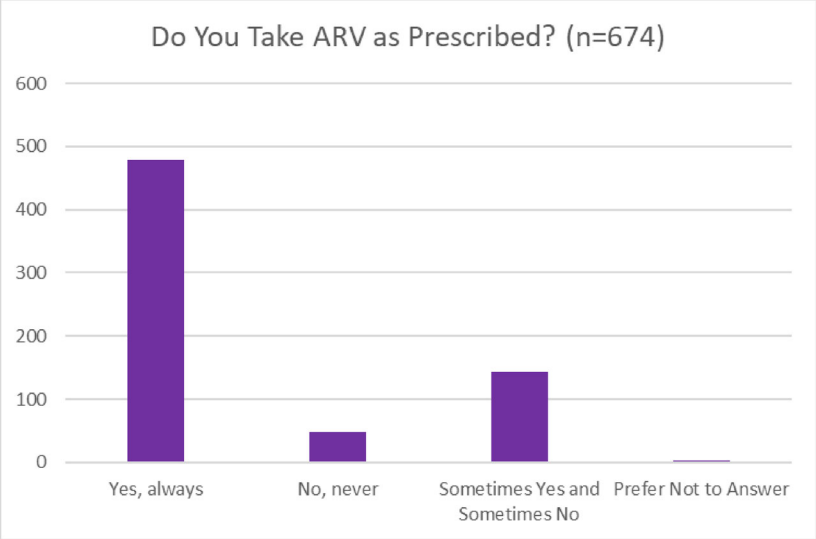
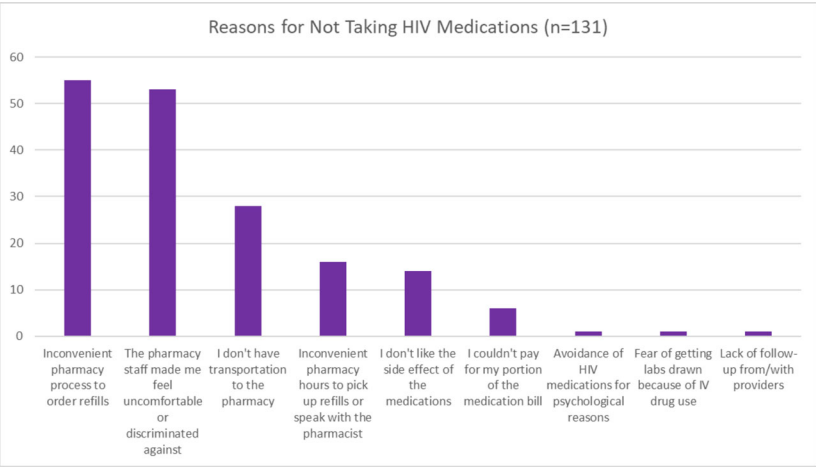


Table 34 and Figure 45

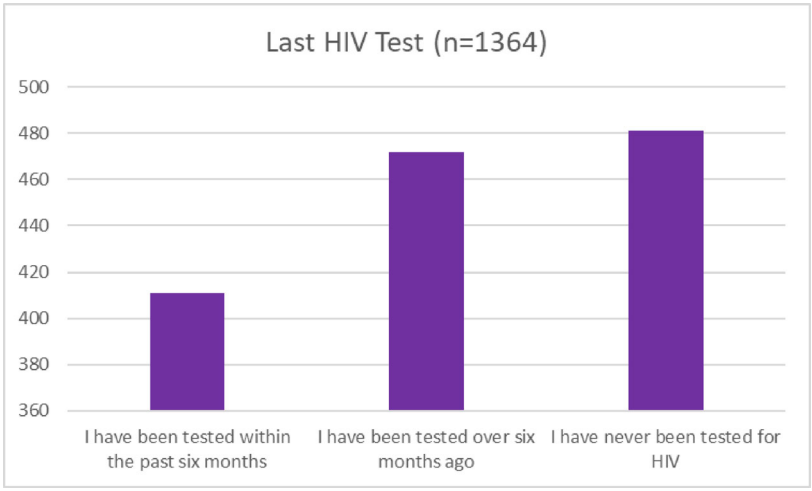
Reasons for not taking HIV medications	n=131	%
Inconvenient pharmacy process to order refills	55	42.00%
The pharmacy staff made me feel uncomfortable or discriminated against	53	40.50%
I don't have transportation to the pharmacy	28	21.40%
Inconvenient pharmacy hours to pick up refills or speak with the pharmacist	16	12.20%
I don't like the side effect of the medications	14	10.70%
I couldn't pay for my portion of the medication bill	6	4.60%
Avoidance of HIV medications for psychological reasons	1	0.80%
Fear of getting labs drawn because of IV drug use	1	0.80%
Lack of follow-up from/with providers	1	0.80%



The following tables and graphics show healthcare seeking behavior of high-risk negatives.

Table 35 and Figure 46

Last HIV Test	n=1364	%
I have been tested within the past six months	411	30.10%
I have been tested over six months ago	472	34.60%
I have never been tested for HIV	481	35.30%



The following tables and graphics exhibit the Dallas area HIV community's sense that they are in charge of their own care destiny.

Table 36 and Figure 47

Feel free to access care anywhere?	n=2046	%
Yes	1312	64.10%
No	538	26.30%
It Depends	181	8.80%
No response	15	0.70%

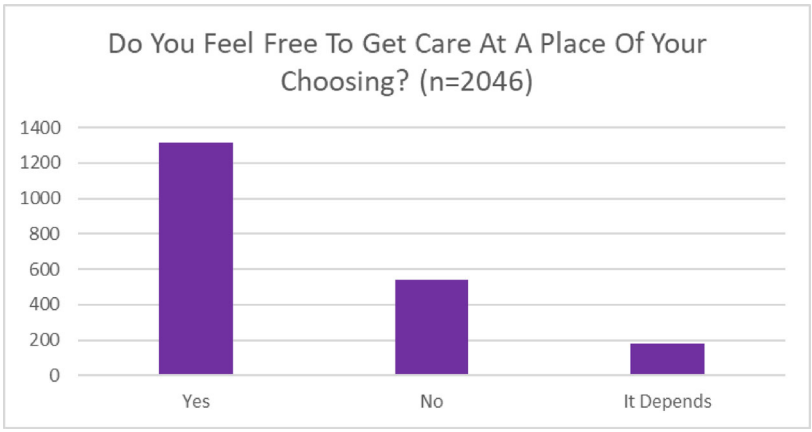
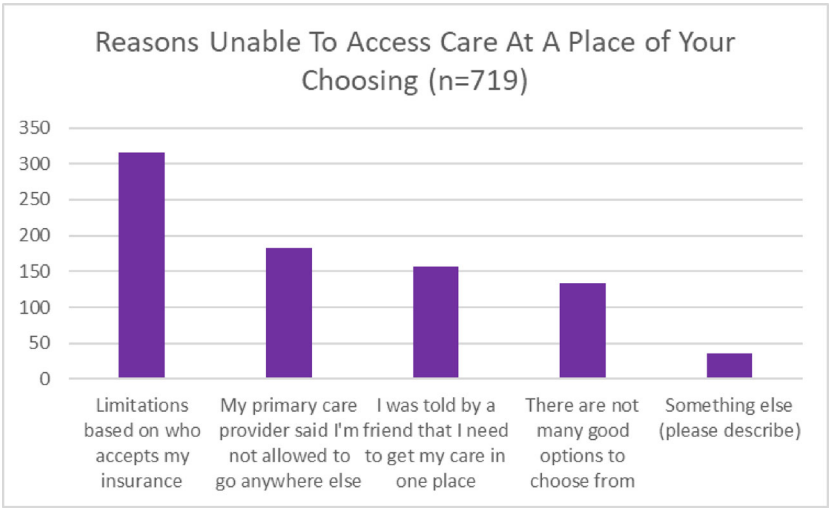


Table 37 and Figure 48

Reasons unable to access care anywhere:	n=719	%
Limitations based on who accepts my insurance	316	43.90%
My primary care provider said I'm not allowed to go anywhere else	183	25.50%
I was told by a friend that I need to get my care in one place	157	21.80%
There are not many good options to choose from	133	18.50%
Something else (please describe)	36	5.00%



Significant Survey Findings for Key Populations

Black Men Who Have Sex With Men

Among respondents, 194, or 9.4% of respondents, identified as a black man who has sex with men (BMSM). The majority of these men were between the ages of 25-34 (59.8%). The majority report having full time employment (63.9%) and having some type of medical insurance (53.1%), and report earning $25-$49,999 per year.

Only 5.2% report having never been tested for HIV. The most commonly reported methods of testing were by being tested by a primary care provider (20.6%), use of at-home HIV test kits (13.9%), or at a health fair or community event (13.9%).

Of the 194 respondents, 72 respondents reported that they do not have HIV, with only 3% reported currently being on PrEP. Few reported that they have been prescribed PrEP in the past (8%). Only 12.5% have heard of PrEP but were not currently taking it and of all BMSM, only 27% reported knowing what PrEP is.

The majority of our BMSM respondents (62.9%) report being diagnosed with HIV. Of those diagnosed, 14% were diagnosed within the last two years. The majority of the BMSM (19.6%) report having been diagnosed within the last three to five years while 12.9% report they were diagnosed more than 10 years ago. As testament to the hard work being done at community level, All the BMSM in our survey report having been linked to medical care and 58.8% report that they have a primary provider that covers their HIV care.

Among respondents 48.5% reported that they currently take all their medications as prescribed. While 14.4% reported that they have previously been prescribed medications but are not currently taking them. None report that they have ‘never’ been prescribed medications, which leaves approximately 37.1% with unaccounted for adherence behaviors.

Hispanic/Latinx Men Who Have Sex With Men

Among respondents, 53 reported being of Hispanic or Latino origin and being men who had sex with other men (LMSM). The majority of these men were between the ages of 25-34 years old, 56.6% were working full time or part-time (26.4%), 62.3% reporting that they had health insurance, earning either $25,000-49,999 per year (37.7%) or $50,000 and 74,999 per year (30.2%). Of these Latino men, only 37.7% reported speaking Spanish as well as English. Despite the higher range of reported incomes, food scarcity was an issue among these men with 51% reporting experiencing some periods of not having enough to eat during the last year.

Among these respondents, 96.2% report that they have been tested at least once in their life. The majority report that they have been tested by their primary care provider (22.6%), through an emergency room visit (7.5%) or other method and venue (5.7%). Very few were reported to be tested at community events or health fairs, at a mobile clinic outreach event, or, or being

unable to recall how or where they were last tested for HIV (1.9% each). None reported using a home-test kit. A discrepancy appears to exist in reported testing behavior and testing access.

Among the 24 respondents who were HIV negative, only 17% reported having a primary care provider. Similarly, only 16% reported currently being on PrEP. 4% reported having been prescribed PrEP, but were not currently on it, while another 16% had heard of PrEP but were not currently taking it. The majority of all Latino MSM (28.3%) had not heard of PrEP.

Among LMSM respondents, 54.7% were diagnosed with HIV, a full quarter of them reported they were diagnosed at birth. Among all living with HIV, 76% reported that they had a primary care provider who managed their HIV infection. Only 3.8% report having **never** been linked to medical care. None reported being diagnosed within the last year. Many of the LMSM (41.3%) reported being diagnosed within one to five years. Many of these men (82%) report they have been prescribed HIV medications and are currently taking them, while 10.3% report having been prescribed although not currently taking medications, and 6.8% reported having never taken HIV medications. Falling out of care is an issue with this group, 38% reported that while they were in care, there had been a period when they went more than a year between visits to their doctor. Among LMSM, 58.5% reported they have never heard of U=U, while 20.8% reported they had heard of it and knew what it meant.

<u>Hispanic/Latinx Women</u>

Among all Latina respondents (n=120), the majority were either between the ages of 25-34 years old (58.3%) or 35-44 years old (25%). Roughly one in five of these women were multilingual English and Spanish speakers. Heterosexuals composed 65% of the Latina respondents, while others reported being bisexual (25%), Queer (4.2%), or Lesbian (5%) and and 2.5% prefer not to answer about their sexual orientations.

Most of the women were working full time (79%) and/or part time (33%), possibly indicating that they were working more than one job. Many of these women were earning $25,000 to $49,999 (47.5%) or $50,000 or more per year (40%), yet only a third of them reported having health insurance available through an employer, while 24% were receiving Medicaid or medical assistance. Risk behaviors amongst this group were low, with only 2.5% having reported a history of intravenous drug use, 5% engaging in sex exchange, and only 7.5% reporting a history of prior incarceration.

Among all Latina respondents, 55% reported that they have been tested for HIV, yet only five respondents reported where or how they had received a test. Only two women reported being on PrEP. The vast majority (87.5%) reported that they had never heard of PrEP and 90% reported they had never heard about PEP and only 4.2% reported they had been diagnosed with HIV.

Transgender and Gender Non-Conforming People

Transgender and gender non-conforming (TGNC) individuals were scarcely represented in the survey (n=75). The majority of TGNC individuals were black (47.9%) or white (32.4%). TGNC individuals were relatively young, being 18-24 years old (43.7%) or 25-34 years old (33.8%). TGNC individuals had low incomes (45.1%) with most earning less than $25,000 per year. Roughly a third (32.4%) of the sample reported working full-time, part-time (26.8%), or looking for work (22.5%), disabled (11.3%), unemployed yet not looking for work (7%). Most TGNC people reported having health insurance (60.6%). Only 11.3% reported having insurance through an employer, while 14% had insurance purchased through a health insurance exchange, and 28.2% reported having Medicaid or medical assistance. About half of the sample reported that they had engaged in sex exchange and 39.4% reported experiencing food insecurity in the past year.

HIV testing behaviors amongst TGNC individuals varied greatly. Almost 10% reported they had never been tested for HIV, while 25.4% had been tested within the last six months and 15.5% had been tested over six months ago. This leaves 49.2% unaccounted for in terms of testing timeframes. Of those TGNC people who were HIV negative, only 5% had been prescribed PrEP. Similarly, another 5% had been prescribed PrEP but had not yet taken it. Nearly 20% had heard of PrEP but were not taking it. Overall, 35.2% of all TGNC individuals had not heard of PrEP.
HIV infection was fairly high among our TGNC respondents with 49.3% reporting that they were living with HIV. Only 6% had never been linked to medical care. Many of those linked to care (74%) were reported they were currently on medication, while 26% had been prescribed medications, but were not currently taking them. A little more than a third of TGNC people living with HIV reported that they had gone more than a year between doctor visits in the past. Among TGNC who were HIV positive, 17% reported recent intravenous drug use had shared needles with a person of unknown HIV status and 57% reported having a sero-discordant sexual partner. Only one in five reported that they had heard of and knew about U=U.

Youth Living with HIV/AIDS

Youth living with HIV (YLWH) made up a significant proportion of 18–24-year-olds (n=109). The majority of YLWH were black (64.2%) or white (27.5%). Most YLWH reported being heterosexual (56%), while 17.4% reported being gay, 14% identified lesbian, 6.4% as bisexual. The majority were cis gender male (52.3%), cis gender female (35.8%), and 12% as TGNC.
The vast majority of YLWH earned less than $50,000 per year (75.2%). PLWH reported working either full time (28.4%) or part time (45%), looking for work (12%), or unable to work (6.4%). A large portion of YLWH reported being enrolled in school either full time (46.8%) or part time (45.9%). The majority reported that they had health insurance (76.1%).

None of these youth reported their prior habits with HIV testing. Only 58 respondents provided information on their diagnosis time frame. Of those who reported, the majority (28.4%) had been diagnosed 3-5 years ago. While 27.6% reported they had been diagnosed within the last two years. This would suggest that COVID19 changes to HIV testing availability may have had a negative impact on youth testing behaviors and diagnoses.

The YLWH where overwhelming connected to medical care, only 4.6% reported that they have never been linked to medical care. 80% reported that they had a primary care provider that was managing their HIV care. Of those in medical care, 72.5% reported they were currently prescribed medication and taking it as prescribed and 25.7% reported that they had been prescribed medication, but were not currently taking it. Most (62.4%) reported having a sero-discordant sexual partner in the past year. Most YLWH (63.3%) reported that they had never heard of U=U.

People Who Inject Drugs (PWID)

Our survey reached a significant number of individuals who injected drugs (n=399). A small percentage (5.5%) of our respondents identified as TGNC. Most (55.6%) identified as cisgender male or cisgender female (39.8%). In terms of sexual orientation, heterosexuals made up the majority of respondents (57.9%), followed by gay or same gender loving (12.8%), and bisexual (13.8%). Those who were between the ages of 25-34 years old were the largest age group (50.9%), followed by those between 18-24 years of age (30.8%). In terms of race and ethnicity, 54.6% reported they were black, followed by whites (35.1%) and Latinos (6.5%). BMSM accounted for 11.8% and LMSM made up 4.3% of respondents. In terms of economic factors, the vast majority reported earning less than $50,000 per year, with 72% reporting that they have health insurance. Most reported that they regularly had enough to eat (56.4%), but a very large majority also reported that they engage in sex exchange (63.7%).

Among those with a recent history of intravenous drug use, avoiding or delaying seeking preventative care was positively and significantly correlated with race/ethnicity ($r=0.63$, $p<.001$), immigration status ($r=0.37$, $p<.001$), HIV status ($r=0.54$, $p<.001$), substance abuse history ($r=0.39$, $p<.001$), sexual and gender identity ($r=0.62$, $p<.001$). Avoiding or delaying accessing primary medical care was also positively and significantly correlated with race/ethnicity ($r=0.62$, $p<.001$), immigration status ($r=0.35$, $p<.001$), HIV status ($r=0.48$, $p<.001$), substance abuse history ($r=0.37$, $p<.001$), sexual and gender identity ($r=0.58$, $p<.001$). The impact of fear of discrimination was stronger for preventative services than for primary medical care. This difference may be due to feeling okay while considering seeking prevention services may facilitate forbearance, whereas they may feel more impetus to seek care when feeling ill or injured.

Focus Group and Key Stakeholder Interviewee Results

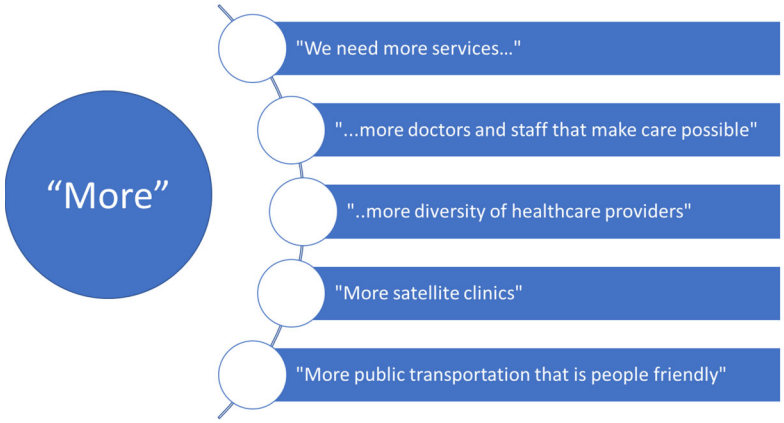
Recruitment for one-on-one interviews and focus groups occurred between January and February 2023, resulting in seven key stakeholder interviews and three focus groups (n=26). The eligibility criteria for both activities were individuals must 1) be aged 18 or older; 2) live and reside in the eleven county service area for the Dallas regional HIV service system (Dallas EMA/HSDA); 3) be able to read and respond in English or Spanish. Participants were recruited via word of mouth and by direct outreach by RAI outreach staff in collaboration with Dallas area community organizational partners including LGBT community-based organizations, healthcare centers, and the Dallas County Transgender Task Force. As mentioned previously focus group participants who were active in the discussion and kept their cameras on received a $40 gift

card incentive. Key Informant Interviewees (KII) each received a $50 gift card incentive. In total, most discussions took between 90 and 120 minutes.

Focus Group and Interviewee Themes and Uncovered Issues

The RAI research team identified seven primary themes among the issues uncovered in the focus groups and key stakeholder interviews. The themes emerged from the code book analysis completed and was verified by independent members of the research team. The code book primarily identified uncovered issues that were then grouped into the following themes: “More is Needed”, "Lack of Comfort”, “Customer Service”, “Communication”, “Safety”, “Stigma”, and “Dallas Region Lagging in Progress”.

Figure 49: Focus Group Theme “More”



The greatest theme to emerge from the data related to how people need ”more” from the Dallas regional HIV service system (Figure 49). The overwhelming consensus was that the Dallas HIV service system should be “doing more” in a wide variety of ways, including not only more services but also new site locations, increased access to care and additional staffing. This result speaks broadly of the need for more providers, more provider locations, and more choice when it comes to care. In particular, there is a need for more services outside of downtown Dallas and better transportation and support to access. There were also comments that it would be preferable for the community so that it more closely resembles the service population demographically.

Figure 50: Focus Group Theme “Lack of Comfort”

The next prominent theme to emerge from the key stakeholder interviews and focus groups was how respondents felt a lack of comfort when they sought care and services in the Dallas region (Figure 50). This “lack of comfort” is highly predictive of poorer outcomes across the HIV Care Continuum[21]. Specific to this assessment, respondents indicated repeatedly that they did not like or trust the repeated screenings by their doctors and other providers. In other words, the necessary and required evaluations for social determinants of health

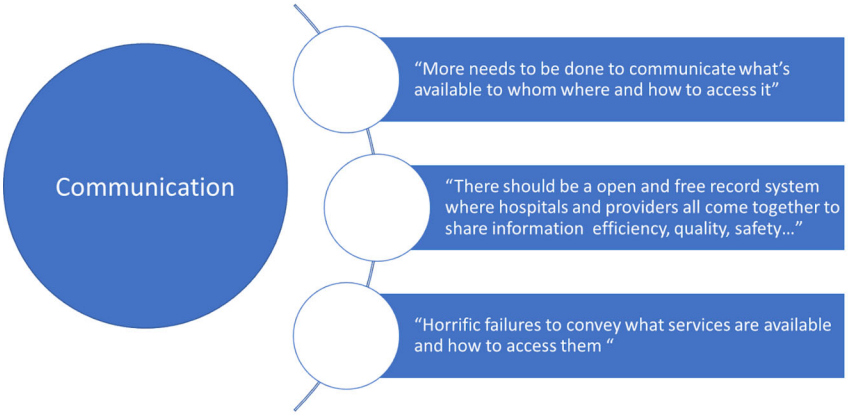
[21] Giordano T. P. (2011). Retention in HIV care: what the clinician needs to know. *Topics in antiviral medicine*, *19*(1), 12–16.

were flagged by clients as problematic. While these screeners are necessary in order to provide good care, most respondents felt their providers were ill equipped to ask these questions and appropriately respond. Some interviewees also noted they felt as if they were meeting check boxes as opposed to receiving individual attention. In order to reach and retain clients, the care setting and environment must be comfortable. Several clients noted feeling "stuck" in unproductive care relationships with their providers and wishing they had alternatives. This is a potential opening for people to fall out of care.

Figure 51: Focus Group Theme "Customer Service"

Many focus group participants and interviewees relayed feeling that there is a lack of well-trained front facing customer service staff within Dallas HIV service system (Figure 51). Importantly, it was also stated by more than one participant that there is a difference in the quality of service and treatment when race and insurance status are factored in. For example, some focus group participants noted that it appeared only well-off white people were offered the newest HCV treatments. Additional feedback, related to respondents working within the HIV service system, was the perception that HIV provider organization staff are opposed to injectable PrEP and HIV treatment for reasons related to client class, risk patterns, and adherence assumptions. Moreover, survey and focus group respondents noted that providers are not routinely educating them and their collaterals on U=U and noted when some clients ask their providers about it, they were told "U=U is not relevant to you". This is not a universal characteristic of all HIV providers or HIV service organizations, but it is concerning that we find this at all within the AA's system of care.

Figure 52: Focus Group Theme "Communication"



Overall, it was identified that there are multiple breakdowns in communication within the Dallas regional HIV service system that affects patient care (Figure 52). This is not limited to direct communication between those living with HIV and their medical and supportive services providers, but also inter-agency communication. Many participants lamented the fact that they often have to re-submit eligibility and other information that should be readily available can be challenging to access. Additionally, there

are thoughts that some information is guarded or withheld from certain patients, this again relates to the U=U, HAART, and HCV cure challenges described above. The perception of withheld information also relates to clients having a very unclear idea of what services are available to whom, where, and when. One client was given a grant to surgically fix their teeth, but another client was told to "let their teeth rot out of their head". Without the right mechanism in place to address challenges early on, we are unable to prevent crisis situations and or needs for urgent and emergent care.

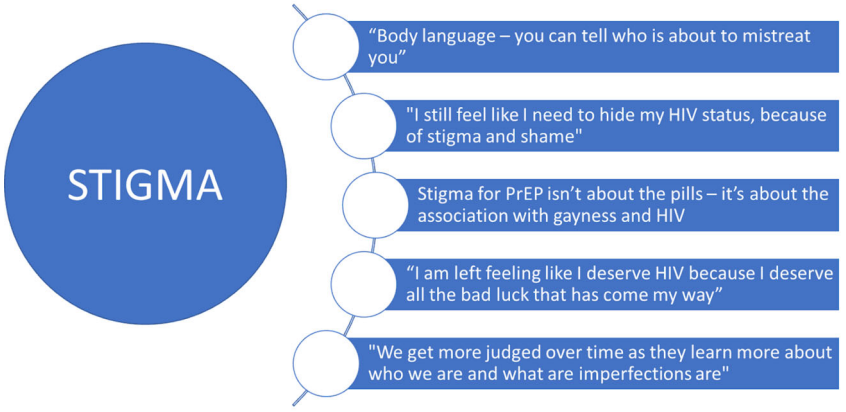
Figure 53: Focus Group Theme "Safety"

Participants were vocal when the concept of personal safety and acceptance was introduced (Figure 53). When considering the current culture-wars climate, many highlighted their concern for themselves and their friends. This was a popular theme identified when we asked participants to state the one thing they wish would change about the Dallas region HIV service system to improve their health and wellbeing. Furthermore, this feeling of lack of safety was especially concerning for transgender population and members of the Hispanic/Latinx immigrant community who currently feel "hunted" in Texas. Gender expansive folks noted being physically attacked on the streets, the murders of their friends they see happening with relative impunity, the psychological violence unleashed on them by the HIV service system, and the sense of constant threat and siege emerging from Austin and featured on television. Texas currently has 23 proposed bills that impact the rights and freedoms of the LGBTQIA+ community[22]. When asked what they do to feel safe, multiple private messages were sent to the focus group facilitators that "I carry a gun in my purse, bra, car and keep one in my bedroom side table and near both my front and back doors". This sense of needing to be heavily armed speaks to this population believing they are "under siege". The Latinx community mostly avoided this assessment. Without the information from interviews, we can only assume that there was hesitancy to engage with any type of authority group including the medical system because there is a legitimate fear that they will be put on a bus and sent thousands of miles away from their families[23].

Throughout each focus group and in most KII, the theme of weaponized HIV stigma was prominent (Figure 54). Experiences of both internalized stigma and institutional stigma were discussed and spoke to the lack of visibility, attention, and focus on advancing an end to the HIV epidemic based on state-of-the-art HIV

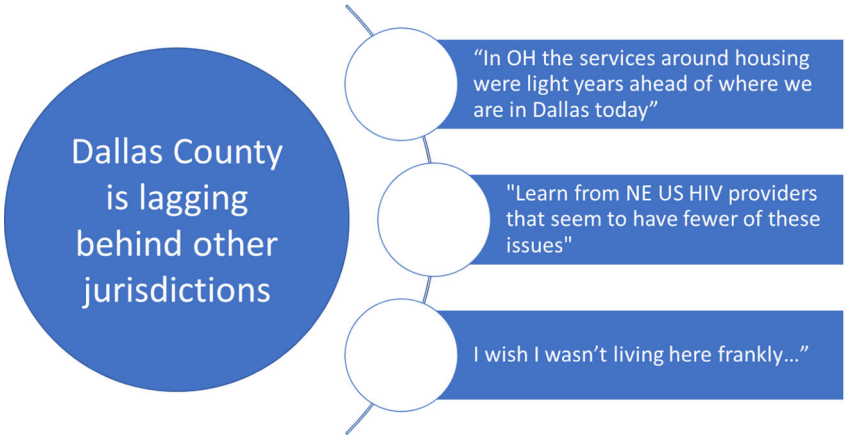
[22] American Civil Liberties Union. (2023, March 10). Mapping Attacks on LGBTQ Rights in U.S. State Legislatures. Retrieved March 11, 2023, from https://www.aclu.org/legislative-attacks-on-lgbtq-rights
[23] Neukam, S. (2022, September 16). GOP governors bus migrants to Kamala Harris' home and Martha's Vineyard. The Texas Tribune. https://www.texastribune.org/2022/09/15/greg-abbott-texas-kamala-harris-migrant-bus/

Figure 54: Focus Group Theme "Stigma"



science. During the focus groups, the theme of 'pity' from professional health care staff emerged. Respondents noted being pitied when discussing issues of HIV risk and broader risks; the sense that "the more they get to know me, the more they pity me and my life" emerged strongly among black gay men. For black people of all backgrounds, there was a sense that the provider "only wanted me to answer their Yes/No questions" and not provide any additional context; some participants noted being rudely cut off when they try to add context. Among gender expansive people, respondents noted that their providers do not pity them as much as fear them. Participants noted the words used by staff, their body language and tone of voice, the relative patience or impatience that is shown to one group versus another, observed differences in treatment options provided to one group versus another, and a sense that only surface level interactions all lead into the theme of stigma.

Figure 55: Focus Group Theme "Dallas County Lagging"



The final theme to emerge focused on a comparison of the Dallas region HIV service system and what is done is other locations around the United States (Figure 55). Numerous respondents shared their experiences with programs in other places and how they wish the Dallas region could adopt the methods of other jurisdictions, believing that these changes would be a great addition to the care provided. Respondents were most aware and focused on the HIV service systems in place in the northeastern US and parts of the industrial Midwest.. The purpose for RAI's inclusion of this theme in the results is to demonstrate how all the other themes come together within people to produce a sense of wanting to create lasting change alongside concerns that relocating may be the best way to have their health care needs met.

Overall Results Across SNNA Components

Among the Street Homeless population, the majority of interactions were with men ages 45 and older. Feedback from our community liaisons notes many were curious about what PrEP was as they were unfamiliar with the concept. However, when HIV was mentioned, responses included

that “OH! I don't have that. I don't have THAT!!" as if in reaction to an accusation. For unstably housed men under 35, there was a greater awareness of PrEP, PEP, and U=U than was seen with older men. For unstably housed women, they said they had never heard of PEP and they were all excited to hear about an “HIV morning after pill” and surprised that such therapy existed.

Among individuals reached at community-based centers, a majority of the engagements occurred with unstably housed people living with HIV who were participants in the "hot meals program". Per the community liaison, it was a challenge interacting with this cohort, as they seemed reticent, saying only the minimum required to qualify for the incentive. Where possible, they avoided providing open-ended responses. Respondents at these ASOs were accustomed to these types of assessments and there was no surprise at the questions or their intent. Clients explained "They do surveys all the time here and this just feels like business as usual for me when I’m here at [agency]”.

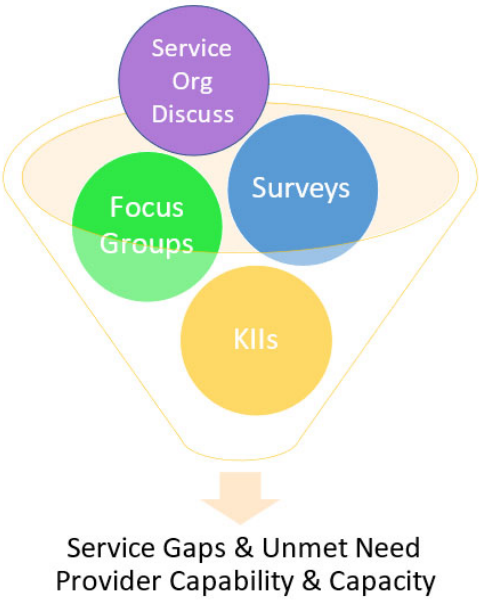
Among individuals engaged at a residential housing program that serves individuals living with HIV and dually diagnosed with severe mental illness per the housing criteria, individuals in this demonstrated a very low literacy level, but the majority knew about PrEP, PEP, and U=U. Correspondingly, among individuals engaged at another housing program, the majority were older adults also with low literacy levels. Within this older cohort, residents had zero knowledge of HIV science, PrEP, PEP, or U=U. In this setting, residents are predominantly white females who are generally considered low risk, though their presence in the housing program indicates they likely have a higher risk level than is assumed by the broader system.

There were also two main cohorts reached through the Dallas County Public Library system. The majority were unstably housed individuals who had a history of justice involvement. They had very limited knowledge on PrEP, PEP, or U=U. The smaller group was composed of individuals participating in a long-standing Gilead support group for people with HIV and were accustomed to discussing issues related to HIV and HIV risk. There was an average level of knowledge of HIV science, U=U, PrEP, and PEP in this group.

No matter where those who are unstably housed were engaged, all were pleased to receive a physical gift card as opposed to the gift card for online shopping. This was a meaningful nuance as those who are unstably housed may not be able to use an online gift card which requires a shipping address. When our outreach team was working with various unstably housed populations, they were observed as being open to sharing their experiences collectively, completing the survey in a group setting, and providing immediate support to each other when the need arose.

Findings

Figure 56: Synthesis of Results into Findings



From the surveys, focus groups, and key informant interviews, the RAI team has identified groupings of key findings by service category and unmet need which will be further elaborated upon in the Discussion and Recommendations section (Figure 56). Findings to populations that were not surveyed were not estimated using probability sampling. RAI did not apply findings to populations only minimally represented in the needs assessment process. It is recommended that future assessments engage these populations directly to gain their input and feedback. Across the key populations we found similar themes including the impact of stigma, a dearth of services and service providers, frequent discrimination and intolerance, a frustration due to lack of representation, and an uncoordinated system of care outside of the RWHAP system of care. This is particularly true of those accessing prevention services noting that there are services available to the HIV community of which they cannot avail themselves such as housing support, medical care, food and nutrition, and transportation services. When asked the "Magic Wand" question, individuals from both the focus group and the key informant interviews emphasized looking beyond what can happen through DCHHS alone and to look more broadly on potential public/private partnerships such as the role of pharmacies in providing prevention services. These partnerships can not only strengthen the system of care, it can also invigorate the community. It is recommended that DCHHS and RAI continue to leverage this data source for additional results and to develop additional findings and recommendations.

Resource Inventory

Resource Inventories are essential HIV service system tools used at different levels for multiple reasons. Government officials may use resource inventories to identify opportunities to strengthen the service safety net through funding or service redefinition. The community may use resource inventories to navigate care systems. Provider organizations may use resource inventories to expand their referral networks and other relationships in the field. In Attachment A, a "meatball chart" tool is used to identify funding for different services at specific organizations and sites. The tool identifies geographic service gaps and provides opportunities for a variety of stakeholders to engage in health system strengthening activities. A primary goal of resource inventories is to deconstruct silos and better operationalize the safety net.

The Resource Inventory must be a living breathing document as organizational funding and contacts can change multiple times throughout the year. Community, provider organizations, and public health all have needs that are met by an easy-to-use resource inventory. This is especially relevant in this post- COVID-19 pandemic era where many organizations have been required to shift their focus, change staffing patterns, and modify programs. This has made

some traditional service providers less available to meet the needs of those living with or at risk for HIV infection. It is incumbent that underutilized agencies and nontraditional service providers are identified to support EHE efforts in alignment with local and national best practices. The survey RAI develops will be simple enough to administer annually thereby maintaining an updated meatball chart to be used as a communication and planning tool by DCHHS. The Meatball chart further identifies our regional stakeholder groups, funded partners, non-network providers, and business groups and associations.

Profile of Provider Capacity and Capability

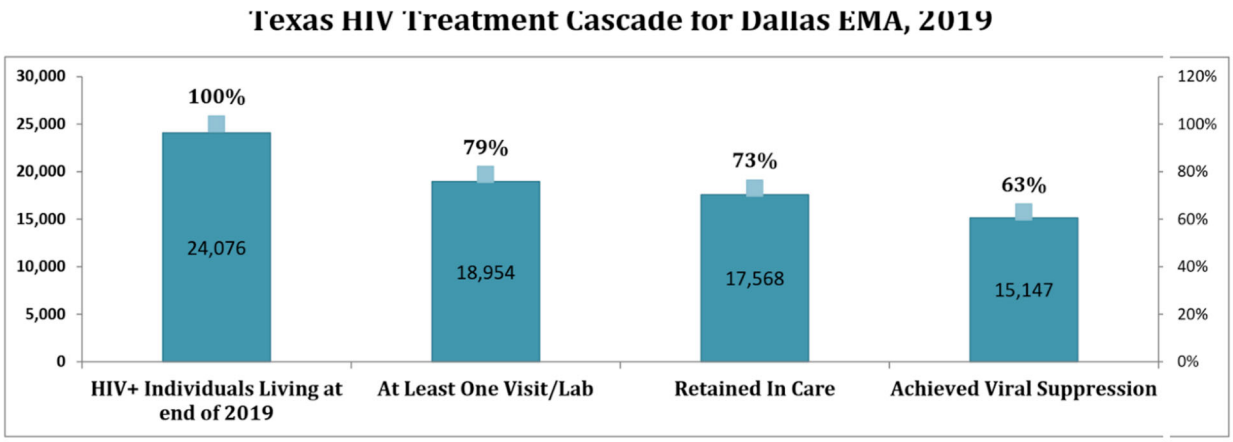
The Profile of Provider Capacity and Capability is drawn from the Resource Inventory. By culling together the most relevant services to the geographies and populations within the catchment area, we can ascertain how well the system is currently calibrated to meet the actual needs in the field. Beyond affirming that resources are present, the profile of provider capacity and capability lends itself to specificity in measuring the appropriateness of those resources specific to the community's real needs. Nature and quality of services speaks to the geography, cultural and linguistic competency/justice, patient/client choice, transportation burden, access to payers, and expected wait times. In addition, ease of system navigation, referral and linkage follow-up, eligibility determination and documentation are all structural barriers that limit people's engagement in healthcare.

In reviewing data from the surveys, focus groups, and key stakeholder interviews, various gaps in provider capacity and capability were noted. While respondents noted a strong passion basis within the majority of provider organizations, it was also noted that there is also a great deal of stigma, discrimination, and misinformation. In the focus groups and KIIs, adverse events happened across levels of leadership in organizations. It is essential to note that individuals who have been living with HIV the longest have the most favorable opinions and feedback related to provider capacity and capability. For example, those newer to HIV care will express dissatisfaction with wait times of more than a month, but for more experienced people, they are pleased the wait times have decreased to that level from more than a year previously. Another example has to do with the attitudes of staff and their perceived degree of helpfulness. Respondents newer to HIV care expressed confusion from unclear communication and conflicting messaging coming from within and across organizations. Those who are more experienced state that the level of system organization has vastly improved over the last 10 years and improvements have accelerated in the last 5 years.

Of note, one area identified as decreasing over time for those longer in care was the passion of the providers serving the HIV community and the difference in personalized services. Long term survivors remember a time when providers went out of their way to give hugs and dole out free meals and other community initiatives in the 1980s and early 90s. Long term survivors in the focus groups perceived that the introduction of the Ryan White Care Act influenced clinical care by watering down this personal connection as service providers entered the field for reasons other than a shared connection or passion.

One final area of provider capability and capacity noted was the time lag of sharing knowledge about the most cutting-edge medicine and practices such as U=U. It was apparent that some providers are denying that U=U is credible science and it is not being promoted universally with those reached across the three research modalities. There was also significant feedback in respondents identifying discriminatory experiences based on race and perceived financial status when making key treatment decisions. These are important gaps to immediately address using the full range of resources within the jurisdiction's disposal.

Figure 57: Texas HIV Treatment Cascade 2019



Assessment of Service Gaps/Unmet Need

Available data suggest that there is a significant level of unmet need in the Dallas AA region. The 2019 Texas treatment cascade for Dallas states that 5,122 people with HIV (21% of total) are out of care (eHARS data) as defined by not having a lab visit in the service year[24] (Figure 57). One factor that may compound this is the large percentage of Texans who do not have health insurance. According to AIDSVu, the percent of the population lacking health insurance in 2019 averages to roughly 20% of the public in the Dallas AA region. This translates to approximately 1.1 million people in the region who lack health insurance according to 2020 census data and UDS data. This is the minimum of the true range of uninsured people[25]. While people with insurance may or may not be reliably engaged in ongoing primary care, people without insurance face a higher burden of not being engaged in primary care due to cost factors[26]. Without expanded Medicaid, many people living with and at risk for HIV infection also risk not having access to affordable health insurance. According to CDC(2021a) methodology, it is expected that roughly 3,400 people are living with HIV in the Dallas AA region, but are

[24] Dallas County Health and Human Services [DCHSS]. (n.d.). Texas HIV Treatment Cascade for Dallas EMA, 2019. HIV Early Intervention Services -. Retrieved March 11, 2023, from https://www.dallascounty.org/Assets/uploads/docs/rwpc/2019_Dallas_EMA_Cascade.pdf

[25] (n.d.). *Quick Facts Texas*. United States Census Bureau. https://www.census.gov/quickfacts/TX

[26] Rakshit, S. et al (2023, January 30). *How does cost affect access to healthcare?* Peterson - FKK Health System Tracker.

unaware of their diagnosis[27]. Without insurance or knowledge of free HIV testing services, individuals may forgo routine or risk-based testing. Uninsured individuals, particularly those at higher vulnerability for HIV, may find PEP and PrEP largely out of reach due to the number of medical appointments and monitoring lab work required for PrEP care. Even if individuals can access the medicine itself for free, they may not be able to afford the cost of visits or expensive lab testing. Working adults without health insurance may also have barriers in requesting time off of work for quarterly monitoring visits. Overall, Dallas County has a very low PrEP to Need Ratio (PNR) indicating significant unmet need. While the underutilization of PrEP and limited PrEP accessibility is a challenge nationwide, both Dallas and Texas fall below the national average[28].

Of additional concern is the dearth of mental health and substance use services. From our survey results, nearly 35% of respondents identified a risk factor of injection drug use, with 61% of those reporting that they shared injection equipment with someone of unknown HIV status. In states with legal syringe exchange programs, the rate of transmission is under 3%. In Texas, the rate of acquisition of HIV amongst People Who Inject Drugs (PWID) is 16.3% for women and 3.2% of men. However, when we include those with a dual risk factor of male to male sexual contact and injection drug use, the cumulative rate is over 10%. This is a real area of opportunity to make a substantial impact in the reduction of transmission amongst PWID. While there is a federal funding ban on the purchase of syringes, federal funding can and must be used to provide harm reduction services to PWID. Harm reduction programs are evidenced based with documented improved outcomes over abstinence-based service delivery in linking people to ongoing substance use treatment, to reduced susceptibility to HIV infection, and to achieving sobriety[29].[3031] Nationwide, 40-60% of those who attempt to stop problematic drug use will have at least one relapse in their recovery process; systems must be in place so that those who use substances are not lost to care[32]. Services must be available and provided in a way that is non-punitive, separate from the carceral system, bias and stigma free, and compassionate using evidenced based medical treatment models. Without substance use services, the Dallas catchment area could easily find themselves in the position of large-scale

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[27] Centers for Disease Control and Prevention. (2021). Estimated HIV incidence and prevalence in the United States, 2015–2019. HIV Surveillance Supplemental Report 2021;26(No. 1). http://www.cdc.gov/hiv/library/reports/hiv-surveillance.html. Published May 2021. Accessed February 12, 2023

[28] AIDSVu (2023). *Local Data: Dallas County, TX*. https://www.healthsystemtracker.org/chart-collection/cost-affect-access-care/#Percent%20of%20adults%20(age%201

[29] ACP. (2017) Health and public policy to facilitate effective prevention and treatment of substance use disorders involving illicit and prescription drugs: An American College of Physicians Position Paper. *Ann Intern Med.* 166 (10), 733-736 DOI: 10.7326/M16-2953

[30] Stancliff S, Phillips BW, Maghsoudi N, Joseph H (2015) Harm reduction: front line public health. *Journal of Addictive Diseases* 34:2-3:206-219

[31] Vearrier, L. (2019). The value of harm reduction for injection drug use: A clinical and public health ethics analysis. Disease-a-Month, 65(5), 119-141.

[32] NIDA. 2023, March 9. Treatment and Recovery. Retrieved from https://nida.nih.gov/publications/drugs-brains-behavior-science-addiction/treatment-recovery on 2023, March 13

HIV outbreaks such as Scott County, Indiana encountered in 2015 or Kanawha County, West Virginia in 2019[33],[34].

Silos between mental health and substance use treatment also result in a dearth of services as many individuals require both for co-occurring disorders. Here again, we see the problem of "wrong doors" in which patients with substance use issues may be turned away from programs that solely focus on mental health services or vice versa[35]. Mental Health America, in 2022, ranked Texas as lowest in the nation for access to mental health services (51 out of 51 including Washington DC)[36]. Within our findings, 21% of those living with a mental health diagnosis reported insurance as a barrier to accessing mental health treatment and 73% of youth reporting an inability to get treatment despite a willingness to engage in mental health treatment. As noted above, over 70% of survey participants responded affirmatively to experiencing negative mental health symptoms including excessive worrying, nightmares, anxiety ,or feeling down, depressed, and hopeless. 28% identified barriers to engagement with the primary causes being cost and a lack of knowledge of how to engage in the mental health system. People who are struggling and cannot access help are known to have poorer health outcomes and may also be at a higher likelihood of drug and alcohol misuse.

Discussion and Recommendations

In 2022, multiple assessment activities engaged the HIV community across levels. This included this SNNA, the HIV Integrated Plan (HIP), and multiple activities undertaken by the RWHAP clinical quality management (CQM) program. The majority of the organizations and other entities included in the Resource Inventory participated in one or more of these assessment activities. Collectively, these activities have an essential overarching recommendation - in order to support the HIV community in the Dallas region, there is much to be done to engage the community to elicit data on pressing unmet needs, areas of opportunity, and how to establish and maintain vital services for everyone. The following diagram shows how the 2022 assessments overlap in purpose to arrive at this conclusion.

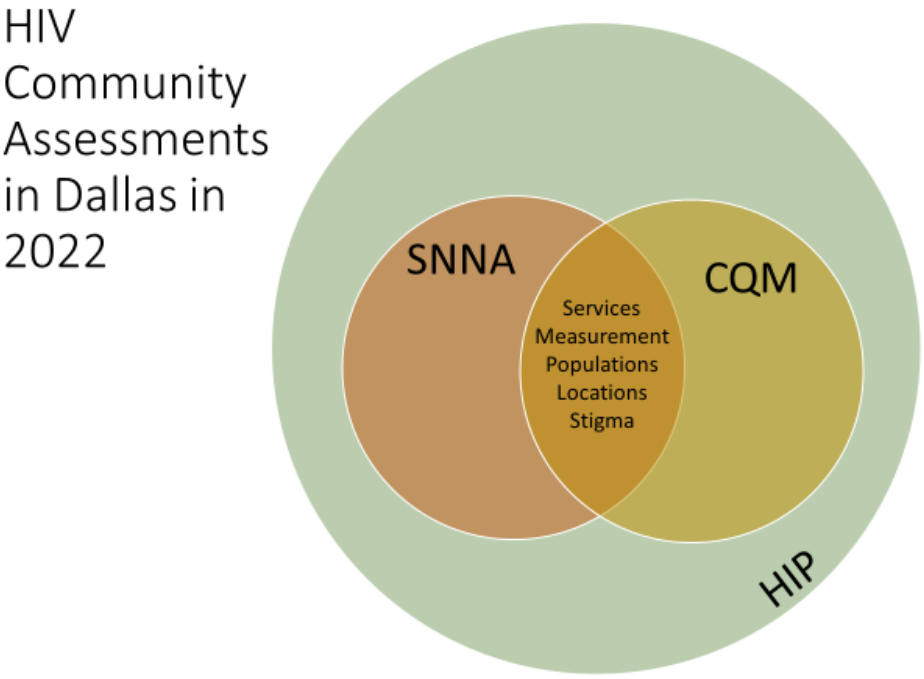
[33]Center for Disease Control (2021, August 3). *Final CDC Recommendations on Kanawha County HIV Outbreak Presented*. West Virginia Department of Health & Human Resources. https://dhhr.wv.gov/News/2021/Pages/Final-CDC-Recommendations-on-Kanawha-County-HIV-Outbreak-Presented-.aspx

[34] Gonsalves GS, Crawford FW. Dynamics of the HIV outbreak and response in Scott County, IN, USA, 2011-15: a modeling study. Lancet HIV. 2018 Oct;5(10):e569-e577. doi: 10.1016/S2352-3018(18)30176-0. Epub 2018 Sep 13. PMID: 30220531; PMCID: PMC6192548.

[35] SAMHSA (2022, September 27). *Co-Occurring Disorders: Diagnoses and Integrated Treatments*. https://www.samhsa.gov/co-occurring-disorders

[36] Mental Health America (2023). Ranking the States 2022 https://mhanational.org/issues/2022/ranking-states

Figure 58: HIV Community Assessments Framework



Many action-oriented steps can be elicited from the findings of the Dallas SNNA. Of primary concern is how the DCHHS, as the leader of the regional HIV service system, can address the levels of fear and mistrust within the greater system of HIV prevention and care. RAI's recommendations for the Dallas system of care are broken down into five primary categories:

1. Broad Health System Strengthening Activities (from planning to evaluation)
2. Public Health Campaigns to Educate the Public on HIV and Ending the Epidemic
3. Cultural Humility Training for all with an emphasis on customer service
4. Special U=U and Broader Biomedical Intervention Training/Messaging for all
5. Development of the HIV community as a specific human resource to End the HIV Epidemic

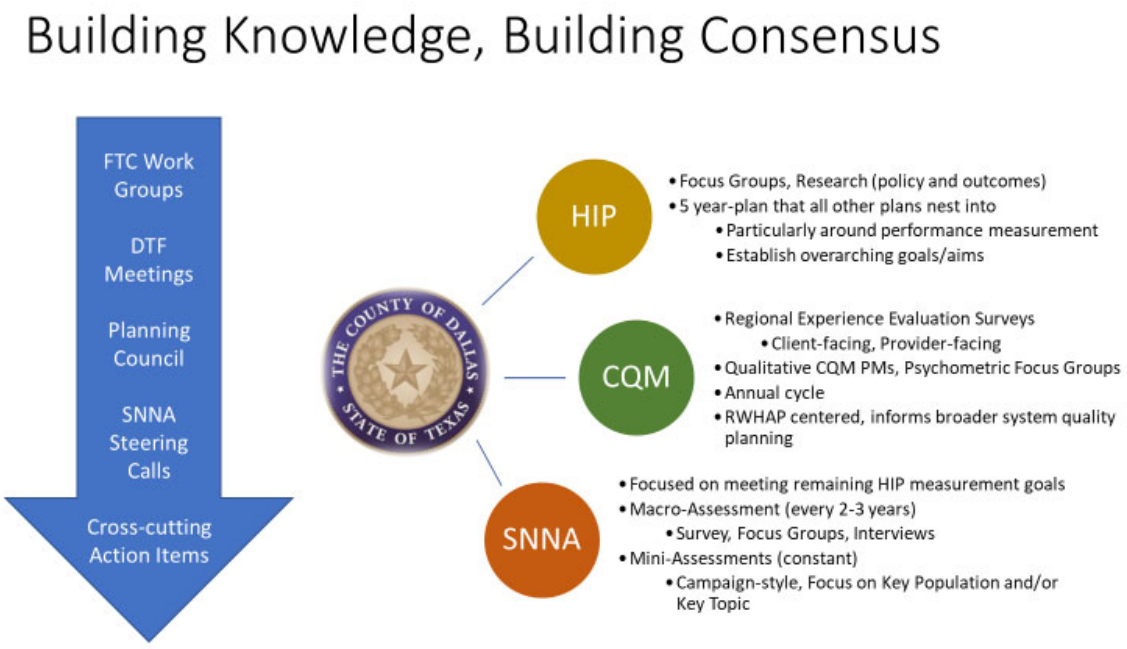
Recommendation 1: Health System Strengthening

RAI's first recommendation is to rethink the interaction of systems with the HIV prevention and treatment landscape. For DCHHS, this means recalibrating the HIV planning and evaluation mechanisms to ensure that each component adds specific value to the overall vision and mission. For example, the 2022 assessment activities in Figure 58 can be blended with the Resource Inventory to create a new model to build information and consensus in HIV planning. In the following diagram, each required aspect of HIV service system planning blends with existing mechanisms for service planning and evaluation. The mechanisms for service planning and evaluation include the Dallas Fast Track Counties (FTC) Work Groups, the Dallas EHE Task Force (DTF) Meetings, and the Dallas Planning Council. Our first recommendation is that DCHHS develop a new internal planning group for status neutral needs assessment steering

design to direct constant cycles of mini-assessments for key populations and to assist in planning the less frequent macro-assessments. In this model, the HIP retains its central importance and is updated every 5 years based on all available data, mini-assessments will allow for a more rapid cycle of potential research and change related to key HIP performance measures that have not been gleaned from other activities. Authority and decision-making flows from the group of broadest scope and stakeholder expertise down to the narrowest. RAI proposes shared action items across all funded initiatives to ensure that HIP goals and performance measurement mandates are met (Figure 59).

The recommendation for Health System Strengthening goes beyond HIV service planning and evaluation. Included is a plan to address the very real impact the current service system has on the HIV community in the Dallas region. Respondents noted feeling disconnected, unsure of where to go for assistance, and a lack of consistency in responses from individuals within funded systems. This can be addressed through provider training, community education, and a multimedia approach.

Figure 59: Framework to Reorganize Information Flow and Advisory Bodies



Patients and clients must be able to access the system of care through a “No Wrong Door” approach. Regardless of where an individual accesses the system of care, there should be a built-in network to ensure that the patient is linked to the service requested and all efforts are made to engage the individual in the appropriate level of prevention or treatment services

- A series of listening sessions for the results of the Needs Assessment and Integrated Plan should be organized to target key geographies and populations. This should

include opportunities for increased participation by providers and pharmacists in the Ryan White Planning Council.

- The Planning Council, and particularly the Needs Assessment Committee, should develop a workplan from the recently conducted HIP and SNNA to maintain momentum by those who have participated thus far to bring in newly motivated constituents and partners.
- The AA may also consider the need to create a synthesis of patient satisfaction or stigma surveys at the system level and across funded organizations. Within this, it is important to have both an ongoing method to assess these challenges at a system level and to immediate solutions to deploy to address adverse findings. This suite of activities should be enforced within the contractual obligations of all funded requests for proposals (RFPs). In particular, system-sponsored training, workshops, and other capacity building can be required and enforced.
- An additional systems approach is to hold networking sessions in which employees from various agencies have the opportunity to develop personal connections through in person or virtual drop-in sessions and for ASO leadership to identify where there are existing struggles to bridge systems of care.
- Building public-private partnerships can also be strengthened by webinars and educational services to nontraditional partners such as school nurses, college health centers, and employee assistance programs.
- There is an array of best practices available that can be shared with DCHHS and other HIV system stakeholders using timely and effective methods of skill-building.
- Our recommended intervention to address the needs of the newly diagnosed, is to create a safety net system for direct intervention. A centralized linkage source that could be a phone hotline, a website messenger function, a funded peer position, or creation of a new staff role to provide a soft landing to those experiencing uncertainty around their new diagnosis.

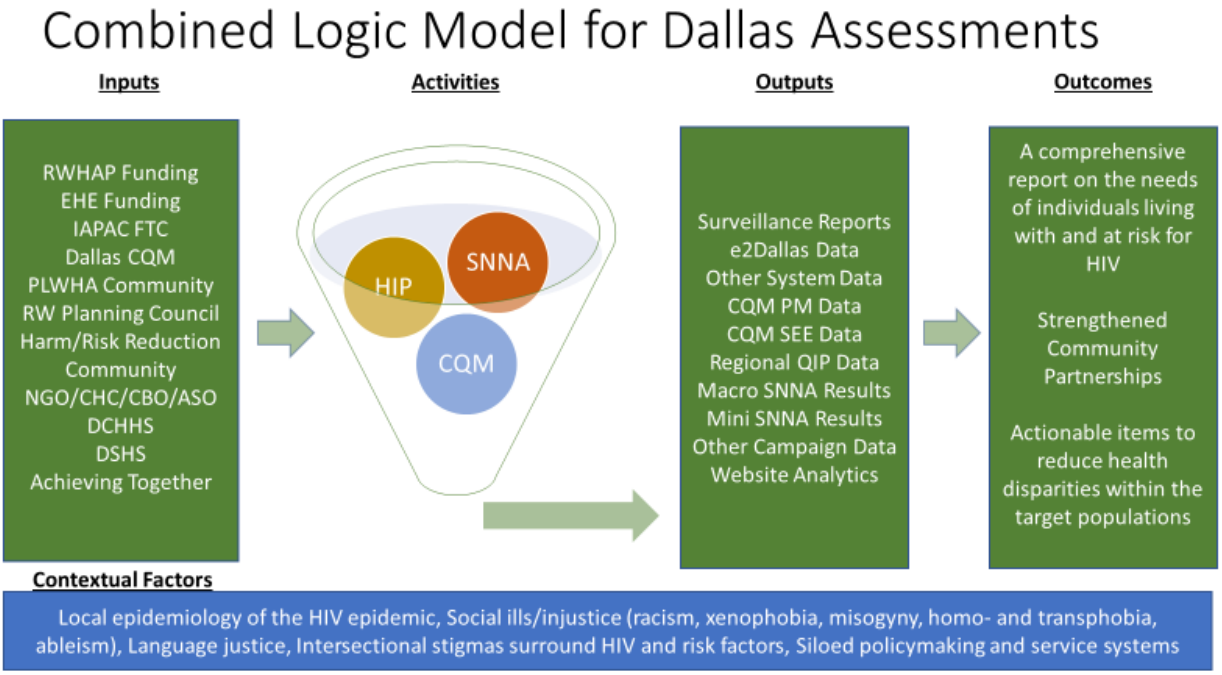
When thinking of infrastructure changes, it is essential to leverage online approaches that simplify communication and encourage buy-in, especially following the COVID-19 pandemic and M-Pox outbreak. From a Health System Strengthening standpoint this means increasing the number of high-quality websites, advertisements, social media accounts, and tangible print resources. This builds public trust in authorities and may counteract the tendency to look to friends and family for information before looking for evidenced based resources. This will in turn increase public knowledge, and allow for everyone to have equal footing in knowing which resources are available and how to access them. While the systems of care may in and of themselves be complicated, communication regarding resources and entry points should be clear and simply stated.

- An important element is to create a central repository for information sharing across care providers. The Dallas EMA and HSDAs should work toward establishing an electronic health exchange (eHX) or Regional Health Information Organization (RHIO) to champion the care of all people everywhere in the region. The ability to have shared information and the need to not repeat personal histories came up repeatedly in RAI's engagement

with respondents related to the HIV service system. It would greatly improve the lives of all people living in the region regardless of HIV status. Such a system would also improve the ability of regional care providers to provide high quality care to all people.

- Another important element is cross promotion of organizations and parties included in the Resource Inventory. Information can be widely shared through routine website maintenance. Ideally, websites should be updated and able to cross reference each other as the newest information becomes available. These may be web pages dedicated to sharing system information and campaigns, CQM program webpages, the FTC dashboard, or the Dallas Planning Council website.
- Within these recommendations is in data collection and data transparency to support Ending the HIV Epidemic. Data transparency builds buy-in and creates accountability at the systems level. This includes increased reporting as to how 340b dollars are being reinvested into the service system and in assuring that service category components are being fully delivered. Within this recommendation, RAI acknowledges that there are no federal reporting matrices or national quality standards for prevention programs akin to the Ryan White Services report. It is our recommendation that DCHHS be drivers in acquiring and collecting this type of information in conjunction with funded programs providing prevention services. Working outside of the funded system to create a more unified system of care under DCHHS leadership would make the Dallas region one of the foremost in the nation in terms of EHE planning and evaluation activities. Figure 60 shows how multiple assessments and activities blend together in a combined logic model.

Figure 60: Combined Logic Model Across Assessments



Recommendation 2: Public Health Campaigns to Educate the Public on Ending the HIV Epidemic

The lack of visibility, acknowledgement, and public knowledge of key biomedical interventions requires its own recommendation. Respondents noted that public health campaigns and other visual signage that HIV is a priority would be a great benefit in the Dallas AA region. Core to feeling acknowledged is feeling seen, especially in seeing oneself reflected in the images and other content produced through each campaign. In particular, the issue of acknowledgement speaks to the importance of public facing material being highly inclusive and diverse in every meaning of the word.

- Based on the models described in RAI's first recommendation, DCHHS can provide leadership on public messaging campaigns using a data-to-care approach that features key populations and messages as the need arises. The purpose is to support marginalized communities and counter hostile community messaging. In addition to including diverse people in images and consumable content, it is essential that the groups hired to create these materials have tangible connections to the communities they are attempting to reach.
- Other opportunities to encourage buy-in is to increase the transparency of data sharing and promoting data to care information and best practices. This can be done through websites, print media campaigns, and multiple social media platforms.
- The campaigns should leverage all available supports from the Resource Inventory and be designed in a way that aims to share costs with segments of civil society. Additional public/private partnerships should be formed to fill gaps in efficacy. In creating campaigns this way, there will be less delay on account of government approval pathways and a greater focus on what needs to happen expediently on the ground.
- Specific training packages and recommended requirements for provider organizations are included in the recommendations below. Public facing campaigns that are not backed up by visible change at the system or provider level will only waste further credibility.

Recommendation 3: Cultural Humility Training for ALL

This is a call to action for DCHHS to ensure that funded agencies provide services without stigma and with increased cultural humility. Stigma and cultural humility are closely related to one another as discrimination based on intersectional identities of gender, race, immigration status, language status and more combine to exacerbate baseline HIV stigma. This is a system-wide issue from patients feeling uncomfortable with pharmacy staff to feeling "stuck" with providers who are not meeting their needs. Opportunities available to address this issue cover a range of possibilities.

- Information from the listening sessions described in recommendations above should be used to develop these trainings in conjunction with synthesized data from the SNNA and CQM efforts
- People living with HIV and those seeking preventive care should be educated and empowered to demand culturally affirming, high quality, respectful medical care and pharmacy services. Health care systems and ASOs should deliver the same messaging

without question or expectation of additional funding. The public is an important enforcer and informer on these topics.

- Beyond the funded network of RWHAP organizations, DCHHS might consider including an open door policy where non funded groups can RSVP to attend meetings and trainings. Combining segments of the non-RWHAP community with the current systems of care can also accompany specific public health campaigns related to these recommendations.
- DCHHS can work with external partners to create combined training initiatives that allow for blended funding and objectives that meet the broader needs of the HIV prevention and treatment community and not just focus on the narrower needs of any given funding stream.
- There is an extraordinary array of HIV-focused and broader focused resources intended to address cultural humility and HIV stigma. The creation of specific content can be done on a collaborative basis. Existing training resources should be used first and new training only created when absolutely necessary.
- All such trainings for HIV prevention and treatment provider organizations and their staff should made part of contract requirements and part of monitoring and evaluation. Where possible, DCHHS should advocate for its partners to follow suit to increase the mandate for cultural humility across the local medical field (i.e., helping change processes for business licensure, medical licensure, Medicaid participation, and other requirements to ensure that folks participate in this type of training).

Recommendation 4: Biomedical Intervention Training for ALL

The SNNA uncovered the need for ongoing required training on biomedical interventions. It is simply unacceptable in 2023 to have providers at RWHAP funded agencies relaying to their clients that U=U is irrelevant to them. It is unacceptable for people to be denied HCV cures, injectable PrEP, and other recent advancements in HIV science due to provider or organizational level bias. While we acknowledge many recent advancements are counter to traditional HIV prevention messaging and may require extensive follow up to educate patients, it is incumbent on us to always persevere in promoting the newest science and evolving practices.

- Similar to the strategies for recommendation 3, DCHHS should consider the full range of potential speakers and subject matter experts on this topic.
- DCHHS should consider making participation in such training compulsory for all staff and for staff at all funded organizations.
- DCHHS should consider remediation training to refresh service provider staff on current HIV science if made aware that specific provider agencies are not sharing advances in the field and using outdated information and practices. This may include the development of a central DCHHS-managed grievance process that includes a timeline for expected acknowledgement and response of grievances.
- DCHHS should consider working broadly with partners to deliver these training and mandates so that the needs of narrow funding stream requirements do not distract from the broader picture and need of the local HIV community.

- Consider the creation of a Conference or Summit providing CEUs to clinical staff (MD, RN/LPNs, Social Workers) to widely share the recommendations and work plan developed by the Planning Council. This will also be an opportunity for developing a central network to attract new talent to work towards Ending the HIV Epidemic

Recommendation 5: The HIV Community As a Human Resource

RAI's final formal recommendation is to create activated consumers through additional training and support. Beyond that, it is recommended that DCHHS work with partners to create a human resource pathway for the local HIV community. Only by acknowledging and rewarding community participation in service system planning and evaluation can an end to the epidemic be achieved.

- One best practice is to provide formal training for consumers to become peer community health workers of which there are many models in funded EHE jurisdictions. One example is the New York State Certified Peer Training program which provides free training opportunities for those living with or at risk of HIV to specialize as community health workers in harm reduction, HCV navigation, or HIV navigation. The curriculum includes didactic learning as well as an internship component. Peer training can be done using internal county resources or through external resources. Some jurisdictions in the US have worked with community colleges to create free or low-cost certification programs that honor the investment made by the community in their own education and advancement.
- Involving consumers also provides opportunities for informal peer leadership. For example, when RAI outreach staff was conducting the survey with participants, one community liaison outreach worker noticed that almost no one knew about PrEP, PEP, and U=U. Our staff took the initiative to provide education at the completion of the survey on these topics resulting in nearly 200 training sessions. Our clients, patients, and consumers are the 'subject matter experts' on what is needed and wanted for prevention and treatment services. By increasing peer training we empower our peers to be community leaders and agents of change in their own systems of care.
- There are many training programs available through the HRSA website, as well as mentoring opportunities through the EHE jurisdictions, technical assistance requests from the HRSA project officer, and private-public partnerships. DCHHS can also learn directly from RAI subject matter experts but conducting specific outreach and conducting listening sessions for particularly vulnerable populations include the TGNC/NB communities, those accessing harm reduction services for substance use, and those for whom English is their second language.
- Listening sessions should be co-led by community leaders and a trained focus group facilitator for the highest level of buy-in. Any time where we can hire the community, we should hire the community. Critical to healthcare self-management (for both HIV care and those at higher vulnerability to HIV infection), individuals need to have a sense of where and how to look for information and supportive care. They need to be confident enough to insist on getting their needs met. They need to be offered services in a linguistic and cultural framework that meets their needs and expectations. They need to

be comfortable that when accessing funded services, they will not be stuck with large bills or be reported to creditors.

- Listening sessions should also be conducted for providers and funded staff to encourage buy-in and accountability. With multiple competing priorities and deliverables, it would be helpful for those receiving RWHAP dollars to align themselves with DCHHS priorities.

Additional Discussion On Establishing and Maintaining Vital Services for Everyone

The changes recommended above will take time. These recommendations may be taken as a whole or in part as best serves to the AA. Within all of these recommendations we once again return to the need to acknowledge the ever changing political, social, and healthcare landscape within which these changes will take place.

From the need to create content, build trust, or work in a system that has been indelibly changed by COVID-19 and Mpox, there are many moving pieces. The past three years have taken a toll on all local public health systems with individuals leaving the profession and expressing high levels of burnout. Infectious disease providers and clinical staff were redirected to COVID-19 response activities from their roles in HIV prevention and treatment. Nonprofits closed or reduced activities and this could be seen through the decrease in HIV testing and diagnosis. There were also novel approaches that grew from these syndemics such as a move to telehealth which removed transportation barriers and improved access for rural communities. There were innovative practices such as mail in HIV testing kits. At this stage, it's important to reflect back on success and challenges from these novel and trying times. It is highly recommended that DCHHS consider revising its Continuity of Operations Plan (COOP) based on these findings and that the COOP process be revisited every 3-5 years in cycle with integrated planning and/or macro-assessments.

At the national level, there are several advocacy initiatives such as Medicaid Expansion, PrEP for All, and increased ADAP funding that are in the interest of the Dallas area HIV service system. Ryan White funding is tied to the number of individuals living with HIV providing additional incentive for identifying undiagnosed individuals and linking them to care. DCHHS can also engage with organizations that are working towards these movements so that every individual in need of PrEP or PEP can access it and that 100% of those living with HIV are able to easily access and enroll in health insurance. There is no need to engage in political lobbying to be engaged with supportive organizations such as the national coalitions, larger EHE interagency collaborations, and other agencies that provide education to decision making bodies. In treating the HIV community as a human resource, organizations can be encouraged to let the community speak up and lobby for itself when and where it is most appropriate.

Finally, administrative mechanisms must be streamlined. All major funding partners in the region are in need of this process improvement, whether its issuance of funding proposals, funding decisions, paying invoices, and administrative and operational delays which decrease system credibility. Worse yet, service delivery can be impacted when there are delays in

reimbursement. In order to be a good partner, the HIV service system funders need to be timely and responsive to community needs and efforts.

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Attachment A: Dallas HIV Services adn Funding Meatball Chart

AA Funded Agencies		CORE MEDICAL SERVICES										SUPPORT SERVICES											PREVENTION SERVICES							
Name	Type	APA/LPAP	EIS	HIPCS/HIA	MedTrans	MCM	MNT	MH	OAHS	Oral	SU	EFA	FB/HDM	HS	HERR	Ling	nMCM	OPS	Outreach	Referral	Respite	Support	ON-Test	MOB-Test	Coll-Test	OptOut	PrEP	STD Test	Condoms	U=U
ASD	CBO/ASO				★◊	★◊							★◊	★◊			★◊			★◊										
LCC	CBO/ASO							★			★		★◊	★◊			★◊			★◊										
LHT	CBO/ASO																	★◊		★◊										
SBPAN	CBO/ASO																													
DCHHS	County HD																						⅄					⅄		
AHF*	FQHC/CHC	★◊			★◊	★◊			★◊				★◊			★	★◊			★◊	★		⅄	⅄			⅄	⅄		
APWC	FQHC/CHC																						⅄				⅄	⅄		
CC	FQHC/CHC	◊	◊	◊	◊⊙	◊⊙	◊		◊⊙				◊		◊		◊⊙		◊⊙	◊			⅄	⅄			⅄	⅄		
CHEDC	FQHC/CHC																						⅄				⅄	⅄		
HSNT	FQHC/CHC	★◊		★◊	★◊	★◊		★	★◊											★◊			⅄				⅄	⅄		
PHNT^	FQHC/CHC	★◊		★◊		★◊		★	★◊	★◊					★		★◊			★◊			⅄				⅄	⅄		
RCD	FQHC/CHC			★◊					★◊	★◊			★◊				★◊			★◊			⅄				⅄	⅄		
PHSD	Hospital	★◊	ǂ		◊	★◊ǂ⊙		★	★◊ǂ⊙		★						★◊ǂ⊙		★ǂ	★◊		ǂ⊙	⅄			⅄	⅄	⅄		

NOT AA Funded		CORE MEDICAL SERVICES										SUPPORT SERVICES											PREVENTION SERVICES							
Name	Type	APA/LPAP	EIS	HIPCS/HIA	MedTrans	MCM	MNT	MH	OAHS	Oral	SU	EFA	FB/HDM	HS	HERR	Ling	nMCM	OPS	Outreach	Referral	Respite	Support	ON-Test	MOB-Test	Coll-Test	OptOut	PrEP	STD Test	Condoms	U=U
NTIDC	CBO/ASO																						⅄							
RCHH	CBO/ASO																						⅄							
THA	CBO/ASO																						⅄							
CCHCS	County HD																						⅄							
DCHD	County HD																						⅄							
GCHD	County HD																						⅄							
NCHD	County HD																						⅄							
CV	FQHC/CHC																						⅄							
FFHC	FQHC/CHC																						⅄							
LBUCC	FQHC/CHC																						⅄							
MDMGCMD	FQHC/CHC																						⅄							
MEDMC	FQHC/CHC																						⅄							
PPGTND	FQHC/CHC																						⅄							
SWFM	FQHC/CHC																						⅄							
TPUC	FQHC/CHC																						⅄							
UCT	FQHC/CHC																						⅄							
UITCT	FQHC/CHC																						⅄							
UPG	FQHC/CHC																						⅄							
VCARE	FQHC/CHC																						⅄							
W2WHC	FQHC/CHC																						⅄							
BMC	Hospital																						⅄							
MPMC	Hospital																						⅄							
NMC	Hospital																						⅄							
UTSW	Hospital																						⅄							
CVS MC	Pharmacy																						⅄							
SCRIPX	Pharmacy																						⅄							
TINRX	Pharmacy																						⅄							

* AHF and AIN administratively merged in 2020, but are maintaining separate brand identities

^ PHNT acquired Community Dental in May 2022 and have successfully merged programs

BH stopped being a subrecipient organization in summer 2022

★ **RWHAP Part A Funded Service or other DCHHS funding support**

◊ **RWHAP Part B Funded Service or other DSHS funding support**

ǂ **RWHAP Part C Funded Service**

⊙ **RWHAP Part D Funded Service**

⅄ **Prevention Funded Service**

Attachment B: Uniform Questions for Non-RWHAP Service Providers

- What are some ways that your organization would like to collaborate with organizations that received RWHAP funding?
- What are some priority issues you would like to see addressed for the living with or at risk for HIV acquisition?
- Who is missing from the table? Where do we lack representation?
- What is your number one priority for EHE work?
- How do you see your role in EHE for the Dallas region?
- What is something that I didn't ask you today that I should have? What else would you like to share?

Attachment C: List of Outreach Agencies

Organization	Key Informant	County
Texas Healthcare Advisory Council	Healthcare	Collin
North Texas Medical Center	Healthcare	Cooke
North Texas Rural Resilience	Mixed high risk clientelle	Cooke
Abounding Prosperity	Mixed high risk clientelle and PWH	Dallas
ACCESS Clinic at Moody	Mixed high risk clientelle	Dallas
AHF Dallas / AIN	RWHAP clients	Dallas
AIDS Services of Dallas	RWHAP and high risk negative clients	Dallas
Bluitt Flowers Health Center	Youth aged 14-25	Dallas
CAN Community Health Center	Mixed high risk clientelle	Dallas
Dallas Hope Charities	Unstably Housed	Dallas
Foremost Family Health	Mixed high risk clientelle	Dallas
Healing Hands Ministry	Alternative Therapies	Dallas
LBU Community Clinics	Mixed high risk clientelle	Dallas
Mission East Dallas / Metroplex Project	Mixed high risk clientelle	Dallas
Mosaic Family Services, Inc.	Mixed high risk clientelle	Dallas
Parkland Health	RWHAP clients	Dallas
Prism Health of North Texas	RWHAP clients	Dallas
Refugee Servies of Texas	Refugees and Migrants	Dallas
Resource Center Dallas	RWHAP clients	Dallas
The Afiya Center	Pregnancy Cener	Dallas
UTSW	Middle class clients	Dallas
Arabian Rescue Therapy	LGBTQ+ Community	Denton
Blue Haven	Counseling for pregnant woman	Denton
Bob's House of Home	Unstably Housed	Denton
C7 Human Trafficking Coalition	Victims of trafficking	Denton
Denton County Public Health	Public Health Department	Denton
Giving Grace	Shelter for families of substance abuse and other causes	Denton
Health Services of North Texas	PLWH	Denton
NA	PLWH	Denton
OUTreach Denton	LGBTQ+ Community	Denton
Ranch Hands Rescue	Victims of trafficking, esp males	Denton
Sober Living LLC	People in recovery	Denton
Treasured Vessels Foundation	Victims of trafficking	Denton
Woman 2 Woman Pregnancy Resource Center	Counseling for pregnant woman	Denton
Association forPeople Affected by Addiction	People with active addiction and those in recovery	Grayson
Callie Clinic	RWHAP clients	Grayson
Sherman-Denison Veterans Adminitration	Unstably Housed and Severe Mental Illness	Grayson
Texoma Medical Center	Healthcare	Grayson
Genesis Center	Counseling for pregnant woman	Kaufman
Kaufman County Hispanic Council	LatinX community	Kaufman

Dallas County PLWH Needs Assessment
Interview Guide

We are going to spend some time talking about experiences that you face in and around Dallas County. We'll start by talking about experiences you have faced in regards to seeking healthcare and social services and branch off from there.

FACILITATOR NOTE: State that this is a sex positive/ no judgment zone. Adhering to "Vegas rules" and will only be used to guide future plans for folks . You want candid and honest answers.

- Can anyone here tell me about a good/amazing experience about getting care(list examples…finding a provider, getting to the appointment, getting meds, etc) in Dallas County? (get #/total)
    - Tell me about it. What made it so good, be as specific/detailed as you want.
    - Now, what could have made that experience even better…aka what would take that 10/10 to a 15/10?
- Can anyone tell me about a poor/bad experience they have received in Dallas County? (Get #/total)
    - Tell Me about it? What made it so bad be as specific/detailed as you want.
    - Now, what could have made that experience better…aka what would take that 1/10 to a 5/10?

FACILITATOR NOTE: State "I want everyone to take the next 2 minutes to imagine that you were given a magic wand that could get around politics, and produced endless money and energy." Then proceed with the questions below.

- What changes would you make to our system?
- What policies/requirements (paperwork, limits on benefits, etc) would you change?
- What services would you want to see and where would you want to see them in place?

FACILITATOR NOTE: Attempt to get the "stories" of how care was sought after and accessed. Push them to "tell their narrative" Details and themes are good to try and get here.

- Have you heard of PrEP?
    - How would you explain it to a friend?
        - Has anyone heard about ways to get PrEP? If so,tell me.
        - Does anyone know someone who wanted to get PrEP and couldn't? Tell me about that process?
        - Does anyone know someone who was able to easily get PrEP? Tell me about that process
- When I say "PrEP Stigma" what comes to your mind? Put it in your own words
    - Have you or anyone you know faced PrEP Stigma? Tell me about it.
        - Probe for details, agency, timeframe, etc
        - How did you feel when this occurred/heard about it? What did you do at that moment/how did you respond?
        - If you could go back, what would you do/say/act differently?
- Has anyone heard of U=U, Undetectable=Untransmittable?
    - If so, explain it in your own words as if you were talking to a friend.
    - Have you heard of anyone having trouble getting

Dallas County PLWH Needs Assessment
Interview Guide

- When I say "HIV Stigma" what comes to your mind? Put it in your own words
  - Have you or anyone you know faced HIV Stigma? Tell me about it.
    - Probe for details, agency, timeframe, etc
    - How did you feel when this occurred/heard about it? What did you do at that moment/how did you respond?
    - you could go back, what would you do/say/act differently?

FACILITATOR NOTE: We know that getting the care you need can be easy at times, and can sometimes be very difficult. We want to know about both sides of the spectrum.

- Let's start with the difficult instances…tell us about some instances that made it difficult to access the services you needed…to take care of yourself.
  - How did this make you feel?
  - Now let's hear about when things were easy
    - How did this make you feel?
    - Do you feel that people who are HIV+ get different treatment from those who are HIV- ?
    - Why…How so?

FACILITATOR NOTE: We want ideas about an intervention. We are attempting to explore barriers to and facilitators of: peer health navigation/advocate support receipt (e.g., confidentiality concerns), medicine/clinical services (e.g. transport, pharmacy, clinic location), full treatment access (e.g. insurance, scheduling) and other things

- As a person living in Dallas County & NE Texas, can you describe **<u>one thing</u>** that you wished all health providers/community organizations would do that would make your life better.

- If a program existed that was dedicated to helping "people like you" get healthcare (the medicine you need…think "all of the above"…what would it look like"
  - What would make you want to sign up?
  - What would turn you off from such a program?
- Do you think people in the community use such a program?
  - What would they be excited to see?
  - What would their concerns be?
  - How would we advertise such a program?

After today's discussion, if you had a friend who was moving to Dallas County and needed to be linked to healthcare…what advice would you give them?

- Where should they go?
- Who should they talk to?
- Who should they avoid?
- Who can help them the most?

[TURN OFF THE TAPE]

<u>POST-INTERVIEW DE-BRIEF</u>

1. Do you have any questions about the interview or the study that I can answer?

2. How was the interview experience for you?
3. Was there anything that made you uncomfortable or feel offended in any way?
    a. [If so, apologize, ask for specific feedback. Tell the respondent that you will bring back this feedback to the research team.]

Thank you for your participation in this interview. We appreciate the time you took to talk with us. If you have more questions or comments about the study, feel free to contact [contact info} whose phone number is included in the copy of the consent form I provided you with.

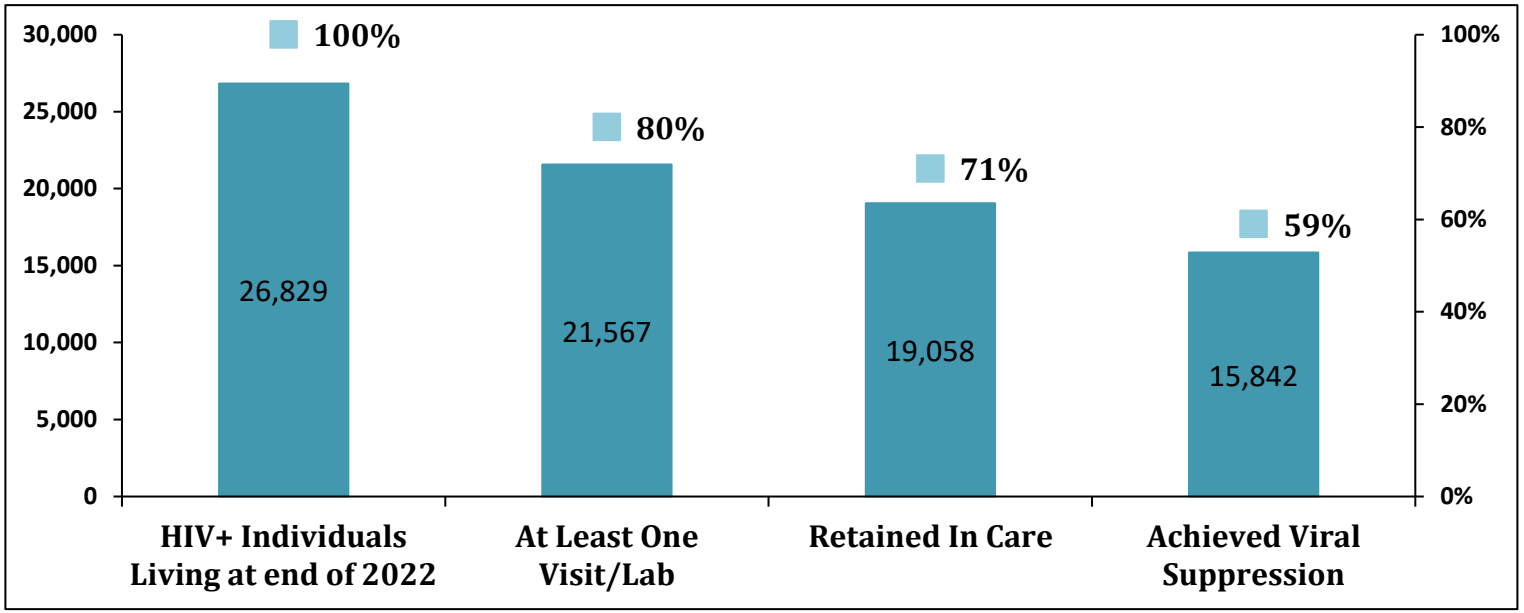
Before you leave, I'd like to get some background information on you. Some of these questions will seem obvious, but we want to ask rather than assume. *[Interviewer: please write answers directly on sheet through the end of this page.]*

1. How do you identify in terms of race or ethnicity?
2. How do you identify in terms of sexual or gender identity?
3. How do you identify in terms of sexual orientation?
4. What is the highest level of education that you have had?
5. What is your job/occupation/profession?
6. If any, what is your religion or religious origin/background? [Interviewer: get specific information about denomination, lineage, etc.]
7. What is your age (or approximate age)?
8. What country were you born in?
9. (If not U.S.) What year did you move to the U.S.?
10. What neighborhood do you currently live in? (if not answered already; get as specific as possible)?
11. Who do you live with? (i.e. friends, boyfriend/partner, family…)

If you know of someone that you think we should interview, would you be willing to text them a link to the survey. (have QR code or short link so they can send it while they are there…..you want to see them send it :)

INTERVIEWER COMMENTS:

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2022	26,829	100%
At Least One Visit/Lab	21,567	80%
Retained In Care	19,058	71%
Achieved Viral Suppression	15,842	59%



Definitions

HIV+ Individuals at end of 2021-2022 => No. of HIV+ individuals (alive) at the end of 2021-2022.

At Least One Visit in 2021-2022 => No. of PLWH with a met need (at least one: medical visit, ART prescriptic

Retained in Care => number of PLWH with at least 2 visits or labs, at least 3 months apart or suppressed at

Achieved Viral Suppression at end of 2021-2022 => No. of PLWH whose last viral load test value of 2021-20

Linkage to care = Persons newly diagnosed with HIV, the days between diagnosis and their first documente

d CD4 or viral load test is calculated to determine same day-360 days of linkage

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2021	20,210	100%
At Least One Visit/Lab	15,923	79%
Retained In Care	14,615	72%
Achieved Viral Suppression	11,905	59%

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2022	21,117	100%
At Least One Visit/Lab	16,877	80%
Retained In Care	14,846	70%
Achieved Viral Suppression	12,164	58%

2021-2022 Linkage to Care in Dallas County

	2021	2022
	Cases	Cases
Linked within a year		
No	85	86
Yes	697	810
Linkage_Week		
Same day as dx	143	162
1 day after dx	85	55
2 days after dx	40	34
3 days after dx	16	30
4 days after dx	22	32
5 days after dx	20	30
6 days after dx	25	31
7 days after dx	39	50
Linkage_Month		
Within 30 Days of Dx	582	655
Within 31-59 Days of Dx	49	57
Within 60-180 Days of Dx	39	76
Within 181-365 Days of Dx	27	22

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2021	25,492	100%
At Least One Visit/Lab	20,196	79%
Retained In Care	18,555	73%
Achieved Viral Suppression	15,350	60%

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2022	26,829	100%
At Least One Visit/Lab	21,567	80%
Retained In Care	19,058	71%
Achieved Viral Suppression	15,842	59%

2021-2022 Linkage to Care in Dallas EMA

	2021	2022
	Cases	Cases
Linked within a year		
No	100	98
Yes	927	1016
Linkage_Week		
Same day as dx	196	198
1 day after dx	97	68
2 days after dx	44	44
3 days after dx	20	36
4 days after dx	35	38
5 days after dx	33	39
6 days after dx	34	36
7 days after dx	51	56
Linkage_Month		
Within 30 Days of Dx	772	809
Within 31-59 Days of Dx	73	76
Within 60-180 Days of Dx	53	104
Within 181-365 Days of Dx	29	27

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2021	25,451	100%
At Least One Visit/Lab	20,146	79%
Retained In Care	18,506	73%
Achieved Viral Suppression	15,310	60%

stage	number_clients	pct_clients
HIV+ Individuals Living at end of 2022	26,785	100%
At Least One Visit/Lab	21,511	80%
Retained In Care	19,005	71%
Achieved Viral Suppression	15,795	59%

2021-2022 Linkage to Care in Dallas HSDA

	2021	2022
	Cases	Cases
Linked within a year		
No	100	98
Yes	923	1019
Linkage_Week		
Same day as dx	194	198
1 day after dx	97	67
2 days after dx	44	44
3 days after dx	21	36
4 days after dx	35	40
5 days after dx	32	39
6 days after dx	34	36
7 days after dx	51	56
Linkage_Month		
Within 30 Days of Dx	771	810
Within 31-59 Days of Dx	71	76
Within 60-180 Days of Dx	52	106
Within 181-365 Days of Dx	29	27

Dallas HIV Data Training

February 21, 2024

HIV Data Overview

- Common Terms

- Dallas County Trends
  - Overall
  - New cases
  - Prevalence
  - Care Continuum
  - Linkage to care

- HIV Data Resources

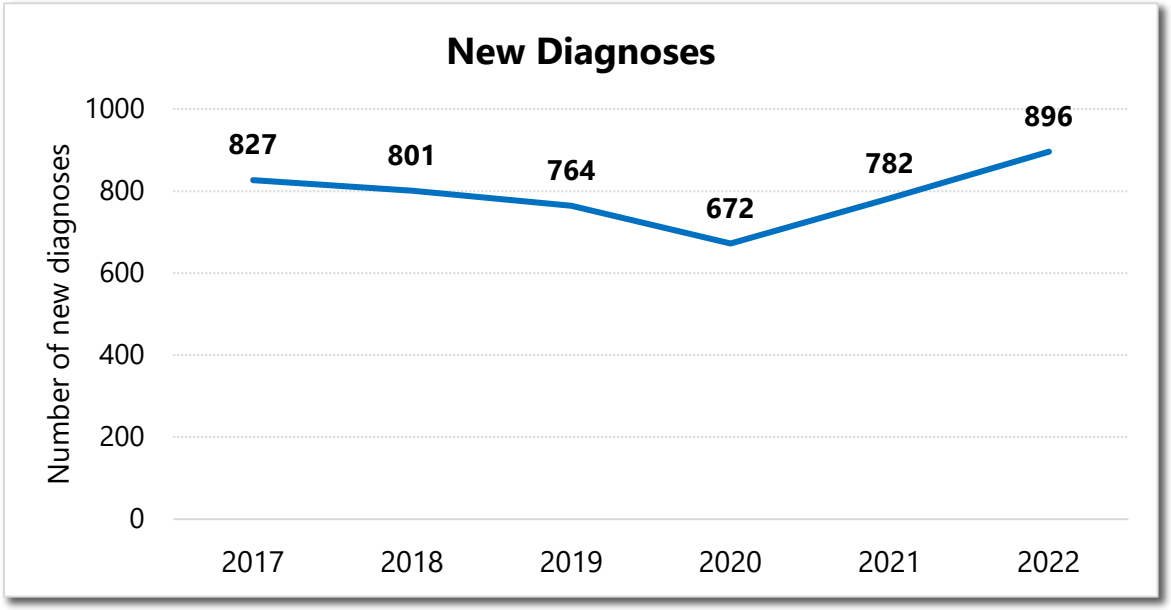
Common Terms

- Incidence – Number of new diagnoses in particular area over a defined period of time
- Prevalence – The total number of cases at a defined point in time
- PLWH – Persons living with HIV
- Rate per 100,000 – The approximate number of cases per 100,000 individuals in a given population ((cases/overall population)*100,000
- Linked to care – Entry to care after HIV diagnosis. One or more CD4 or viral load tests within 30 days of HIV diagnosis
- Retained in care – At least two clinic visits (CD4 or viral load tests) more than 3 months apart in a calendar year
- Viral suppression – Viral load <200 copies/mL. Undetectable viral load = untransmissible

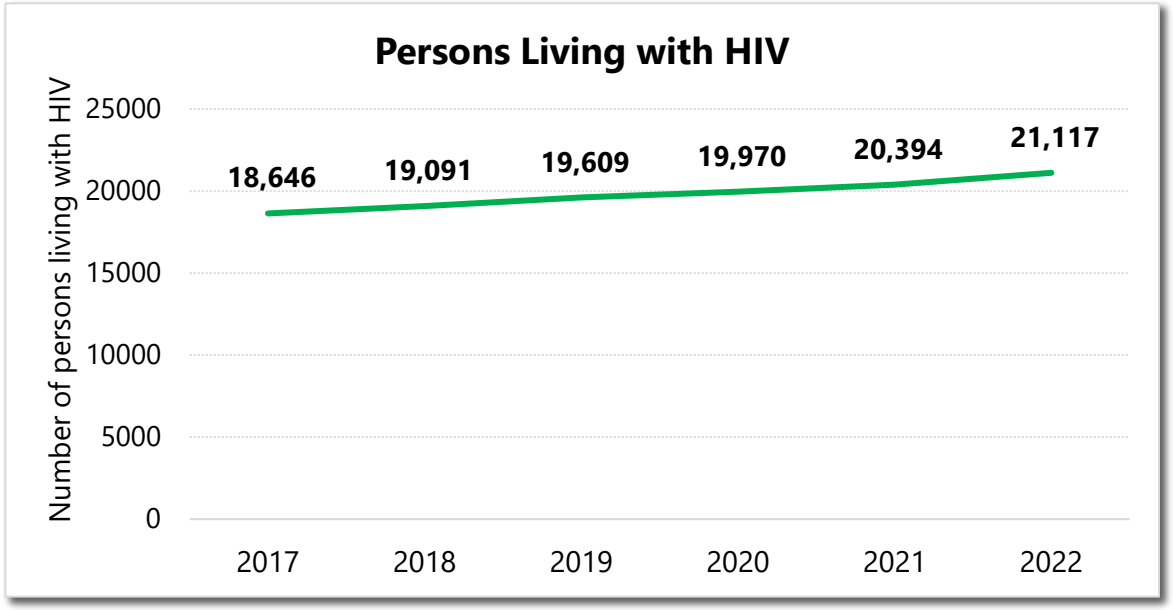
HIV Trends in Dallas County

2017-2022

Dallas County Trends



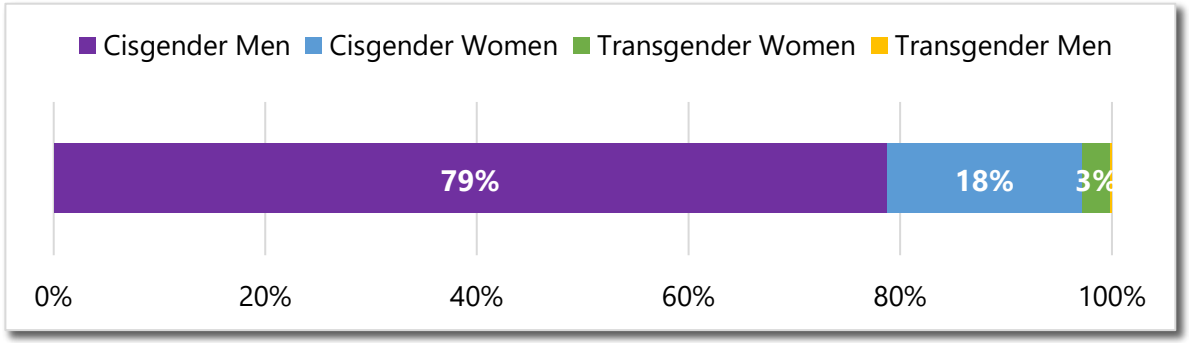
New diagnoses increased by 8% from 2017-2022



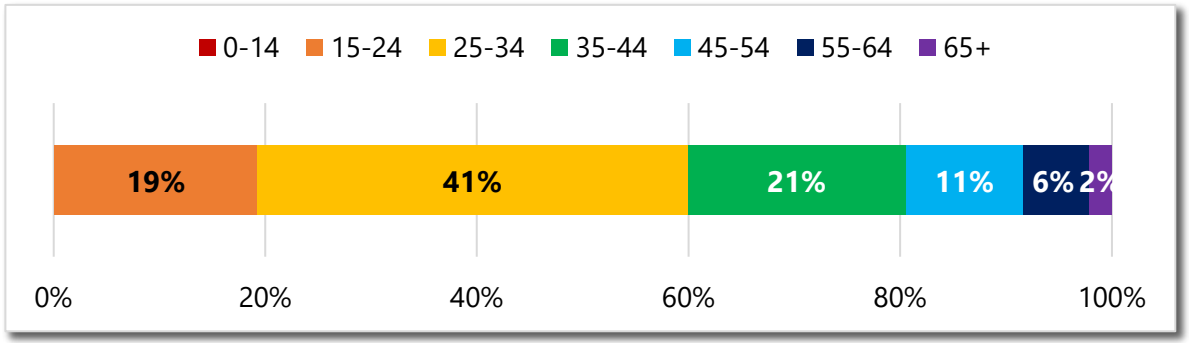
Prevalence increased by 13% from 2017-2022

New Diagnoses in Dallas County – 2022

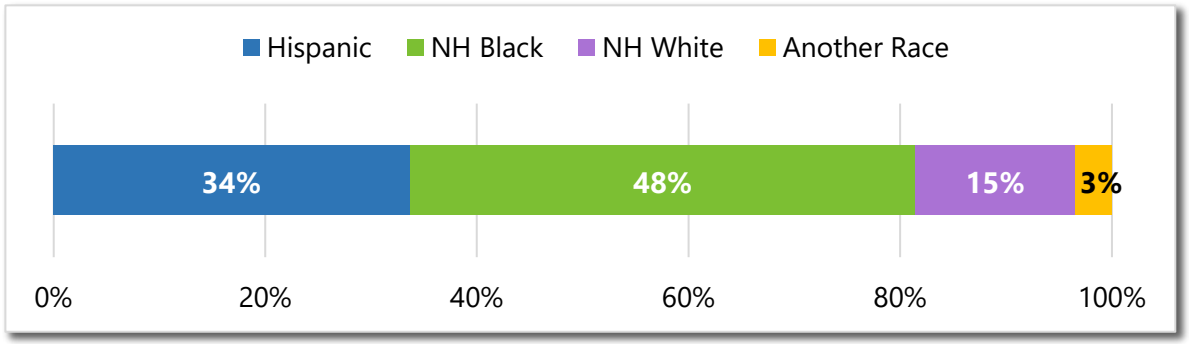
Gender



Age Group



Race/ethnicity

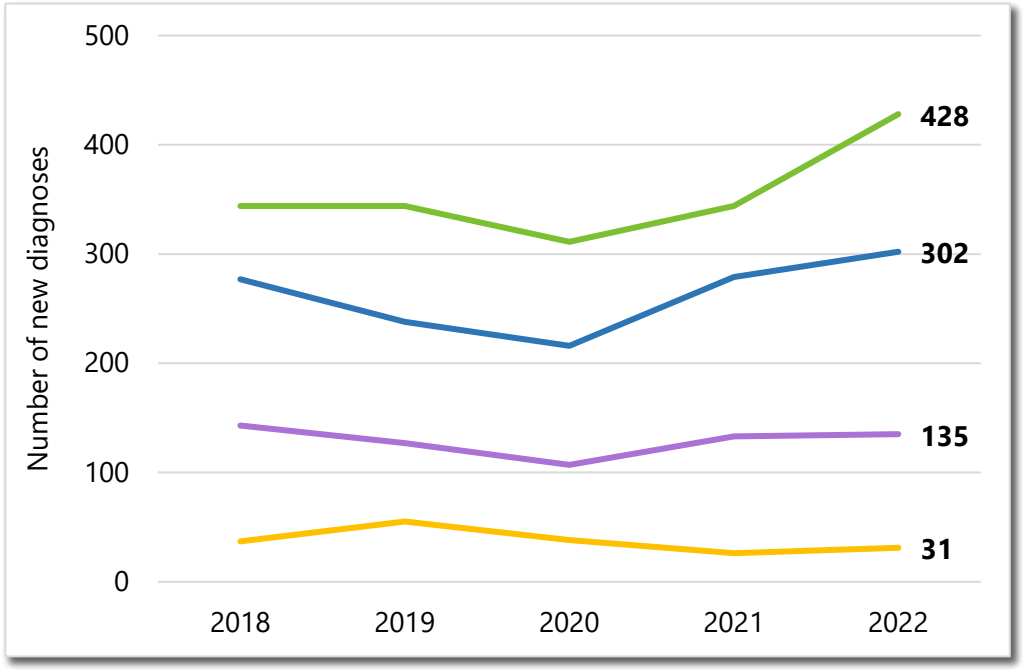


New diagnoses were primarily:
Cisgender male
Ages 25-34
Black (non-Hispanic)

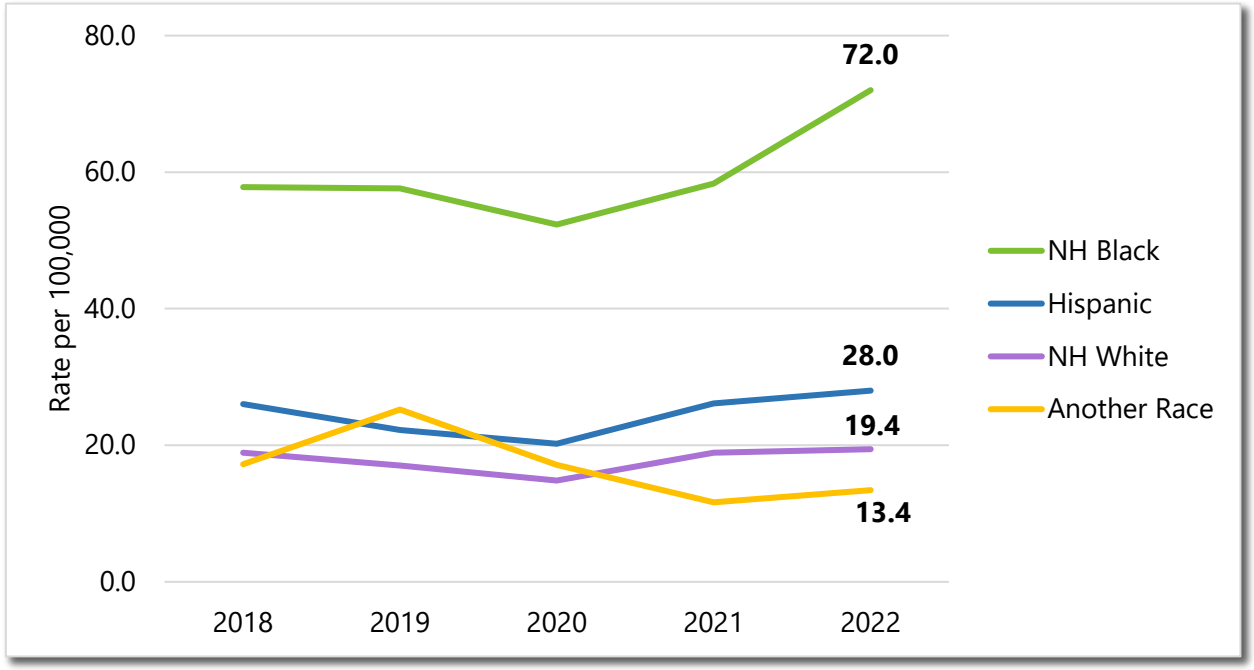
Demographic trends have not changed significantly in the past 5 years

New Diagnoses by Race/Ethnicity

New Diagnoses



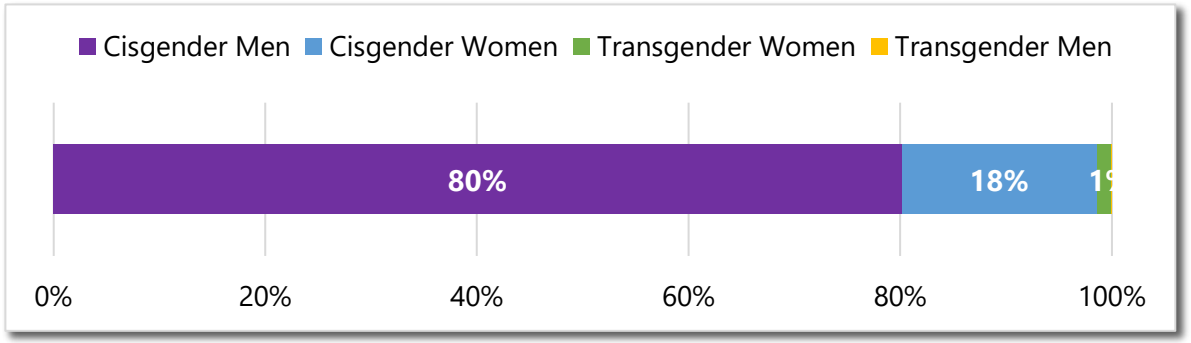
Rate per 100,000



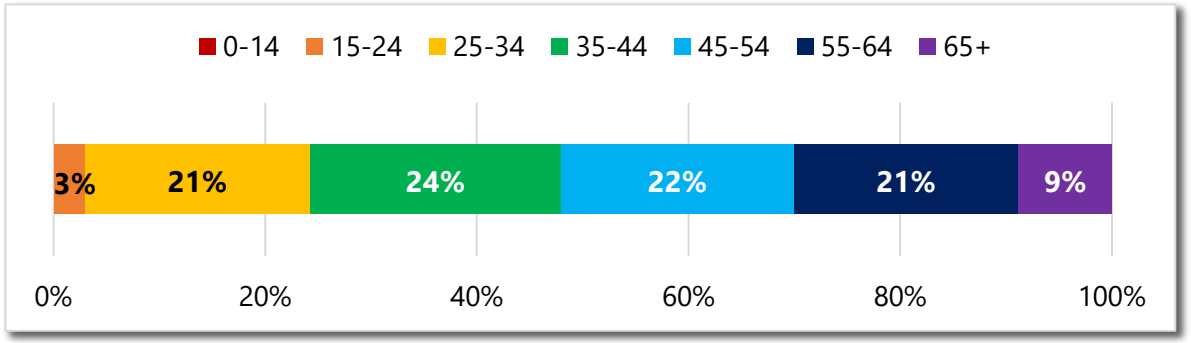
Rate per 100,000:
By considering the overall number of individuals for each race/ethnicity group, we can see that the rate of new diagnoses is much higher among NH Black individuals.

Prevalence in Dallas County – 2022

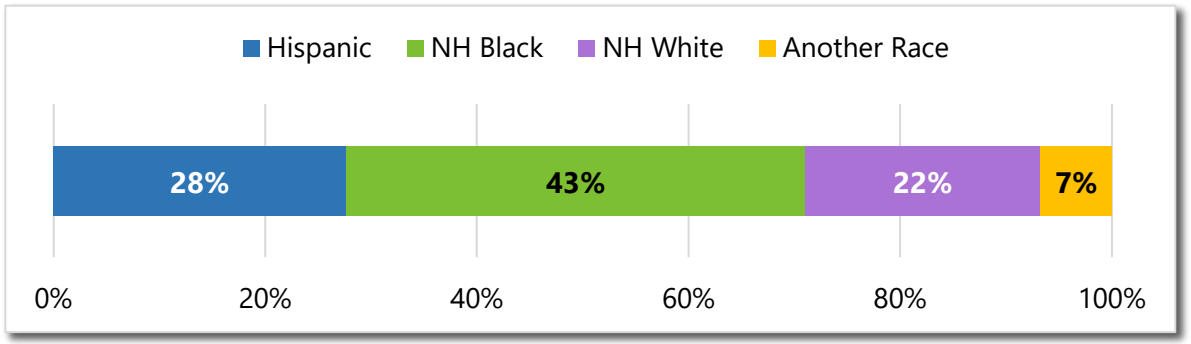
Gender



Age Group



Race/ethnicity



PLWH were primarily:

Cisgender Male

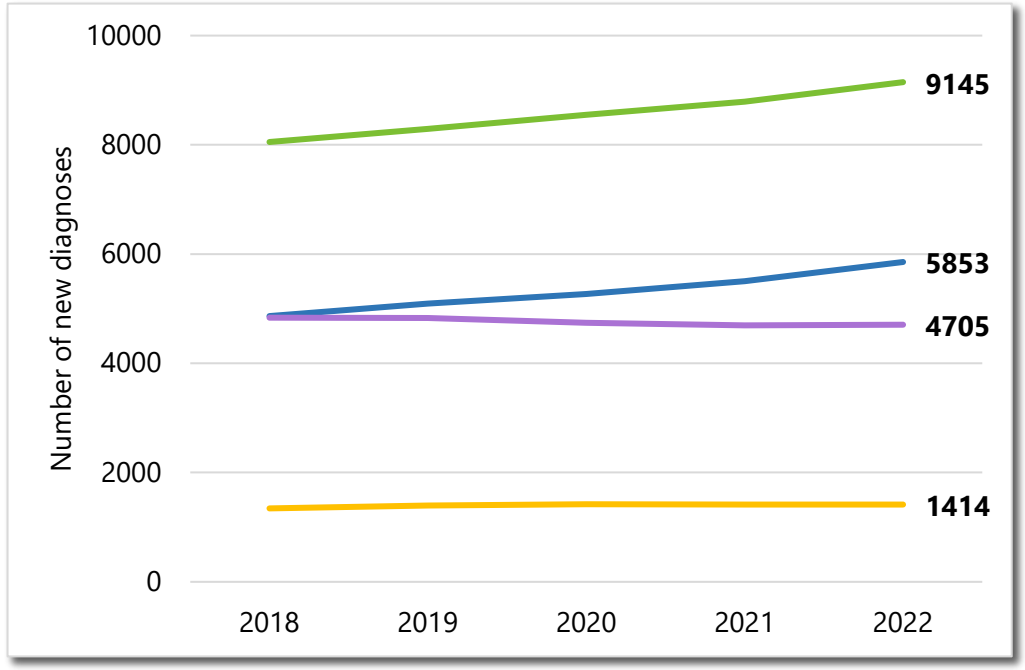
Relatively even distribution ages 25-64

Black (non-Hispanic)

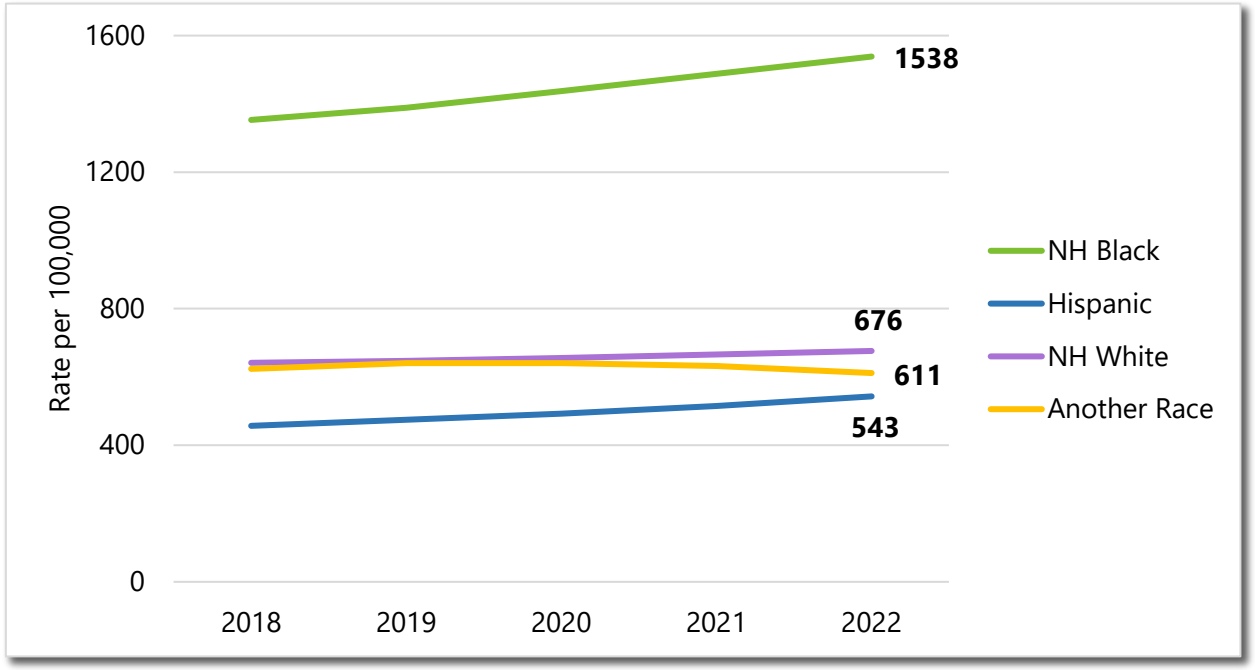
Increasing proportion of Hispanic PLWH

Prevalence by Race/Ethnicity

New Diagnoses



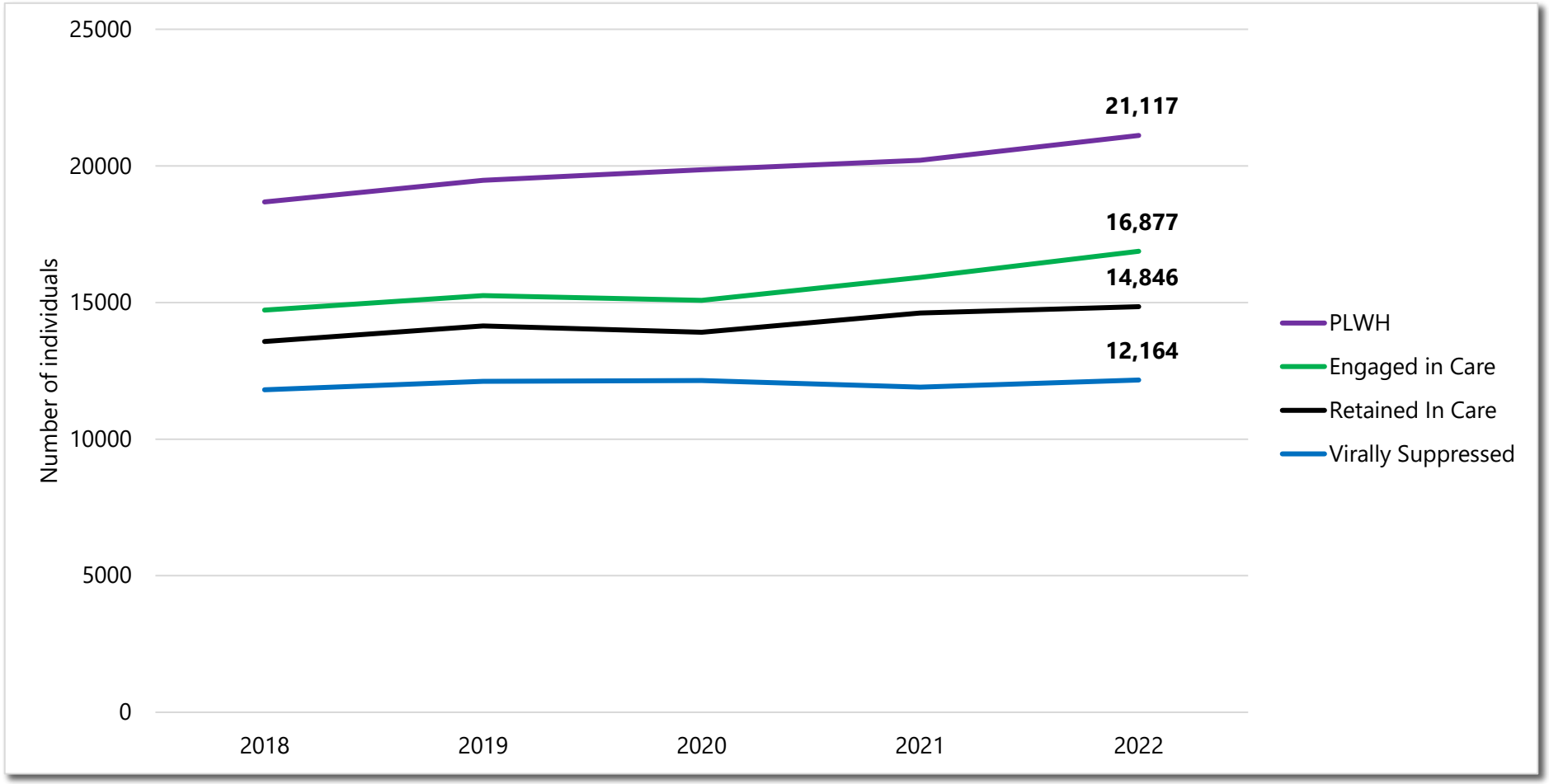
Rate per 100,000



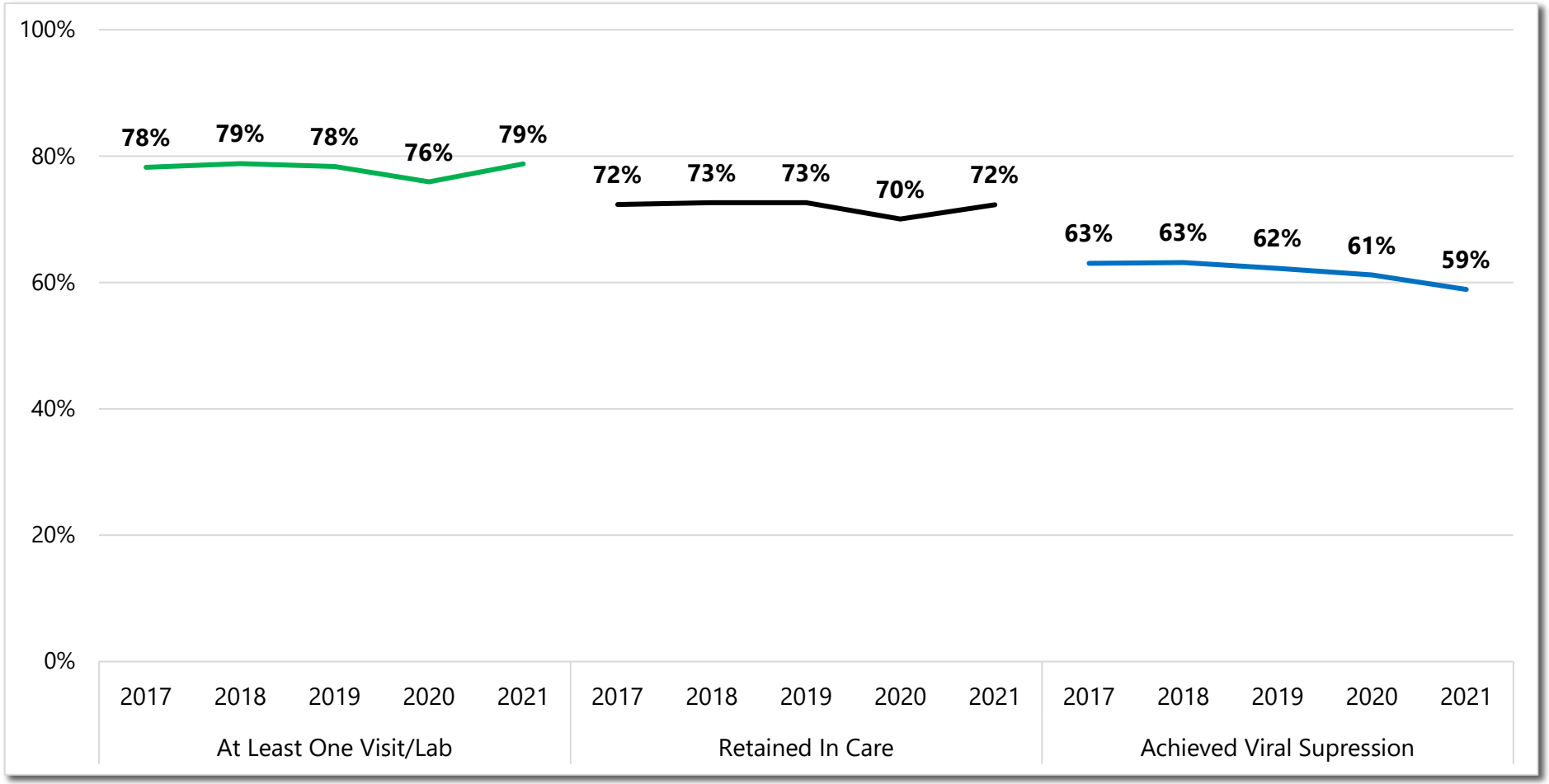
Rate per 100,000:

By considering the overall number of individuals for each race/ethnicity group, we can see that the burden of disease is much higher among NH Black individuals.

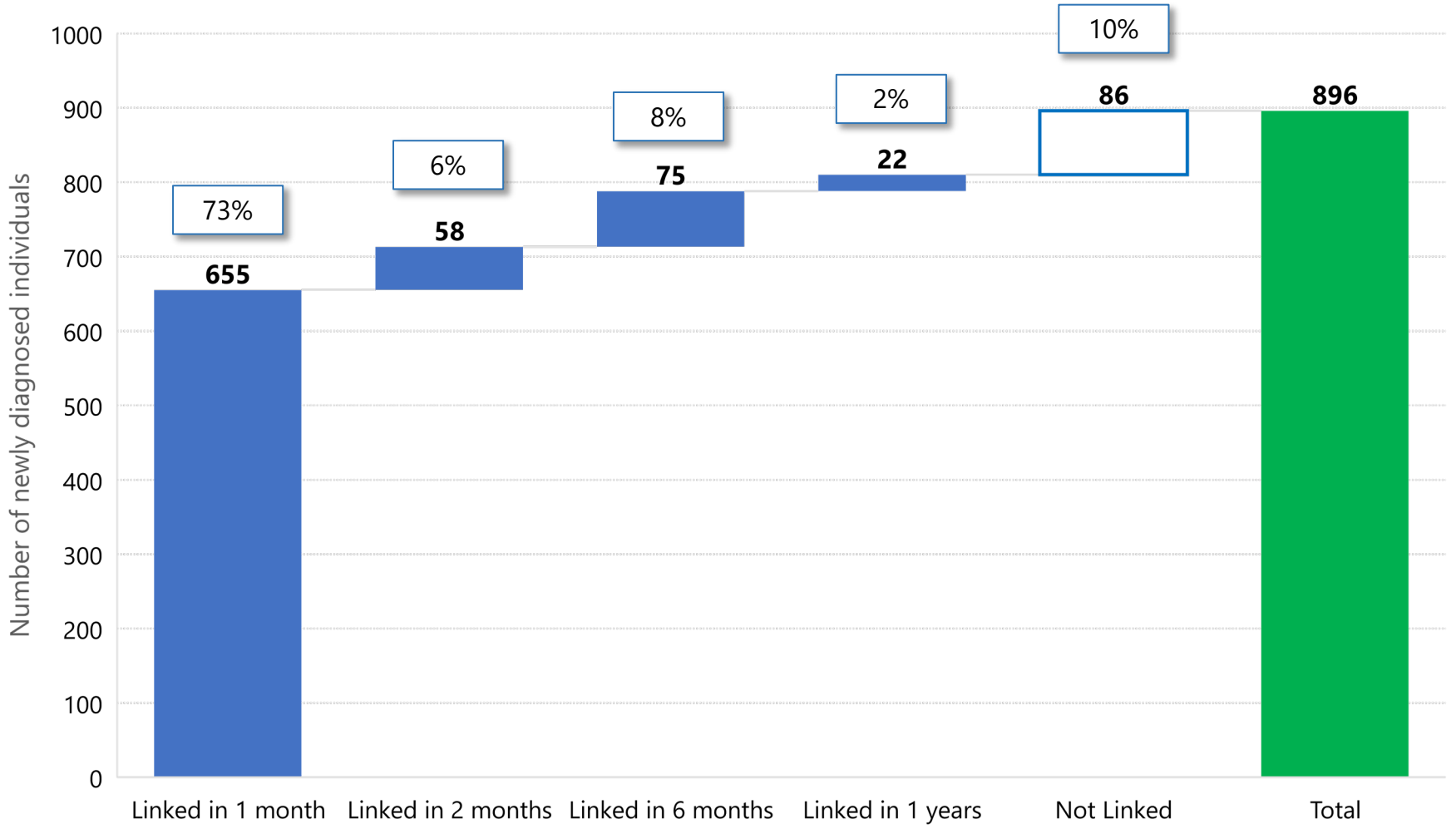
Dallas County HIV Care Continuum



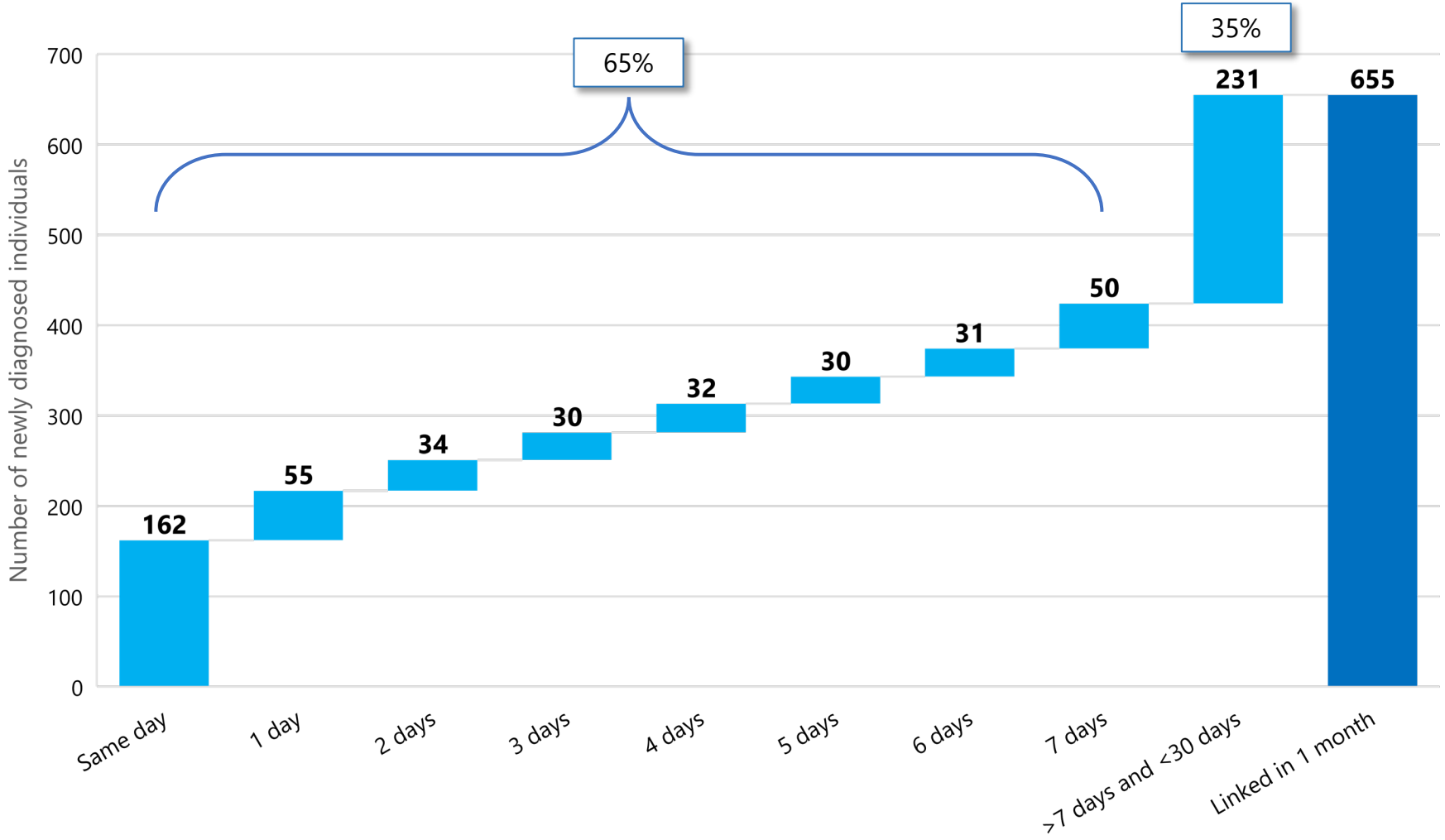
Dallas County HIV Care Continuum



Linkage to care 2022



Linkage to care within 1 month



HIV Data Resources

Source	Contents
DSHS	Regional data, continuous validation may result in changes to counts
DCHHS	Ryan White, EHE, Dallas County regional data as shared by DSHS
AIDSVu	Data that is pulled from the CDC which is reported by DSHS
CDC AtlasPlus	Data that is pulled from the CDC which is reported by DSHS
TargetHIV	Helpful for Ryan White-specific needs and reporting