

COMING MONDAY

■ American children, and minorities in particular, remain behind their global counterparts in science, technology, engineering and mathematics.

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INMATE ABUSE

Bad history with jails costs Texas

■ Scandalous conditions common in state

By SCOTT MEDLOCK

THE U.S. Department of Justice issued a scathing report this month about deplorable conditions in the Harris County jail that violate the requirements of the U.S. Constitution. DOJ found an "alarming" number of prisoners' deaths caused by inadequate medical care.

Scandalous jail conditions are nothing new in Texas. The investigation into conditions in the Harris County jail began many years ago. DOJ recently similarly criticized Dallas County for failing to provide prisoners medical care, and condemned the Texas Youth Commission for violent conditions at the Evins TYC facility in Hidalgo County. DOJ also has investigated guards using excessive force at the Bexar County jail. In Montague County, which DOJ hasn't yet visited, corrupt deputies smuggled a Barcalounger into a cell and had sex with inmates. And the list goes on — all across Texas.

In jails around the state, most of the prisoners have not been convicted of any crime, but are there awaiting trial because they cannot afford to post bond or are awaiting someone to post bond for them. The law presumes them not guilty, until a trial proves otherwise. In Harris County, 130,000 people pass through the jail each year, the majority of whom make bail and are released fairly quickly.

Most Texans in jail haven't committed serious crimes and many of us know someone who was pulled over and spent a night in jail. DOJ's findings in Harris and Dallas counties should be disturbing to all Texans because a diabetic arrested after a traffic stop shouldn't suffer a death sentence simply because the jail wouldn't timely provide insulin.

Due to cutbacks to mental health budgets, county jails double as psychiatric "hospitals" for low-income people. All too often suicidal prisoners are ignored and allowed to take their own lives. Jasper County jailers failed to take basic steps like confiscating the shoelaces of a mentally ill prisoner who was in the jail because no hospital beds were available. (After his death, the jail changed its policies

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HIGHER EDUCATION

Big win for UH on road to Tier One



KAREN WARREN : CHRONICLE

APPLAUSE: Renu Khator, the University of Houston's president, smiles and claps as she reacts to students' applause at the University Center campus during a pep rally celebrating her appointment in 2007.

After nearly two decades, the university has pathway to attaining premier status

By RENU KHATOR and WELCOME W. WILSON, SR.

HERE has been talk for nearly two decades about the University of Houston attaining Tier One status. Now, thanks to the Texas Legislature, that talk has resulted in bold and decisive action.

With the recent passage of legislation that provides a pathway for the University of Houston (and six other institutions) to achieve Tier One status, we have now taken an all-important first step.

This is a major victory — not just for UH but for Houston and the state of Texas as well. It is the result of countless hours of hard work and commitment by our Harris County legislative delegation, led by the dean of the Texas Senate, John Whitmire, and our six public university partners. Lt. Gov. David Dewhurst was deeply engaged every step along the way. Gov. Rick Perry and Speaker of the House Joe Straus were also very supportive.

Most would agree that shepherding such legislation through the recent session was a major, if not miraculous, accomplishment, particularly given the current economic climate.

We were able to succeed because of a Legislature that envisioned education creating economic growth, a Houston business community that stood tall and a local community that generated a powerful wave of support. We are especially humbled that the Greater Houston Partnership made Tier One status for UH its top legislative priority.

We also owe this extraordinary success to our faculty, staff and students, whose diverse array of talents have time and again resulted in excellence. With more than 37,000 students from 138 countries, award-winning faculty and nationally ranked programs, UH is well-positioned to take the next step toward national prominence.

Thanks to the Texas Legislature, the path to Tier One status has crystallized from a hazy concept to a clear reality, but important steps remain.

For one thing, we must move forward on the Legislature's new Texas Research Incentive Program (TRIP), in which \$50 million has been designated to match private research-focused donations made to UH and the six other emerging research universities. We intend to compete vigorously for these matching funds, and we fully expect our supporters

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DOMESTIC RELATIONS

Gay marriage poses legal knots for states

■ Must Texas accept another state's recognition of a legal union as valid?

By J. THOMAS OLDHAM

GAY marriage is becoming increasingly accepted throughout the Northeast, but is banned throughout most of the rest of the country. What if a gay married couple living in Massachusetts moves to another state like Texas that doesn't accept gay marriage? Does

this affect their health insurance? If the relationship deteriorates, is a divorce possible?

Spouses moving from one state to another have not traditionally presented great legal problems regarding the validity of the couple's marriage. A couple validly married in one state clearly remained so after moving, due

to the fact that our marriage laws traditionally have not differed greatly. Some minor disagreements have existed, such as whether first cousins could marry or whether common-law marriage was recognized. But these policy differences were not considered sufficiently important to affect the validity of a marriage validly established before the move. A "rule of validation" was established whereby a marriage was considered valid if it satisfied

the legal requirements of any state that had contacts with the couple.

The advent of gay marriage has changed the legal landscape. A small number of states now permit gay marriage, while most do not. This problem has been exacerbated because these rules are perceived to reflect important social policies, so the "rule of validation" mentioned above is not applied. So, if a couple living in a place where

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DEAN ROHRER

EDITORIAL

Uproar in Aggieland

Administrative turbulence at Texas A&M threatens the university's future. **PAGE B13**

KRAUTHAMMER

Obama seeks 'dialogue' with Iran

Ignoring America's interests, the president declines to encourage those clamoring for democracy. **PAGE B12**

GOODMAN

Quantity over quality

Changing the way doctors do their jobs is the key to achieving meaningful health care reform. **PAGE B12**

JAILS: Lack of care costs state in the end



DEAN ROHRER

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to try to prevent future suicides). Many prisoners' only "crime" is their mental illness. Despite this knowledge, the suicide rate in Texas jails remains at unacceptably high levels.

Another needless problematic area is placing younger, smaller people in cells with others who brutalize and sometimes rape them. There are policies, procedures and training to prevent this — and to prevent suicides; but jail officials ignore them, with disastrous consequences.

There is a high monetary cost to taxpayers when prisoners are mistreated. The U.S. Constitution requires jails to provide basic, essential health care. Failure to do so is cruel and unusual punishment that violates the Eighth Amendment of the Bill of Rights.

Federal judges have repeatedly called the conditions in the Dallas County jail "shockingly inadequate." In one case, a jury required

the county to pay almost \$900,000 to a prisoner who suffered a stroke because he wasn't given his blood pressure medication. Dallas County has paid more than \$2 million to prisoners who suffered permanent injuries — much more than what it would have spent providing basic health care in the first place.

Texas has a bad history with respect to its jails. In the long run, it's a costly history for taxpayers. It's also a steep cost for the community when prisoners return to society embittered rather than rehabilitated.

DOJ has its eye on Texas for good reason.

Medlock is director of the Prisoners' Rights Program for the Texas Civil Rights Project, a nonprofit foundation that promotes civil rights and economic and racial justice throughout Texas.

DISRUPTIVE TECHNOLOGY

Web-savvy jurors create new problem for courts

■ **Twittering class encounters laws of evidence**

By **THOMAS MELSHEIMER** and **CRAIG SMITH**

WEB-SAVVY jurors these days encounter a court system that by necessity still operates in essentially the same manner as it has for generations. In a world of lightning speed exchanges of electronic information, our courts continue to rely on hard copy documents and judges who must serve as heavy handed gatekeepers of information. Lowly jurors accustomed to instant gratification and a two-way information exchange increasingly find themselves in an unfamiliar and uncomfortably passive role.

Simultaneously, as Americans use social media to provide a now-ubiquitous "what are you doing?" running daily dialogue via Facebook and Twitter, a stint on jury duty is proving irresistible fodder. Never mind that our justice system hinges on a sacred prem-

ise that jurors start a case with an unprejudiced, blank slate and promise to consider only the information and evidence presented in trial.

The jury system has weathered plenty of assaults before, by corporate lobbying groups that want to circumvent the system, by judges who don't trust juries in the first place, by parties who want to supplant jury trials with arbitration hearings. What's new is the enormous influence of the Internet and the ease with which jurors can now gather information about a case, as well as personally broadcast information. Not that long ago, judges worried that jurors might perform independent research on a case by visiting the scene of an accident or going to the library to research something about the parties or the case. The threat of contaminating a jury with unauthorized information about a case is now just a Google search away.

There's reason to wonder whether this durable institution as we know it can survive

unscathed in this age of instant information delivery. Consider these well-documented recent examples:

■ During a major federal drug trial earlier this year, the trial came to a screeching halt when eight sitting jurors admitted to obtaining information about the case from the Internet.

■ During a political corruption trial in Philadelphia, a juror provided a running commentary about the case on Facebook. The defense objected, but the trial was allowed to continue. The defendant, a former state senator, was convicted.

■ In Arkansas, a juror used his cell phone to post Twitter updates during the trial. When revealed, he couldn't understand what the fuss was about.

■ Finally, when a juror in England could not decide on a case, she posted details about the trial and asked readers to vote on how she should rule.

We rely on juries to bring common sense and, in some ways, the "conscience of the community" to bear on every case, but we can't ignore Web 2.0's game-changing influence.

The Internet as we know it is not like any other information gathering device to date, any more than the invention of the printing press was like any other machine of its time. Unchecked, it has the potential to undermine

the rules upon which our faith in the jury is based and has the ability to harm the system worse than any so-called judicial reform ever could.

Some might see this latest challenge as more fodder for the argument that juries are an outmoded and unintelligent way of resolving disputes. We have seen this sort of debate before. Others might say that we should just relax and assume that jurors will follow the instructions that they are given.

We think that neither approach is sensible. Instead, judges must take an intelligent, active approach to instructing jurors about the Internet, keeping in mind the temptations of the modern Internet-savvy juror. They must allow, even encourage, lawyers to ask questions about potential jurors' use of the Internet, including participation in networking sites like Facebook and Twitter.

Simply reminding each juror, "don't discuss the case," just won't get the job done anymore, if it ever did. These instructions can't wait until a jury is sworn in but should begin when potential jurors first enter the system and receive their briefing in the central jury rooms. Otherwise, the judicial system will find itself meting out justice, not via the common sense of citizens, but via tweets, text messages and blog postings. OMG.

Melsheimer is a former assistant U.S. attorney and is now managing principal at Fish & Richardson in Dallas. Smith presides over the 192nd Civil District Court in Dallas County.

DOMESTIC: States face questions on gay marriage

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gay marriage is not permitted goes to another where it is (such as Massachusetts or Canada) and purport to marry, in most states the marriage will not be considered valid in the couple's domicile. This presents some practical burden on gay couples, but may well be needed to stop couples from evading important laws of their domicile at the time they want to marry. Still, in such an instance it is conceptually clear, in most states, that the couple never is validly married under U.S. law.

Another issue relating to gay marriage validity is more complex and has not yet been resolved. Assume a gay couple lives in Massachusetts (or some other state that permits gay marriage) and decides to marry. Such a couple clearly is validly married while living in Massachusetts. They could enjoy the benefits of being a married couple under state law, such as allowing one partner to be covered under the other's health insurance at work or filing a joint tax return. Divorce, with all its possible remedies, is available if the marriage breaks down.

But if at some later point one of the partners accepts a job transfer to another state that does not permit gay marriage, such as Texas, complications arise. Texas law provides that a gay marriage is "void" and that no state agency should give any effect to a purported gay marriage. If the gay partners move from Massachusetts to Texas, what impact would this have on their marriage? Would they immediately cease being married as soon as they set foot on Texas soil? If so, what happens to their health insurance coverage? If the marriage breaks down, could one partner file for divorce in Texas? To further complicate the matter, let's assume the partners decide they don't like Texas and move back to Massachusetts. Would they once again be married? What about the period while living in Texas?

There currently are no definitive answers to the questions posed in the preceding paragraph. One way to help defuse this problem would be for states that don't generally accept gay marriage to create an exception to their general rule of non-recognition. They could choose to recognize certain gay marriages, but only

if celebrated by a gay couple while living in a state that accepted gay marriage. Otherwise, some very sticky legal issues will arise.

Oldham is the John H. Freeman professor of law at the University of Houston Law Center.



FOTOLIA

EDUCATION: Big win for UH on road to Tier One

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to step up with amazing, and enlightened, generosity.

Additionally, a proposed constitutional amendment calls for a statewide vote in November to establish the National Research University Fund (NRUF), which will make nearly \$500 million in now-dormant funds available to help UH and our other

emerging research universities bring their teaching and research capabilities up to Tier One standards. We must work diligently to make sure voters understand that increasing the number of Tier One universities in our state will generate wealth, fuel economic growth and create jobs. Based on its population, Texas is estimated to lose nearly \$4 billion a year

in federal research funds and venture capital largely because it has too few Tier One universities.

For UH to compete nationally for talented faculty and researchers, we absolutely need a predictable and sustained source of additional funding like the NRUF, so passage in the fall is, to say the least, vital. But this is not simply

a matter of acquiring the resources to recruit a handful of superstar scientists and cutting-edge research programs.

Tier One status isn't determined exclusively on the amount of research dollars an institution attracts, but is based on a number of national criteria that the University of Houston must still achieve. We must remain competitive in the overall excellence of our faculty and our academic programs. We must improve the quality of our student body. We must have an endowment comparable to Top Tier universities. We must double the level of alumni giving. We are working hard, and successfully, on all of these factors.

How long will it take for UH to achieve Tier One status?

We'll be honest — we haven't gotten this far by being timid. So here is our answer: The University of Houston will receive recognition as a Tier One institution within five to seven years.

Does that sound like a bold prediction?

It is. But we have made tremendous progress during the past year, and we are filled with pride at the achievements produced by the hard work and passion of so many. Why would we think this incredible

progress will not continue?

Texas needs more Tier One institutions and Houston, the state's largest metropolis and a growing presence on the international scene, deserves a truly great public university. Investing in a global economic engine in Houston, which boasts a powerful coalition of engineers, scientists and medical personnel, is a wise commitment and will ensure that Texas continues to thrive for generations to come.

The University of Houston, which enjoys successful research partnerships with the nearby Texas Medical Center and Johnson Space Center, fosters big dreams, and we have bold aspirations. With the additional funding and support to make UH a Tier One institution, we can lead the way to transforming the state's economy — and of equal importance — the face of higher education in Texas today.

Khator has served as president of UH and chancellor of the UH System since January 2008. Wilson, appointed a regent by Gov. Rick Perry in 2006, has served as chairman of the UH System Board of Regents since 2007. He was recently elected to serve a third term.



JAMES NIELSEN : CHRONICLE

UH LEADERS: University of Houston President and Chancellor Renu Khator and Welcome Wilson Sr., chairman of the UH System board of regents, chatted at the university's Hilton College last September.